This is Affidavit #1 of
Brendan MacMillan in this case and
was made on July 12, 2018

NO. S-186120
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

- AND -

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57
AND THE *BUSINESS CORPORATIONS ACT*, R.S.A. 2000, c. B-9

- AND -

IN THE MATTER OF
PURCELL BASIN MINERALS INC.,
BUL RIVER MINERAL CORPORATION,
GALLOWAI METAL MINING CORPORATION,
JAO MINE DEVELOPERS LTD., and
STANFIELD MINING GROUP OF CANADA LTD.

PETITIONERS

AFFIDAVIT

I, **Brendan MacMillan**, Businessperson, of 150A Manchester Street, San Francisco, California, SWEAR THAT:

1. I am the President of Highlands Pacific LLC ("**Highlands**"), and as such I have personal knowledge of the matters hereinafter deposed to except where stated to be on information and belief, in which case I verily believe them to be true.

Loan to Purcell

2. On or about April 25, 2016, Highlands made a loan to Purcell Basin Minerals Inc. ("**Purcell**") (the "**Loan**"), pursuant to which Highlands agreed to provide a credit facility to Purcell of up to CAD$15,000,000 (the "**Loan Amount**").

3. In connection with the Loan, Highlands and Purcell executed a Senior Promissory Note dated April 25, 2016 (the "**Original Note**") to document the terms and conditions relating to the Loan. Attached hereto and marked as **Exhibit "A"** is a copy of the Original Note.

4. On or about November 7, 2016, Highlands and Purcell executed An Amended and Restated Senior Promissory Note (the "**Amended and Restated Note**") for the purpose of, among other things, detailing the manner in which Highlands would document advances made to Purcell pursuant to the Loan, extending the maturity date of the Original Note and amending the interest calculations under the Original Note. Attached hereto and collectively marked as **Exhibit "B"** is a copy of the Amended and Restated Note, together with the Amended and Restated Note Term Sheet (the "**Term Sheet**"), both of which are dated November 7, 2016.

5. As set out in the Term Sheet, the material terms of the Amended and Restated Note included, *inter alia*, the following:

(a) Highlands would provide the Loan Amount to Purcell, with advances to be made at Highlands' sole discretion;

(b) interest on any outstanding payments owed by Purcell to Highlands pursuant to the Loan (the "**Indebtedness**") would accrue at the rate of 10% per annum;

(c) the outstanding portion of the Indebtedness would become due and payable on January 31, 2017 (the "**Maturity Date**"), unless converted pursuant to the terms of the Amended and Restated Note;

(d) in the event that I remained the President of Purcell, the Maturity Date would automatically be extended to July 31, 2017;

(e) the repayment of the Indebtedness and any other charges under the Amended and Restated Note would be secured by the assets of Purcell, subject to any permitted encumbrances set out therein;

(f) on the occurrence of a Liquidity Event (as defined at paragraph 2.2 of the Amended and Restated Note), Purcell would, concurrently therewith, pay to Highlands an amount equal to two times the outstanding Indebtedness; and

(g) when executed, the Amended and Restated Note would amend and restate the Original Note.

6. Attached hereto and marked as **Exhibit "C"** is a schedule detailing the various advances made by Highlands to Purcell in accordance with the Loan (the "**Loan Schedule**"). As detailed in the Loan Schedule, the total amount of the Indebtedness (inclusive of interest) is $1,536.833.70, as at July 12, 2018.

7. While the priority of the Loan has been challenged, and is the subject of an appeal for which a decision of the British Columbia Court of Appeal is on reserve, the debt remains outstanding. I do verily believe that the quantum and priority remain live issues that materially affect the priority of the debts of Purcell.

Management of CuVeras

8. I have reviewed the pleadings and evidence in this matter proffered by CuVeras, LLC ("**CuVeras**"). CuVeras is a Delaware corporation. Highlands is a major creditor of CuVeras, having put in substantial funds when it was formed. Highlands also acted as its "manager", which gives it authority to manage the business of CuVeras in accordance with Delaware law.

9. In 2016, Peter Lacey attempted to terminate Highlands as the manager of CuVeras. However, he was not authorised to do so, and accordingly litigation was commenced by Highlands in the State of New York, which was then transferred to the State of Delaware (the "**CuVeras Litigation**"). Attached hereto and collectively marked as **Exhibit "D"** are copies of the following pleadings relating to the CuVeras Litigation:

(a) the Verified Complaint, commenced by Highlands, Highlands Pacific Partners, LP, and myself (as plaintiffs) against CuVeras and Peter Lacey (as defendants); and

(b) the Plaintiffs/Counterclaim Defendants' Answer to Defendants/Counterclaim Plaintiffs' Verified Counterclaims.

10. The CuVeras Litigation remains extant. Highlands has not taken steps recently because, until this application, the determination of the management issue was irrelevant and any judgment would have been of no value because, I do verily believe, CuVeras does not have any funds and has significant outstanding liabilities.

11. Accordingly, the parties attempting to act on behalf of CuVeras do not have authority to do so.

Sales Process is Detrimental to CuVeras

12. As the manager of CuVeras, I (on behalf of Highlands) do verily believe that a sales process that allows any party other than the interim finance lender to "credit bid" its debt will be detrimental to Purcell, its creditors, and CuVeras for the following reasons:

(a) on their own evidence, the purported representatives of CuVeras have indicated that it is unlikely anyone will out-bid CuVeras. This will clearly have a chilling effect on the sales process, and makes it unlikely that any third-party will expend time and resources to conduct due diligence and participate; and

(b) the priority of the debts ahead of and *pari passu* with CuVeras's are in dispute.

13. I do not believe that CuVeras has the funding nor the expertise necessary to develop the mining assets of Purcell, and it would be detrimental to all parties (including the creditors of CuVeras, of which Highlands is a major one) for there to be a stunted sales process that discourages legitimate, third-party bidders, followed by CuVeras taking control of the assets again. CuVeras was unable to complete the development of these assets after the first *Companies' Creditors Arrangement Act* proceedings, and there is no evidence they will be able to do so now. In particular, I do not believe CuVeras has the funding and expertise to get the necessary permits, studies, and other matters completed to bring the mining assets into production. A credit bid by CuVeras simply means a further cram down of creditors, followed by the same problems that existed prior to these proceedings.

14. A sales process that generates a cash purchase price offers the opportunity to:

(a) realise fair value for the assets, and transfer them to a party capable of developing them; and

(b) preserves the value until the various priority and entitlement disputes can be resolved.

15. I make this affidavit in response to the Notice of Application dated June 21, 2018 seeking, among other things, a Claims Process Order and a Sales Process Order, and for no other or improper purpose.

SWORN BEFORE ME at San Francisco, California, on July 12, 2018)

See attached California Alm. or Jurat New Notary Certificate)

A Notary Public in and for the State of California)

July 12, 201

BRENDAN MacMILLAN

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Francisco }

On Thursday, July 12, 2018 before me Hasan Ahmed, Notary Public,

Personally Appeared **BRENDAN MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that **he**/~~she/they~~ executed the same in **his**/~~her/their~~ authorized capacity ~~(ies)~~, and that by **his**/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the laws of the State of **California** that the foregoing paragraph is true and correct.

Signature

WITNESS my hand and official seal.

Brendan MacMillan July 12, 2018

This is **Exhibit "A"** referred to in Affidavit #1 of **Brendan MacMillan**, sworn before me at San Francisco, California, on July 12, 2018.

A Notary Public in and for the State of California

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On Thursday, July 12, 2018 before me, Hasan Ahmed, Notary Public,

Personally Appeared **BRENDAN MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

Signature

WITNESS my hand and official seal.

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SENIOR PROMISSORY NOTE

NOTE ISSUANCE DATE: APRIL 25, 2016

CAN$15,000,000

PURCELL BASIN MINERALS INC., a company incorporated under the laws of British Columbia (herein called the "Issuer"), for value received, hereby promises to pay to **HIGHLAND PACIFIC LLC**, or his registered assigns (the "Noteholder"), the principal sum of Fifteen Million Dollars Canadian ($15,000,000) (or such lesser principal amount as may be then outstanding as set forth below) on December 8, 2016 (the "**Stated Maturity Date**").

1. **General.** This Note (herein called the "Note"), was issued on April 25, 2016. The Noteholder has agreed to provide $25,000 to the Issuer to fund operations, and in the Noteholder's sole and absolute discretion, may agree to provide an additional amount up to a cumulative total of $15,000,000 (the "Cap") to the Issuer pursuant to this Senior Promissory Note. The Stated Maturity Date may be extended in the sole and absolute discretion of the Noteholder, and the Noteholder may advance additional funds up to the amount of the Cap until the Stated Maturity date as it may be so extended.

   Reference is also made to the Compensatory Note of the Issuer payable to the order of Brendan MacMillan dated as of April 25, 2016 (the "**Compensatory Note**").

2. **Payment of Amounts Due.** The Issuer shall pay amounts due hereunder in cash or other immediately available funds. Upon the consummation of an amalgamation or other business combination transaction representing the sale of the Issuer or all or substantially all of its assets, the Stated Maturity Date shall be accelerated to the date of such consummation and this Note shall be immediately due and payable in full.

3. **Interest.** The Issuer promises to pay interest at the rate of ten percent (10%) per annum on the principal amount of this Note then outstanding and upon compounded interest. Interest shall accrue daily from the date of issuance and shall compound on March 30, June 30, September 30 and December 30 in each year commencing June 30, 2016. Interest shall be paid in full at the Stated Maturity Date.

   To the extent that the payment of such interest shall be legally enforceable, in the event any Event of Default (as defined in Section 8) has occurred and is continuing, as of the date of the declaration of such Event of Default, (x) the interest rate borne by the Note shall immediately increase by, and (y) any principal of, on interest on, this Note which is overdue shall bear interest, at the rate of, in each case, 2.00% per annum in excess of the rate of interest then borne by the Note (collectively, "**default interest**") from the date of such Event of Default until cured or waived and such default interest shall be payable in the manner interest is otherwise payable as described in this Section 3.

   Interest on this Note shall be computed on the basis of a 360-day year of twelve 30-day months.

4. **Optional Redemption.** The Issuer may, at its option, redeem the Note, in whole or in part, without penalty, at any time prior to the Stated Maturity Date hereof by providing the Noteholder with 30 days prior written notice, which notice shall be irrevocable once given and paying, on the redemption date, all principal and accrued but unpaid interest in cash or other immediately available funds.

5. [**Intentionally Omitted**].

6. **Seniority.** This Note shall rank senior to all other indebtedness (with the exception of the Compensatory Note) for borrowed money of the Issuer whether now or hereafter existing, and pari passu with the Compensatory Note. In addition to any other required approvals, the Issuer shall not incur any junior indebtedness for borrowed money unless the lender(s) shall have entered into a subordination agreement in form and substance satisfactory to the Noteholder and shall not incur any senior or pari passu indebtedness for borrowed money without the consent of the Noteholder.

7. Covenants. The Issuer covenants and agrees with the Noteholder that:

(a) At any time and from time to time, upon the written request of the Noteholder, and at the sole expense of the Issuer, the Issuer will promptly and duly execute and deliver such further instruments and documents and take such further action as the Noteholder may reasonably request for the purpose of obtaining or preserving the full benefits of this Note and of the rights and powers herein granted, including the filing or execution of any financing or financing change statements under any applicable law (including common law and equity), constitution, statue, treaty, regulation, rule, ordinance, order injunction, write, decree or award (a "Law") of any government or political subdivision or agency, authority, bureau, central bank, monetary authority, commission, department or instrumentality thereof, or any court, tribunal, grand jury or arbitrator, whether foreign or domestic (an "Official Body") with respect to first priority mortgages, charges, assignments and transfers and security interests hereby created and granted, such priority to be perfected pursuant to (the "Security Interest") mortgages granted to the Noteholder with respect to the obligations represented by this Note and the Compensatory Note (the "Senior Mortgages"). Reference is also made to (a) the Mortgage and Debenture dated December 23, 2011 (the "First Mortgage") between CuVeras, LLC and the companies as listed in schedule A thereto (the "Stanfield Group of Compaules"), to the extent permitted by law, and (b) a mortgage and debenture to be granted in favour of the Plan Noteholders for a minimum principal amount equal to or greater than the principal amount outstanding under the Notes issued to the Plan Noteholders pursuant to the Plan (the "Second Mortgage" and together with the First Mortgage and the Senior Mortgages, the "Mortgages"). The Issuer also hereby authorizes the Noteholder to file any such financing or financing change statement without the signature of the Issuer to the extent permitted by applicable Law. Without limiting the generality of the foregoing, the Issuer acknowledges that this Note has been prepared based on applicable Law and the Issuer agrees that the Noteholder will have the right to require that this Note be amended or supplemented:

(i) to reflect any changes in applicable Law, whether arising as a result of statutory amendments, court decisions or otherwise;

(ii) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions; or

(iii) if the Issuer amalgamates with any other individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture or other entity, or a foreign state or political subdivision thereof or any agency of such state or subdivision ("Person"), or enters into any reorganization, in each case in order to confer upon the Noteholder and the Plan Noteholders the mortgages intended to be created hereby.

(b) The Issuer agrees to pay, and to indemnify and save the Noteholder harmless from, any and all reasonable liabilities, costs and expenses (including reasonable legal fees and expenses on a solicitor and his own client full indemnity basis):

(i) incurred by the Noteholder in the preparation, registration, administration or enforcement of this Note;

(ii) with respect to, or resulting from, any delay by the Issuer in paying any and all excise, sales, goods and services or other taxes which may be payable or determined to be payable with respect to any or all property, assets, interests and undertakings subject to the Security Interest or otherwise charged or secured under the Senior Mortgages or expressed to be charged, assigned or transferred or secured by any instrument supplemental to the Senior Mortgages or in implementation of the Senior Mortgage (the "Collateral");

(iii) with respect to, or resulting from, any delay by the Issuer in complying with any requirement of applicable Law; or

(iv) incurred by the Noteholder in connection with any of the transactions contemplated in this Note; except, in any case, to the extent such liabilities, costs and expenses result from the gross negligence or willful misconduct of the Noteholder.

The amount of all such liabilities, costs and expenses will be deemed to form part of the indebtedness secured hereby, will be payable on demand made by the Noteholder and the payment of all such liabilities, costs and expenses will be secured hereby.

(c) The Issuer will furnish to the Noteholder from time to time such statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Noteholder may reasonably request, all to the extent necessary to permit the Collateral to be sufficiently described.

(d) The Issuer covenants and agrees not to create or permit to exist (except for the Mortgages) any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind affecting any present or after acquired real or personal property of the Issuer.

(e) The Issuer will advise the Noteholder promptly, in reasonable detail, of:

(i) any change in the location of any place of business or the chief executive office of the Issuer; or

(ii) any change in the name of the Issuer.

(f) The Issuer will promptly notify the Noteholder in writing if the validity or priority of this Note or any of the rights, titles, liens or security interests created or evidenced hereby with respect to the Collateral, or any part thereof, shall be questioned, attacked or endangered, directly or indirectly, and do or cause to be done all things necessary and/or proper to protect, warrant and defend title to the Collateral unto the Noteholder at the Issuer's sole expense against all Persons whomsoever claiming an interest therein or a lien or security interest thereon, but the Noteholder shall have the right, at any time, to intervene in any suit affecting such title and to employ independent counsel in connection with any such suit to which it may be a party by intervention or otherwise; and upon demand the Issuer agrees to pay the Noteholder all reasonable expenses paid or incurred by it in respect of any such suit affecting title to any such property or affecting the rights, titles, liens or security interests hereunder, including, without limitation, reasonable fees to the Noteholder's solicitors, and the Issuer will indemnify and hold the Noteholder harmless from and against any and all costs and expenses, including, without limitation, any and all costs, loss, damage or liability which the Noteholder may suffer or incur by reason of the failure of the title to all or any part of the Collateral, or by reason of the failure or inability of the Issuer, for any reason, to convey the rights, titles, liens and security interests which this Note purports to mortgage, create or assign, and all amounts at any time so payable by the Issuer shall be secured by the lien and security interest hereof and by the assignment of production herein contained.

(g) The Issuer will promptly correct and cure any defect, error or omission which may be discovered in the contents of this Note, the Senior Mortgages or the applicable terms and conditions of any other documents, instruments and agreements pursuant thereto to which it is a party or in the execution or acknowledgment hereof or thereof and in connection therewith, promptly execute, acknowledge and deliver to the Noteholder any and all such corrective or curative instruments as the Noteholder may in its sole and absolute discretion deem necessary or appropriate, and pay all costs and expenses, including, without limitation, the reasonable solicitor's fees of the Noteholder, in connection with any of the foregoing.

(h) Except with the written consent of the Noteholder, the Issuer shall not sell, assign, lease, convey, or otherwise dispose of the whole or any part of the Collateral except as may be expressly permitted pursuant to the provisions of this Note.

(i) The Issuer shall keep proper books of account and records covering all its business and affairs and permit or caused to be permitted the Noteholder, at all reasonable times, either by its officers or authorized agents,

to enter upon all or any of the premises of the Issuer and to inspect the books, records, inventories and assets of the Issuer, make extracts therefrom and generally conduct such examination of such books, records, inventories and assets as the Noteholder acting reasonably may see fit, and without limiting the foregoing, to examine, inspect and remain on the lands, premises and leases described in schedule B of the First Mortgage, together with any and all lands with which such lands are pooled, unitized or otherwise combined, and including all ore, mines and minerals whether consisting of a single element or of two or more elements in chemical combination or uncombined and any other substances, produced in association therewith, within, upon or under such lands, and the Issuer will do or cause to be done all things necessary and/or proper to enable the Noteholder to exercise said rights whenever it so desires.

(j) The Issuer shall maintain the insurance coverage over its Collateral satisfactory to the Noteholder. The renewal of the insurance coverage shall be subject to the Noteholder's written approval.

(k) The Issuer shall comply with all zoning by-laws, restrictive covenants and municipal or other Official Body orders.

(l) The Issuer shall not, and shall not permit any subsidiary to, directly or indirectly, make any distribution, unless consented to by the Noteholder in writing, where "distribution" shall mean: (i) the declaration, payment or setting aside for payment of any dividend or other distribution on or in respect of any shares in the Issuer's or the subsidiary's capital or equity or other ownership interests (including any return of capital), (ii) the redemption, retraction, repurchase, retirement or other acquisition, in whole or in part, of any shares in the Issuer's or the subsidiary's capital or any securities, instruments or contractual rights capable of being converted into, exchanged or exercised for shares in the Issuer's or the subsidiary's capital, including, without limitation, options, warrants, conversion or exchange privileges and similar rights, (iii) the making of any loan or advance or any other provision of credit to any shareholder, partner or owner of the Issuer or the subsidiary, (iv) other than with respect to the Senior Promissory Note and the Notes, the payment of any principal, interest, fees or other amounts on or in respect of any loans, advances or other debt owing at any time by the Issuer or any subsidiary, except for repayments of debt incurred in the ordinary course of business, such debt not to exceed $5000 at any one time and such debt repayments not to exceed $5000 in any calendar month, or (v) any payment to any shareholder, officer, director, or other affiliate of the Issuer or any subsidiary, except for wages and compensation in amounts disclosed to the Noteholder and approved by the board of directors of the Issuer.

8. **Events of Default.** It shall be a default hereunder if the Issuer shall fail to pay any amount of principal or interest when due or if the Issuer shall breach any covenant contained herein, such breach is material to the Issuer and is not remedied within 30 days from the earlier of the date the Issuer becomes aware of such breach or is given notice in writing of such breach by the Noteholder. Such default shall become an "Event of Default" if it remains uncured and the Noteholder notifies the Issuer in writing that they are declaring an Event of Default.

9. **Amendments.** This Note may only be amended with the written consent of the Issuer and the Noteholder. The Noteholder may, at any time and from time to time, waive any of the terms herein or extend the time of payment of this Note, but any such waiver or extension shall be deemed to be in pursuance and not in modification hereof, and any such waiver in any instance, or under any particular circumstance, shall not be considered a waiver in any other instance or other circumstance.

10. **Registration of Transfer.** The transfer of this Note is registrable in the Issuer's security register, upon surrender of this Note for registration of transfer at the principal offices of the Issuer, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Issuer duly executed by, the holder hereof or his attorney, duly authorized in writing, and thereupon one or more new Notes, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Notes are issuable only in registered form without coupons. The Notes are exchangeable for a like aggregate principal amount of Notes of a different denomination, as requested by the Noteholder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Note for registration of transfer, the Issuer and any agent of the Issuer may treat the Person in whose name this Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and neither the Issuer nor any such agent shall be affected by notice to the contrary.

UNLESS PERMITTED UNDER CANADIAN SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF (i) THE CLOSING DATE, AND (ii) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

11. Miscellaneous. The parties hereto confirm their express wish that this document and all documents and agreements directly or indirectly relating hereto be drawn up in the English language. Les parties reconnaissent leur volonté expresse que la présente ainsi que tous les documents et contrats s'y rattachant directmente ou indirectmente soient rédigés en anglais.

12. Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof. Each party agrees that all proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Note and any other related transaction documents (whether brought against a party hereto or its respective affiliates, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the related transaction documents), and hereby irrevocably waives, and agrees not to assert in any proceeding, any claim that it is not personally subject to the jurisdiction of any such New York Court, or that such proceeding has been commenced in an improper or inconvenient forum. Each party hereto hereby irrevocably waives personal service of process and consents to process being served in any such proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Brendan MacMillan July 12, 2018.

This is **Exhibit "B"** referred to in Affidavit #1 of **Brendan MacMillan**, sworn before me at San Francisco, California, on July 12, 2018.

A Notary Public in and for the State of California

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On Thursday, July 12, 2018 before me, Hasan Ahmed, Notary Public,

Personally Appeared **BRENDAN MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

Signature

WITNESS my hand and official seal.

AMENDED AND RESTATED SENIOR PROMISSORY NOTE

(GRID SCHEDULE ATTACHED)

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. ACT"), OR UNDER THE SECURITIES LAWS OF CERTAIN STATES. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE U.S. ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. HOLDERS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE U.S. ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF: (I) NOVEMBER 7, 2016; AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

This Amended and Restated Senior Promissory Note (this "**Note**") is dated for reference as of November 7, 2016.

BETWEEN:

HIGHLANDS PACIFIC LLC, a limited liability company incorporated under the laws of Delaware and having an address at 150A Manchester Street, San Francisco, California 94110

(the "**Lender**")

AND:

PURCELL BASIN MINERALS INC., a corporation incorporated under the laws of British Columbia and having an address at 910 - 800 West Pender Street, Vancouver, British Columbia V6C 2V6

(the "**Company**")

RECITALS:

A. On April 25, 2016, the Lender agreed to provide a loan facility in the amount of up to CAD$15,000,000 (the "**Loan Facility**") to the Company and the parties entered into a Senior Promissory Note dated April 25, 2016 (the "**Original Note**") to evidence the Loan Facility and document the terms and conditions relating thereto.

B. The parties now wish to amend and restate the Original Note (in accordance with section 9 of the Original Note) by executing and delivering this Note for the purposes of, among other things, specifically providing that advances by the Lender to the Company under the Loan Facility will be noted in the grid attached to this Note as Schedule B (the "**Grid**"), extending the maturity date of the Original Note and amending the interest calculations under the Original Note.

C. As of the date of this Note, there has been CAD$425,056.16 drawn-down under the Loan Facility, together with CAD$ 7,355.17 in interest on such amount as calculated in accordance with the Original Note, in each case, as evidenced in the Grid.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt of which is hereby acknowledged, the parties therefore amend and restate the Original Note to read in its entirety as follows:

ARTICLE 1
PRINCIPAL, INTEREST AND SECURITY

1.1 **Promise to Pay.** The Company agrees to pay to or to the order of the Lender the principal amount of all advances made from time to time (the "**Principal**") by the Lender to the Company as recorded by the Lender on the Grid (attached hereto Schedule B) or any continuation schedule which may at any time be attached hereto to form part of the Grid, together with accrued interest on the Principal from the date of advance until repaid, at the rate of 10% per annum, simple interest, calculated monthly in arrears, (collectively, the "**Interest**", and together with the Principal advanced from time to time, the "**Indebtedness**"), subject to the terms set out in this Note.

1.2 **Maturity Date.** The outstanding portion of the Indebtedness will become due and payable on January 31, 2017 (the "**Maturity Date**"), unless converted pursuant to the terms of Article 2 below or extended by agreement of the parties. Notwithstanding the foregoing, subject to Brendan MacMillan remaining appointed as the President of the Company, the Maturity Date shall automatically be extended to July 31, 2017.

1.3 **Security.** The repayment of the Indebtedness and any other charges thereunder will be secured by the assets of the Company subject to any permitted encumbrances set out therein in accordance with the term set out in the Security Agreement dated on or about the date hereof (the "**Security Agreement**"), attached hereto as Schedule A.

1.4 **Prepayment.** The Company will have the right to repay the Indebtedness (including accrued interest thereon) prior to Maturity Date by delivery of written notice of repayment three business days prior to the intended repayment date.

ARTICLE 2
CONVERSION

2.1 **Conversion.** If: (i) the Company at any time before the full repayment of the Indebtedness, in the context of an equity financing, issues fully paid and non-assessable shares in the capital of the Company (the "**Next Financing Securities**") raising aggregate gross proceeds (when aggregated with the proceeds from any reasonably contemporaneous or proximate issuance) of at least CAD$500,000 (a "**Qualified Financing**") for the Company, excluding the amounts raised from the conversion of the Note or any other convertible promissory note of the Company issued after the date hereof, then at the election of the Lender, all or any portion of the outstanding Indebtedness will, concurrently with the closing of the Qualified Financing, convert into the Next Financing Securities issued under the Qualified Financing at a conversion price per share which is equal to the price per Next Financing Security sold in the Qualified Financing (the "**Conversion Price**"); or (ii) at any time before the full repayment of the Indebtedness, the Lender so elects (in its sole discretion), all or any portion of the outstanding Indebtedness will convert into fully paid and non-assessable common shares in the capital of the Company (the "**Conversion Securities**") at a conversion price per share which is to be assessed at fair market value, as determined by the Board of Directors of the Company at the time of conversion.

2.2 **Liquidity Event.** In the event of the occurrence of: (i) an amalgamation, arrangement, merger, consolidation, reorganization or other business combination or similar transaction of the Company, or a sale of the shares of the Company, whereby the shareholders of the Company immediately prior to such a transaction will not, directly or indirectly, have control of more than 50% of the votes capable of being cast at a general meeting of the shareholders of the Company after the completion of such transaction (other than in connection with a bona fide primary equity financing or a transaction intended to affect a change of domicile of the Company); or (ii) a sale, lease, conveyance or other disposition of all or substantially all of the Company's assets or undertaking (other than as part of an amalgamation, merger or reorganization with wholly owned subsidiaries of the Company) (a "**Liquidity Event**"), the Company will, concurrently therewith, pay to the Lender an amount equal to two times the Indebtedness then outstanding.

2.3 **Issuance of Shares Upon Conversion.** Within five business days after conversion of this Note, the Company, at its expense, will cause to be issued in the name of and delivered to the Lender, a certificate or certificates for the number of Next Financing Securities or Conversion Securities to which the Lender will be entitled upon such conversion, as applicable, which certificates will include legends restricting transfer under applicable securities laws and, in the event of partial conversion of the Note in accordance with the terms set out herein, a new Note in identical form, the Principal of which will be equal to the Principal not converted. No fractional shares will be issued upon conversion of this Note. If, upon conversion of this Note, a fraction of a share would result, the Company will issue the closest whole share such that the shares issued will be fully paid.

2.4 **Reservation of Securities.** The Company will prior to the conversion of this Note reserve and keep available solely for the purpose of effecting the conversion of this Note such number of Next Financing Securities or Conversion Securities, as applicable, as will from time to time be sufficient to effect the conversion of this Note. The Company will take such corporate action as may be necessary to increase its authorized capital to such number as will be sufficient for such purpose.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

3.1 **Representations and Warranties of the Lender.**

(a) The Lender represents and warrants to the Company, and acknowledges that the Company is relying on these representations and warranties to, among other things, ensure that it is complying with all of the applicable rules, policies, notices, orders and legislation of any kind whatsoever of any securities regulatory body having jurisdiction (collectively, the "**Securities Rules**"), that:

(i) the Lender is acquiring this Note as principal for its own account and not for the benefit of any other person;

(ii) the Lender meets the requirements of the exemption category (ies) indicated in and has completed and executed an Accredited Investor Certificate, in the form provided by the Company concurrently with this Note; and

(iii) if the Lender is a resident of the United States, the Lender is an "Accredited Investor" as defined in Rule 501 of Regulation D under the *U.S. Securities Act* of 1933 (the "***U.S. Securities Act***") and has completed and executed the Certificate of US Accredited Investor in the form provided by the Company to the Lender concurrently with this Note.

(b) If the Lender is a Company, the Lender is a valid and subsisting Company, has the necessary corporate capacity and authority to execute and deliver this Note and to observe and perform its covenants and obligations hereunder and has taken all necessary corporate action in respect thereof, or, if the Lender is a partnership, syndicate, trust or other form of unincorporated organization, the Lender has the necessary legal capacity and authority to execute and deliver this Note and to observe and perform its covenants and obligations hereunder and has obtained all necessary approvals in respect thereof, and, in either case, upon the Company executing and delivering this Note, this Note will constitute a legal, valid and binding contract of the Lender enforceable against the Lender in accordance with its terms and neither the agreement resulting from such acceptance nor the completion of the transactions contemplated hereby conflicts with, or will conflict with, or results, or will result, in a breach or violation of any law applicable to the Lender, any constating documents of the Lender or any agreement to which the Lender is a party or by which the Lender is bound.

(c) The funds advanced to the Company by the Lender under the Loan Facility shall not be proceeds of crime as defined in the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)* (the "PCMLTFA"), or similar legislation in any other jurisdiction, and the Lender acknowledges that the Company may in the future be required by law to disclose the Lender's

name and other information relating to this Agreement, on a confidential basis, pursuant to the PCMLTFA, or similar legislation in any other jurisdiction. To the best of the Lender's knowledge (i) none of the funds to be provided by the Lender to the Company under the Loan Facility (A) have been or will be derived from or related to any activity that is deemed criminal under the law of Canada or any other jurisdiction, or (B) are being tendered on behalf of a person or entity who has not been identified to the Company, and (ii) the Lender shall promptly notify the Company if the Lender discovers that any of the representations in this paragraph ceases to be true, and to provide the Company with appropriate information in connection therewith.

3.2 **Representations and Warranties of the Company.** The Company represents and warrants to the Lender, and acknowledges that the Lender is relying on these representations and warranties in entering into this Note, that:

(a) the Company is a valid and subsisting corporation duly continued and in good standing under the laws of the jurisdiction in which it was amalgamated;

(b) this Note has been duly authorized by all necessary corporate action of the Company, has been validly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms;

(c) the Company has good and sufficient right and authority to enter into this Note and complete the transactions and perform its obligations contemplated under this Note on the terms and conditions set forth herein;

(d) the execution and delivery of this Note, the performance of its obligations under this Note and the completion of its transactions contemplated under this Note do not and will not conflict with, or result in the breach of or the acceleration of any indebtedness under, or constitute default under: (i) the constating documents of the Company; (ii) any applicable law, rule, regulation or policy; or (iii) any agreement or other instrument of any kind whatsoever to which the Company is a party or by which it or its properties or assets are bound; and

(e) except as would not reasonably be expected to have a material adverse effect on the business or financial condition of the Company, the Company is not currently in breach of, or default under: (i) the constating documents of the Company; (ii) any applicable law, rule, regulation or policy; or (iii) any agreement or other instrument of any kind whatsoever to which the Company is a party and by which it or its properties or assets are bound.

ARTICLE 4
ACKNOWLEDGMENTS AND AGREEMENTS

4.1 **Acknowledgements and Agreements of the Lender.** The Lender acknowledges and agrees that:

(a) because this loan is being made pursuant to the exemptions from the registration and prospectus requirements under the Securities Rules (the "**Exemptions**"):

(i) the Lender is restricted from using certain of the civil remedies available under the applicable Securities Rules;

(ii) the Lender may not receive information that might otherwise be required to be provided to the Lender under the applicable Securities Rules if the Exemptions were not being used; and

(iii) the Company is relieved from certain obligations that would otherwise apply under the applicable Securities Rules if the Exemptions were not being used;

(b) that this Note, and, if applicable, the securities acquired by the Lender upon conversion of this Note (collectively the "**Securities**") will be subject to such trade restrictions as may be imposed by operation of applicable Securities Rules and that the Company may be required to legend the certificates representing such Securities with those restrictions. This will prevent the Lender from reselling these Securities except in very limited circumstances. The Lender further acknowledges and agrees that it is the Lender's obligation to comply with the trade restrictions in all applicable jurisdictions and the Company offers no advice as to those trade restrictions except as provided for herein. The Lender further acknowledges that it may never be able to resell the Securities;

(c) that no securities commission has evaluated or endorsed the merits of the Securities and that the Company has no duty to tell the Lender whether the Securities are a suitable investment. The Lender further acknowledges that it is investing in the Company entirely at its own risk and it may lose all of the Principal; and

(d) the Company has not covenanted to register the Securities (or any underlying securities which those Securities are convertible into) under the *U.S. Securities Act* and that absent registration, the Securities (or any underlying securities which those Securities are convertible into) may not be offered for sale, sold or otherwise transferred or assigned, directly or indirectly, in the United States or to a U.S. Person (as defined under Regulation S made under the *U.S. Securities Act*) unless: (i) the sale is to the Company; (ii) the sale is made pursuant to the exemption from registration under the *U.S. Securities Act* provided by Rule 144 thereunder, if applicable, and in accordance with applicable state securities laws; (iii) with the prior written consent of the Company, the sale is made pursuant to another applicable exemption from registration under the *U.S. Securities Act* and any applicable state securities laws; or (iv) such Securities have been registered and/or qualified as the case may be under all applicable United States federal and state securities laws.

4.2 Transferability. This Note may not be transferred or assigned without the consent of the Company (not to be unreasonably withheld, delayed or conditioned). This Note may be transferred only in compliance with applicable securities laws and only upon surrender of the original Note for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to the Company, acting reasonably. A new secured convertible promissory note for like Principal will be issued to, and registered in the name of, the transferee. The Principal and accrued Interest is payable only to the registered holder of the Note.

ARTICLE 5
EVENT OF DEFAULT

5.1 Event of Default. Any of the following events will, for the purposes of this Note, constitute an "**Event of Default**":

(a) the Company fails to pay to the Lender any of the Principal or accrued Interest when due and payable hereunder;

(b) any representations or warranties made by the Company in this Note are incorrect in any material respect, and the Company has failed to cure that default within 30 days after receipt of written notice thereof from the Lender, or the Company has failed to fulfill any covenants provided by it in this Note (other than covenants relating the payment of Principal or accrued Interest) and the Company has failed to cure such default within 14 days after receipt of written notice thereof from the Lender;

(c) the Company makes an assignment for the benefit of creditors or any proceeding is instituted by or against it alleging that it is insolvent or unable to pay its debts as they mature and such proceeding is not dismissed within a reasonable period of time not to exceed 30 days;

(d) the liquidation or dissolution, or any other termination or winding-up of the business, of the Company;

(e) the appointment of any receiver for the Company or its assets;

(f) the institution by or against the Company of bankruptcy proceedings;

(g) the Company terminates the employment of Brendan MacMillan in his capacity as President of the Company; or

(h) the Company makes, directly or indirectly, any distribution without the prior written consent of the Lender, and for the purposes of this Note, "**distribution**" will mean: (i) the declaration, payment or setting aside for payment of any dividend or other distribution on or in respect of any shares in the Company's capital or equity or other ownership interests (including any return of capital); (ii) the redemption, retraction, repurchase, retirement or other acquisition, in whole or in part, of any shares in the Company's capital or any securities, instruments or contractual rights capable of being converted into, exchanged or exercised for shares in the Company's or any of its subsidiaries' capital, including, without limitation, options, warrants, conversion or exchange privileges and similar rights; (iii) the making of any loan or advance or any other provision of credit to any shareholder, partner or owner of the Company; and (iv) other than: (A) in the ordinary course of business, (B) with respect to senior ranking debts, (C) in respect of payments that are in the aggregate less than $25,000 per calendar month, the payment of any principal, interest, fees or other amounts on or in respect of any loans, advances or other debt owing at any time by the Company or any of its subsidiaries.

5.2 **Lender Remedies.** Upon an Event of Default under this Note, the Lender may declare the Principal and accrued Interest thereon to be immediately payable by written notice delivered to the Company, except that: (a) with respect to any Event of Default under Sections 5.1(d), (e) or (f), the Principal and accrued Interest thereon will become automatically and immediately payable without any further action by the Lender; and (b) with respect to any Event of Default under Section 5.1(b) and (c), the Principal and accrued Interest thereon will become automatically and immediately payable upon the expiration of the period set forth therein without any further action by the Lender. Waiver of any default under this Note will not constitute a waiver of any other or subsequent default under this Note. The Company agrees to promptly notify the Lender of any event, change, circumstance or condition which could reasonably be expected to constitute or result in an Event of Default.

ARTICLE 6
MISCELLANEOUS

6.1 **Endorsements of the Grid.** The Lender is hereby irrevocably authorized to endorse on the Grid the date and amount of each advance and each repayment of Principal, and absent manifest error, any such endorsement will constitute conclusive proof that all such principal advances and repayments have been made and of the amounts outstanding and other matters so endorsed. The Company expressly agrees that the Grid may be completed by the Lender as aforesaid and may be introduced as evidence of the principal amount owing by the Company to the Lender without the necessity for further proof of the facts thereof. The Company acknowledges that, notwithstanding the state of the Grid, the records of the Lender with respect to advances, readvances, repayments and prepayments, the unpaid principal balance and amounts owing to the Lender on account of interest, fees, expenses or otherwise will be conclusive and binding on the Company hereunder absent manifest error. The Lender's failure to record any such amount on the Grid will not affect or diminish the obligation of the Company to repay and discharge all of such indebtedness in accordance with the provisions hereof.

6.2 **Pro Rata Pre-Emptive Right.** If the Company proposes to issue any new equity securities ("**New Securities**") at any time that Indebtedness remains outstanding, and such issuance does not amount to a Qualified Financing for the purposes of Section 2.1 (i.e., aggregate gross proceeds of such issuance are not at least CAD$500,000), the Company will, in consideration for the Lender agreeing to advance the funds under this Note, first offer such New Securities to the Lender by written notice setting the number and purchase price of such New Securities to be so issued. The Lender may purchase its Pro Rata Share (as defined below) of the New Securities

so offered. The Lender's "**Pro Rata Share**" of the New Securities will be equal to the total number of New Securities so offered, multiplied by the quotient of X/Y, where X is equal to the number of shares that the Lender holds in the capital of the Company, and Y is equal to the aggregate number of shares issued and outstanding in the capital of the Company (on a fully-diluted basis). The Lender will have 10 days from the date such notice is issued to give notice to the Company of its intention to purchase all or any of the New Securities to which it is entitled. If no such notice is given by the Lender within such period, the Lender will be deemed to have rejected the offer to purchase such New Securities. Any New Securities not taken up by the Lender may be issued within 45 days of such New Securities having been first offered to the Lender, at not less than the price and on terms no more favourable than the terms offered to the Lender, to such persons as the Board of Directors of the Company. The Company may issue New Securities without complying with the provisions of this Section 6.2 if such New Securities are: (i) issued pursuant to a stock option plan that has been approved by the Board of Directors of the Company prior to the date of this Note; (ii) common shares in the capital of the Company offered to the public pursuant to an firmly underwritten initial public offering; or (iii) Securities issued pursuant to an equipment lease or financing arrangement.

6.3 **Observer Rights.** In consideration for the Lender agreeing to advance the funds under this Note, the Lender will be entitled to appoint a representative, and the Company will permit such representative, to attend all meetings of the Company's Board of Directors in a non-voting observer capacity and, in this respect, the Company will give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors at the same time and in the same manner as provided to such directors; provided, however, that such representative will agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided.

6.4 **Information Rights.** In consideration for the Lender agreeing to advance the funds under this Note, the Lender will be entitled to receive, and the Company will provide to the Lender: (i) (whether audited or not) annual financial statements (within 120 days of the Company's year end); (ii) whether audited or not) quarterly financial statements (within 60 days of the end of such period); (iii) annual capital and operating budgets (within 60 days prior to the Company's year end); and (iv) such other information as may be reasonably requested by the Lender; provided, however, that the Lender will agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided. Notwithstanding the foregoing, the obligation to provide financial statements in accordance with subparagraphs (i) and (ii) shall not commence until the date that is 120 days following the completion of the Company's audited financial statements for the financial year ended December 31, 2015 (the "**Historical Financial Statement Preparation Period**"), provided that during the Historical Financial Statement Preparation Period, the Company shall supply with the Lender with any internal financial information or reports prepared for the Company's management within 10 days of the preparation thereof.

6.5 **Remedies.** The Company and all endorsers of this Note hereby waive notice, presentment, protest and notice of dishonour.

6.6 **No Rights as Shareholder.** This Note will not entitle the Lender to any voting rights or any other rights as a shareholder of the Company or to any other rights except the rights stated herein.

6.7 **Notices.** Unless otherwise provided, any notice under this Note will be given in writing and will be deemed effectively given:

(a) upon personal delivery to the party to be notified;

(b) upon confirmation of receipt by email by the party to be notified; or

(c) one business day after deposit with a reputable overnight courier, prepaid for overnight delivery and addressed as set forth in this paragraph.

If to the Lender:

HIGHLANDS PACIFIC LLC
150A Manchester Street
San Francisco
California 94110

Attention: Brendan MacMillan
Email: bmacmillan@highpacmanagement.com

If to the Company:

PURCELL BASIN MINERALS INC.
910-880 West Pender Street
Vancouver
British Columbia V6C 2V6

Attention: Brendan MacMillan
Email: bmacmillan@highpacmanagement.com

6.8 **Amendments and Waivers.** Any term of this Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of both the Company and the Lender.

6.9 **Governing Law.** All questions concerning the construction, validity, enforcement and interpretation of this Note will be governed by and construed and enforced in accordance with the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof. Each party agrees that all proceedings concerning the interpretations, enforcement and defence of the transactions contemplated by this Note and any other related transaction documents (whether brought against a party hereto or its respective affiliates, employees or agents) will be commenced exclusively in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "**New York Courts**"). Each party hereto irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the related transaction documents), and hereby irrevocably waives, and agrees not to assert in any proceeding, any claim that it is not personally subject to the jurisdiction of any such New York Court, or that such proceeding has been commenced in an improper or inconvenient forum. Each party hereto hereby irrevocably waives personal service of process and consents to process being served in any such proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Note and agrees that such service will constitute good and sufficient service of process and notice thereof. Nothing contained herein will be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

6.10 **Successors and Assigns.** The terms and conditions of this Note will inure to the benefit of and be binding on the respective successors and assigns of the parties.

6.11 **Severability.** If any provision of this Note is held to be invalid, illegal or unenforceable in any respect under any applicable law, such invalidity, illegality or unenforceability will not affect any other provision, and this Note will be reformed, construed and enforced as if such invalid, illegal or unenforceable provision had never been contained herein.

6.12 **Further Assurances.** The Company will from time to time execute and deliver, and will procure and ensure that its subsidiaries will from time to time execute and deliver, all such further documents and instruments (including, without limitation, general security agreements, mortgages, share pledges, guarantees,

financing statements and financing change statements) and do all acts and things (including procuring and ensuring that its subsidiaries do all act and things) as the Lender may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Note and to secure payment and performance of all present debts, liabilities and other obligations of the Company to the Lender this .

6.13 **Expenses and Legal Fees.** The Company will pay all reasonable out-of-pocket expenses and other related expenses of the Lender, including the Lender's legal expenses incurred by the Lender in the process of: (i) negotiating this Note; (ii) establishing and defending the Lender's priority, liens and security interests relative to other lenders to the Company (as referenced and set forth in a priority agreement executed and delivered on April 25, 2016 by the Company, the Lender and certain other lenders to the Company); (iii) structuring the Note and the Lender's internal structuring of its affiliated entities and investments required to continue to fund the Note; and (iv) negotiating, drafting and delivering definitive legal documentation in relation to this Note.

6.14 **Counterparts.** This Note may be executed in any number of counterparts, each of which when delivered (by facsimile or otherwise) will be deemed to be an original and all of which together will constitute one and the same document. A signed facsimile or faxed or PDF copy of this Note will be effective and valid proof of execution and delivery.

6.15 **Entire Agreement.** This Note and any other agreement referred to in this Note comprise the entire agreement between the parties in connection with the subject matter of this Note, and supersede all previous proposals, negotiations, promises, agreements, conditions, representations and warranties with respect to the subject matter of this Note. There are no representations, warranties, terms, conditions, undertakings or collateral agreements express or implied between the parties other than as expressly set out in this Note.

Purcell-Highlands Pacific Senior Convertible Promissory Note Signature Page

DATED: November 7, 2016

HIGHLANDS PACIFIC LLC

Per: _____
Authorized Signatory

PURCELL BASIN MINERALS INC.

Per: _____
Authorized Signatory

SCHEDULE A
GENERAL SECURITY AGREEMENT

PURCELL BASIN MINERALS INC. (the "Company") mortgages and charges in favour of HIGHLANDS PACIFIC LLC (the "Lender"), and grants to the Lender a security interest in, all of the Company's present and after-acquired personal property, including all inventory (including, but not limited to, ore stockpiles), equipment and fixtures, all contracts, accounts and other intangibles, and all securities, instruments, chattel paper, money and documents of title, and also all of the Company's present and after-acquired real property and other assets and undertaking (collectively, the "Charged Property") to secure payment and performance of all present debts, liabilities and other obligations of the Company to the Lender pursuant to an Amended and Restated Senior Promissory Note (the "Note") issued by the Company to the Lender on November 7, 2016 (collectively, the "Secured Obligations").

The Company will not sell, lease or otherwise dispose of any Charged Property except that, until default, the Company may deal with all Charged Property in the ordinary course of business. The Company will not allow any Charged Property to be situated outside of British Columbia. The Company will not allow the Company's main place of business to be located outside of British Columbia, nor will the Company change its name or have any other form of name (except upon 10 days' prior written notice to the Lender).

The Company will be in default under this agreement if default is made in payment or performance of any of the Secured Obligations, or if there is a default under any document evidencing any of the Secured Obligations, or if the Lender in good faith, acting reasonably, believes that the prospect of payment or performance of any of the Secured Obligations is or is about to be impaired in any material respect or that any of the Charged Property is or is about to be placed in jeopardy in a manner that would have a material adverse impact on the rights of the Lender hereunder.

Upon a default hereunder, the Lender will have all the rights and remedies of a secured party under the British Columbia Personal Property Security Act and of a mortgagee at law or in equity and, in addition, will be entitled to declare payment and performance of all of the Secured Obligations to be immediately due, and will be entitled to appoint any legal person as receiver or receiver and manager (a "Receiver") of all or any part of the Charged Property. Any Receiver so appointed will have all the rights and remedies of the Lender (except the right to appoint a Receiver). Without limiting the rights and remedies referred to above, the Lender and any Receiver may, after default, use any or all of the Charged Property in the manner and to the extent it considers commercially reasonable, and may sell, lease or otherwise dispose of the same either for cash or in any manner involving deferred payment. Neither the Lender nor any Receiver will be obligated to take any necessary or other steps to preserve rights against others with respect to any securities, instruments or chattel paper now or hereafter in its possession.

IN WITNESS WHEREOF the Company, intending to be legally bound, has executed this Security Agreement as of 7th day of November, 2016

PURCELL BASIN MINERALS INC.

Per: _____
Authorized Signatory

SCHEDULE B
GRID SCHEDULE TO AMENDED AND RESTATED SENIOR PROMISSORY NOTE

Date of Advance/Repayment	Applicable Interest Rate	Amount of Advance/Repayment	Balance Owing (including accrued interest)
November 7, 2016 (being the date of this Note - to advance all advances under the Original Note to date)	10% per annum (as per the Original Note - compounded quarterly up to the date of this Note)	CAD$425,056.16	CAD$432,411.123

AMENDED AND RESTATED SENIOR PROMISSORY NOTE

TERM SHEET

This term sheet (this "**Term Sheet**") summarizes the material business terms with respect to the Amended and Restated Senior Promissory Note (the "**Note**") between Purcell Basin Minerals Inc., a company incorporated under the laws of British Columbia, and Highlands Pacific LLC, a limited liability company incorporated under the laws of the State of Delaware. The Note will amend and restate the Senior Promissory Note issued by Purcell Basin Minerals Inc. to Highlands Pacific LLC on April 25, 2016. This Term Sheet is for discussion purposes only, and will not constitute a binding agreement or otherwise be deemed to be binding. Any other legally binding obligation will only be made pursuant to definitive agreements to be negotiated and executed by the parties.

MATERIAL BUSINESS TERMS

Borrower:	Purcell Basin Minerals Inc. (the "**Company**").
Lender:	Highlands Pacific LLC (the "**Lender**").
Loan Amount:	A credit facility of up to CAD$15,000,000, with advances to be made at the Lender's sole discretion (the "**Loan Amount**") and which advances will be reflected by notation in a grid attached as a schedule to the form of Note.
Interest Rate:	10% per annum, simple interest, calculated monthly in arrears (the "**Interest**", and together with the Loan Amount, the "**Indebtedness**").
Maturity Date:	The outstanding portion of the Indebtedness will become due and payable on January 31, 2017 (the "**Maturity Date**"), unless converted pursuant to the terms of the Note. Notwithstanding the foregoing, subject to Brendan MacMillan remaining appointed as the President of the Company, the Maturity Date shall automatically be extended to July 31, 2017.
Prepayment:	The Indebtedness may be prepaid by the Company at any time without penalty.
Expenses and Legal Fees:	The Company will pay all reasonable out-of-pocket expenses and other related expenses of the Lender, including the Lender's legal expenses incurred by the Lender in the process of: (i) negotiating this Term Sheet and the Note; (ii) establishing and defending the Lender's priority, liens and security interests relative to other lenders to the Company (as referenced and set forth in a priority agreement executed and delivered on April 25, 2016 by the Company, the Lender and certain other lenders to the Company); (iii) structuring the Note and the Lender's internal structuring of its affiliated entities and investments required to continue to fund the Note; and (iv) negotiating, drafting and delivering definitive legal documentation in relation to this Note.
Security:	The repayment of the Indebtedness and any other charges under the Note will be secured by the assets of the Company subject to any permitted encumbrances set out therein in accordance with the term set out in the Security Agreement dated on or about the date of the Note.
Observer and Information Rights:	The Lender (or its nominee) will have the right to participate as an observer at all meetings of the Company's Board of Directors. As such, the Lender (or its nominee) will be entitled to receive all notices and materials received by the Board of Directors of the Company.

	The Lender will be entitled to receive: (i) (whether audited or not) annual financial statements (within 120 days of the Company's year end); (ii) whether audited or not) quarterly financial statements (within 60 days of the end of such period); (iii) annual capital and operating budgets (within 60 days prior to the Company's year end); and (iv) such other information as may be reasonably requested by the Lender. Notwithstanding the foregoing, the obligation to provide financial statements in accordance with subparagraphs (i) and (ii) shall not commence until the date that is 120 days following the completion of the Company's audited financial statements for the financial year ended December 31, 2015 (the "**Historical Financial Statement Preparation Period**"), provided that during the Historical Financial Statement Preparation Period, the Company shall supply with the Lender with any internal financial information or reports prepared for the Company's management within 10 days of the preparation thereof.
Conversion:	If: (i) the Company at any time before the full repayment of the Indebtedness in the context of an equity financing issues fully paid and non-assessable shares in the capital of the Company (the "**Next Financing Securities**"), raising aggregate gross proceeds of at least CAD$500,000 (a "**Qualified Financing**"), excluding the amounts raised from the conversion of the Note or any other convertible promissory note of the Company issued after the date hereof, then at the election of the Lender, all or any portion of the outstanding Indebtedness will, concurrently with the closing of the Qualified Financing, convert into the Next Financing Securities issued at a conversion price per share which is equal to the price per Next Financing Security sold in the Qualified Financing (the "**Conversion Price**"); or (ii) at any time before the full repayment of the Indebtedness, the Lender so elects (in its sole discretion), all or any portion of the outstanding Indebtedness will convert into fully paid and non-assessable shares in the capital of the Company at a conversion price per share which is to be assessed at fair market value, as determined by the Board of Directors of the Company at the time of conversion.
Pre-Emptive Right:	The Lender will have the right in the event the Company proposes to issue equity securities and such issuance does not amount to a Qualified Financing (i.e., aggregate gross proceeds of such issuance are not at least CAD$500,000) to purchase its pro rata share (being the quotient obtained by dividing the number of shares in the capital of the Company held by the Lender, divided by all of the issued and outstanding shares in the capital of the Company, calculated on a fully-diluted basis) of such equity securities (the "**Pre-Emptive Right**"). The Pre-Emptive Right shall terminate on the repayment of all Indebtedness.
Liquidation Preference:	On the occurrence of a Liquidity Event (as defined in the Note), the Company will, concurrently therewith, pay to the Lender an amount equal to two times the Loan Amount together with any accrued interest as at the time of the Liquidity Event.
Representations and Warranties:	The Company and the Lender will give standard representations and warranties to each other.
Choice of Law and Forum:	The Note and related documents shall be subject to the laws of the State of Delaware. Any legal proceedings in connection with the Note shall be take place in the state and federal courts sitting in the City of New York, Borough of Manhattan.

Amending and Restating Prior Agreement:	When executed, the Note will amend and restate the Senior Promissory Note issued by Purcell Basin Minerals Inc. to Highlands Pacific LLC on April 25, 2016.
Lapsing Date:	This Term Sheet is open for acceptance until 5:00 pm on November 11, 2016.

[Page left intentionally blank; signature page to follow]

Highlands Pacific LLC Senior Convertible Promissory Note Term Sheet Signature Page

The parties hereto have executed and delivered this Term Sheet.

PURCELL BASIN MINERALS INC.

By: _____
Name:
Title:

ACCEPTED November 7, 2016.

HIGHLANDS PACIFIC LLC

By: _____
Name:
Title:

ACCEPTED November 7, 2016.

Brendan MacMillan July 12, 2018

This is **Exhibit "C"** referred to in Affidavit #1 of **Brendan MacMillan**, sworn before me at San Francisco, California, on July 12, 2018.

A Notary Public in and for the State of California

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On Thursday, July 12, 2018 before me, Hasan Ahmed, Notary Public,

Personally Appeared **BRENDAN MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

Signature

HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

WITNESS my hand and official seal.

Highlands Pacific LLC Promissory Note Advances to Purcell

	2016-2017 Schedule of Investments into Purcell				2016-2017 Schedule of Investments into Purcell					
HPP LP for HP LLC	20-May-16	US$	20,000	10% HPP LP	20-May-16	US$	$	24,763	25.7
	10-Jun-16	US$	20,010	10%	10-Jun-16	US$	$	24,634	25.1
	30-Jun-16	US$	20,010	10%	30-Jun-16	US$	$	24,500	24.4
	6-Sep-16	US$	30,010	10%	6-Sep-16	US$	$	36,069	22.2
	28-Oct-16	US$	95000	10%	28-Oct-16	US$	$	112,571	20.4
	10-Nov-16	US$	30000	10%	10-Nov-16	US$	$	35,423	20.0
	30-Nov-16	US$	118,252.71	10%	30-Nov-16	US$	$	138,868	19.4
	31-Dec-16	US$	112971.05	10%	31-Dec-16	US$	$	131,548	18.3
	31-Jan-17	US$	27297.02	10%	31-Jan-17	US$	$	31,518	17.3
	28-Feb-17	US$	116517.64	10%	28-Feb-17	US$	$	133,512	16.4
	31-Mar-17	US$	33278.62	10%	31-Mar-17	US$	$	37,811	15.4
Crdt Cards to August	30-Sep-16	US$	45,874	10% Crdt Cards	30-Sep-16	US$	$	54,775	21.4
Crdt Cards Oct-April 201	26-Apr-17	US$	38972.62	110% Crdt Cards	26-Apr-17	US$	$	139,401	14.5
SubTotal US$			708,193	SubTotal US$				925,393	
SubTotal C$ Conversion at 1.3/1			920,651.20	SubTotal C$ Conversion at 1.3/1				1,203,010.89	
HP LLC Direct	25-Jul-16	CAN$	30,000	10% HP LLC	25-Jul-16	CAN$	$	36,482	23.6
	1-Aug-16	CAN$	10,000	10%	1-Aug-16	CAN$	$	12,137	23.3
	3-Aug-16	CAN$	10,000	10%	3-Aug-16	CAN$	$	12,131	23.3
	8-Aug-16	CAN$	10,000	10%	8-Aug-16	CAN$	$	12,114	23.1
	15-Aug-16	CAN$	10,000	10%	15-Aug-16	CAN$	$	12,091	22.9
	24-Aug-16	CAN$	10,000	10%	24-Aug-16	CAN$	$	12,062	22.6
	26-Aug-16	CAN$	10,000	10%	26-Aug-16	CAN$	$	12,055	22.5
	29-Aug-16	CAN$	25,000	10%	29-Aug-16	CAN$	$	30,113	22.4
	5-Oct-16	CAN$	2,000	10%	5-Oct-16	CAN$	$	2,385	21.2
	6-Oct-16	CAN$	2,000	10%	6-Oct-16	CAN$	$	2,384	21.2
	11-Oct-16	CAN$	2,000	10%	11-Oct-16	CAN$	$	2,381	21.0
	11-Oct-16	CAN$	3,000	10%	11-Oct-16	CAN$	$	3,571	21.0
	18-Nov-16	CAN$	130,000	10%	18-Nov-16	CAN$	$	153,164	19.8
	23-Nov-16	CAN$	26136.79	10%	23-Nov-16	CAN$	$	30,752	19.6
SubTotal C$ Direct			280,137	SubTotal C$ Direct				333,823	
Total Combined Principal C$ Investments			1,200,787.99	W/Interest Total Combined C$ Investments				1,536,833.70	
Total Combined Principal US$ Investments			923,683.07					1,182,179.77	

Today's Date 12-Jul-18

Brendan MacMillan July 12, 2018

This is **Exhibit "D"** referred to in Affidavit #1 of **Brendan MacMillan**, sworn before me at San Francisco, California, on July 12, 2018.

A Notary Public in and for the State of California

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On Thursday, July 12, 2018 before me, Hasan Ahmed, Notary Public,

Personally Appeared **BRENDAN MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

Signature

HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

WITNESS my hand and official seal.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

HIGHLANDS PACIFIC LLC, a Delaware Limited Liability Company, HIGHLANDS PACIFIC PARTNERS, LP, a Delaware Limited Partnership, and BRENDAN MACMILLAN	)	C.A. No. ____-___
Plaintiffs,	)	
v.	)	
CUVERAS, LLC, a Delaware Limited Liability Company, and PETER LACEY,	)	
Defendants.	)	

VERIFIED COMPLAINT

Plaintiffs Highlands Pacific LLC ("Highlands"), Highlands Pacific Partners, LP ("HPP"), and Brendan MacMillan ("MacMillan," collectively, "Plaintiffs"), by and through their undersigned attorneys, as and for their Verified Complaint against defendants CuVeras, LLC ("CuVeras" or the "Company") and Peter A. Lacey ("Lacey" and with CuVeras, "Defendants"), allege as follows:

NATURE OF THE ACTION

1. This action stems from CuVeras's and Lacey's wrongful removal of Highlands as Manager of CuVeras, a Delaware limited liability company ("LLC") formed to finance the acquisition out of bankruptcy and subsequent operation of

the Gallowai Bul River Mine by Purcell Basin Minerals, Inc. ("Purcell"). Highlands was the designated Manager of CuVeras under its operating agreement, and Highlands' principal, MacMillan, is the President and sole director of Purcell. Faced with adverse commodity market conditions and depressed copper prices, the Mine (and thus Purcell) was on the brink of closure in the spring of 2016.

2. To save the Mine, and protect CuVeras's investment in Purcell, Highlands and MacMillan took action to provide desperately needed additional financing and continued management services to Purcell. Lacey and other investors each refused to participate in the much needed financing to keep the Mine afloat, thus leaving Highlands and MacMillan as the only source of funds to keep the Mine in operation. In exchange for Highlands' lifeline financing, Purcell, Highlands, MacMillan and CuVeras entered into a priority agreement by which Purcell's existing indebtedness to CuVeras would be subordinated to its new indebtedness to Highlands (the "Priority Agreement").

3. The lifeline provided by Highlands and MacMillan saved the Mine from ruinous flooding by keeping the electricity flowing, at a cost of 5,000 Canadian dollars per week, to operate the Mine's underground water pump. The lifeline also funded other critical overhead to maintain Purcell's operations and required permits. Importantly, Highlands' actions to save Purcell—and therefore

CuVeras's investment in Purcell—were within Highlands' powers as Manager under the Operating Agreement of CuVeras, LLC (the "Operating Agreement").

4. Nevertheless, Lacey, as the sole member of CuVeras, purported to remove Highlands as Manager—unilaterally and without contractually required consent—and commenced a legal action in Canada, where the Mine is located, claiming that Highlands breached its fiduciary duties as Manager of CuVeras by entering into the Priority Agreement. The Defendants' forum shopping is improper. This is a dispute between two Delaware LLCs and their principals, who expressly agreed under the Operating Agreement to litigate these matters in the courts and under laws of Delaware.

5. CuVeras has also breached the Operating Agreement by failing to pay certain management fees owed to Highlands. Moreover, after Lacey improperly removed Highlands as Manager of CuVeras, Lacey disavowed the obligation to pay Highlands the management fees due and owing to Highlands under the Operating Agreement. Indeed, Lacey has wrongly asserted that the payment of management fees to Highlands under the Operating Agreement is "merely discretionary." Lacey has also failed to disclose whether he has caused CuVeras, through the purported new manager which Lacey had appointed, to make any distributions or payments to any party including to the purported new manager of

CuVeras. Furthermore, CuVeras has breached its obligations under certain promissory notes it issued to Highlands.

6. Plaintiffs therefore bring this action pursuant to Sections 18-110 and 18-111 of the Delaware Limited Liability Act, 6 *Del. C.* § 18-101 *et seq.* (the "LLC Act"), seeking, among other things: a declaration that the purported removal of Highlands as Manager of CuVeras was invalid; a declaration that the terms of the Operating Agreement require payment of all outstanding management fees owed to Highlands; a declaration that the Defendants are required to bring any claims regarding the actions of Highlands and/or MacMillan as Manager(s) of the Company in the Delaware Courts; and damages stemming from CuVeras's breach of the promissory notes it issued to Highlands.

THE PARTIES

7. Highlands is a limited liability company organized under the laws of the State of Delaware, with a principal place of business in San Francisco, California. Highlands is the rightful Manager of CuVeras, as designated in the Operating Agreement, and it has served as Manager of CuVeras since December 16, 2011. On or about June 29, 2016, Lacey purported to remove Highlands as Manager.

8. HPP is a limited partnership organized under the laws of the State of Delaware, with a principal place of business in San Francisco, California.

9. MacMillan is the Chief Executive Officer and sole director of Purcell. MacMillan is also the President of Highlands which in turn is the General Partner of HPP. MacMillan is the founder and operator of several private companies and partnerships in the U.S. and Canada focused on energy and natural resources operations and investments in public and private debt and equity. He is a citizen of the State of California and resides in the city of San Francisco.

10. Defendant CuVeras is a limited liability company organized under the laws of the State of Delaware.

11. Lacey is an individual who, upon information and belief, resides in Canada. Lacey is the sole member of CuVeras.

JURISDICTION

12. The Court has jurisdiction over this dispute pursuant to 6 *Del. C.* § 18-110 and 6 *Del. C.* § 18-111.

13. As the sole member of CuVeras and a party to the Operating Agreement, Lacey expressly consented to the exclusive jurisdiction of the Courts of the State of Delaware. The Court therefore has personal jurisdiction over Lacey pursuant to 6 *Del. C.* § 18-109(d). Personal jurisdiction is also proper pursuant to 10 *Del. C.* § 3104.

FACTS

CuVeras, with Investments by Highlands and Others, Finances Purcell's Acquisition and Operation of the Mine

14. CuVeras was formed on December 16, 2011 to finance Purcell's acquisition and operation of the Gallowai Bul River Mine (the "Mine"), a copper mine located in Cranbrook, British Columbia.

15. Under Section 5(b) of the Operating Agreement, Highlands was designated as the initial Manager of CuVeras on December 16, 2011. MacMillan, Highlands' sole member and manager, has also served as President and sole director of Purcell since its founding on August 13, 2014.

16. Under the Operating Agreement, CuVeras is obligated to pay Highlands a "Management Fee," which includes a base amount of US $40,000 plus US $8,000 per week for each week that Highlands is the Manager. Operating Agreement, Appendix B (definition of "Management Fee"). The Management Fee payable to Highlands also includes a corporate finance fee equal to two percent (2%) of the gross amount of capital raised through the issuance of debt, equity, warrants or other securities by the Company or certain affiliates during the period in which Highlands is the Manager or during the four-year period following the termination of Highlands as Manager of the Company. *Id.* CuVeras is required to pay the corporate finance fee within three (3) business days of the closing of any such financing. *Id.*

17. In order to finance the acquisition of the Mine, certain parties, including Highlands and CuVeras, entered into a Securities Purchase Agreement (the "SPA") under which certain Promissory Notes were issued by CuVeras to investors, such as Lacey and Highlands, who were financing CuVeras. CuVeras then loaned these funds to Purcell for the acquisition of the Mine and for its operations, including completion of two Canadian National Instrument 43-101 compliant resource assessment reports and for efforts to obtain amended mining operating and tailings permits.

18. By a certain Assignment and Assumption Agreement, dated as of January 23, 2012, Lacey became bound by the SPA by expressly assuming and undertaking "all of the rights and obligations of a 'Purchaser' under the [Securities] Purchase Agreement as if the [subject] notes had been actually purchased by the Assignor under the [Securities] Purchase Agreement."

19. Under the SPA, CuVeras issued a Mortgage and Debenture (a form of the Mortgage and Debenture was Exhibit D to the SPA) to the benefit of "[a]ll persons who are from time to time holders of senior secured notes issued by CuVeras, LLC . . . pursuant to the Securities Purchase Agreement" (the "Noteholder Mortgage and Debenture"). CuVeras is the "Borrower" and its senior secured noteholders are the "Lenders" under the Noteholder Mortgage and Debenture. Highlands is a holder of senior secured notes issued by CuVeras and is

the authorized service and enforcement agent for another holder's senior secured notes issued by CuVeras.

20. Pursuant to the Noteholder Mortgage and Debenture, Bull River Securities Holdings Ltd. ("Bull River"), an entity controlled by MacMillan, is the "Agent" appointed by the Lenders to hold their security interests created by the Noteholder Mortgage and Debenture.

21. Under the Noteholder Mortgage and Debenture, CuVeras expressly agreed that it "shall not, ***without the prior written consent of the Agent***, permit a 'change in control' of the Borrower. A 'change in control', as defined, includes . . . a change in Manager of the Borrower . . . ." Noteholder Mortgage and Debenture § 14.1(j) (emphasis added). Thus, MacMillan, as controller of Bull River, had to consent to any change in Manager of CuVeras.

22. In exchange for the financing which passed through CuVeras, Purcell issued a 10% Senior Note of Purcell Basin Minerals Inc. payable to CuVeras in the original principal amount of 12,009,795 Canadian dollars (the "CuVeras Note").

23. In 2014, Purcell, with financing provided by CuVeras, acquired certain assets including the Mine out of certain Canadian bankruptcy court proceedings brought under the Companies' Creditors Arrangement Act ("CCAA") by a group of entities commonly referred to as the Stanfield Mining Group (the "Stanfield Companies"), which previously owned the Mine.

24. In exchange for success in financing and structuring a Plan of Arrangement to bring the Stanfield Companies assets out of the CCAA proceedings and transfer the assets into Purcell, HPP received from the CCAA Court a fee upon completion of the Plan of Arrangement equal to 7% of the imputed enterprise value of Purcell in the form of a Senior Promissory Note in the original principal amount of 2,338,000 in Canadian dollars (the "HPP Note"). *See* paragraph 26 of the Plan of Compromise and Arrangement Pursuant to the Companies' Creditors Arrangement Act, dated September 25, 2014 and allowed, as amended on October 29, 2014, by the Supreme Court of British Colombia on November 15, 2014.

25. The HPP Note reached its maturity date on December 9, 2016. The HPP Note and the CuVeras Note are to be treated *pari passu* under the terms of the transaction approved in the CCAA proceedings by which the Mine was acquired.

26. On December 5, 2014, pursuant to the SPA, Highlands received a promissory note in exchange for 690,000 Canadian dollars loaned to CuVeras, which funds were in turn loaned to Purcell.

27. After certain transfers and/or assignments related to the original promissory note from CuVeras to Highlands, Highlands is the present holder of a promissory note from CuVeras for the sum of 100,000 Canadian dollars plus accrued interest. Highlands remains the agent for the transferee/assignor for

service and collection on the promissory note from CuVeras for the remainder of balance of the original indebtedness, 590,000 Canadian dollars plus accrued interest (collectively, the "Highlands-CuVeras Notes").

28. The Highlands-CuVeras Notes each are "governed by and shall be construed and enforced in accordance with loans as provided in Section 6.8 of the Securities Purchase Agreement," which, in turn, provides that Delaware law governs these Notes.

29. The Highland-CuVeras Notes each further provide that CuVeras shall pay interest on the notes at the rate of: "ten percent (10%) per annum on the principal amount of the [Highlands-CuVeras Notes] and upon compound interest. Interest shall accrue daily from the date of issuance and shall compound on March 30, June 30, September 30 and December 30 in each year commencing December 5, 2014. Interest must be paid in full at the stated maturity date."

30. The Highlands-CuVeras Notes each also provide that "[i]t shall be default hereunder if the issuer shall fail to pay an amount of principal or interest when due. Such default becomes an Event of Default if it remains uncured and the Requisite (sic) Noteholders notify the Issuer in writing that they are declaring an Event of Default."

31. The stated maturity date of the Highland-CuVeras Notes is December 30, 2015. To date, CuVeras has failed to make any payment whatsoever under the

Highlands-CuVeras Notes. Nor, in the alternative requirement, has CuVeras otherwise converted the notes into senior notes of Purcell and distributed these notes to the CuVeras investors.

To Save Purcell, Highlands and MacMillan Fund Purcell's Continued Operations

32. Times are extremely difficult in the mining markets. This includes both the financial markets and the commodity markets for mining companies. Moreover, the Mine is primarily a copper mine and copper prices are down nearly 50% in United States dollars since early 2011.

33. In addition, in early August of 2014, a mine (which is unassociated with CuVeras, Purcell or the other parties to this action) known as the Mount Polley Copper and Gold Mine in Cariboo, British Columbia, had a breach at its tailings pond which caused years of waste and slurry to release into Polley Lake in Canada. The leak eventually flooded Polley Lake, Hazelton Creek and continued into nearby Quesnel Lake and Cariboo River. Mine safety experts and media articles have called this spill one of the biggest environmental disasters in modern Canadian history (the "Mount Polley Spill").

34. As a result of the Mount Polley Spill, the British Columbia Ministry of Energy and Mines ("MEM") has raised permitting requirements for mines and has required additional studies and data for iterations after initial submission of all initially requested items. The permitting process for the Mine by Purcell has,

therefore, taken much longer and requires much greater funding than expected due to this changed regulatory environment. Not having gone into production, the Mine has not produced revenue from mining operations as originally expected. In addition, the depressed commodity prices make it economically irrational to go into production and operation at this time.

35. In order to continue to fund the day-to-day maintenance of the Mine, including the operation of the crucial water pumps to prevent the Mine from flooding, and to pay the administrative expenses of the Mine, MacMillan, the President of Purcell has deferred compensation due to him from Purcell for operating the company and the Mine.

36. In addition, Highlands, which is owned and controlled by MacMillan, agreed to provide new funding to Purcell, which was necessary to continue Purcell's operations, permitting and environmental compliance processes. In return, Purcell issued a promissory note to Highlands for up to 15,000,000 Canadian dollars to evidence such obligation (the "Highlands-Purcell Note"). The interest on the Highlands-Purcell Note is 10% per annum, compounded quarterly. To date, the principal amount of funding provided by Highlands to Purcell pursuant to the Highlands-Purcell Note is approximately 900,000 Canadian dollars.

37. On or about April 25, 2016, in exchange for Highlands' agreement to provide funding to Purcell and to induce MacMillan to continue providing services

to Purcell, Purcell, Highlands, MacMillan, HPP and CuVeras entered into a Priority Agreement (the "Priority Agreement").

38. Under the terms of the Priority Agreement, Purcell granted:

a. a first priority mortgage and security interest to each of Highlands and MacMillan to provide security with respect to the obligations evidenced by the Highlands-Purcell Note; and

b. a second priority mortgage and security interest to HPP, an affiliate of Highlands to provide security with respect to obligations evidenced by the HPP Note.

39. Under the terms of the Priority Agreement, CuVeras:

a. consented to the grant of each of the mortgages and security interests granted to Highlands, MacMillan and HPP by Purcell under the Priority Agreement; and

b. agreed that the mortgage and security interests described above and granted to Highlands by Purcell shall be and is senior in priority to the mortgage and security interest granted with respect to the CuVeras Note, if any; and that the mortgage and security interest granted HPP shall be and is *pari passu* in priority with respect to the CuVeras mortgage, if any (as defined in the Priority

Agreement) per the terms of the issuance of the HPP Note by the CCAA Court upon completion of the Plan of Arrangement.

40. The new financing provided by Highlands literally saved the Mine and, therefore, Purcell by funding critical overhead expenses necessary to maintain Purcell's operations and required permits. For example, Highlands' new funds enabled Purcell to pay its 5,000 Canadian dollars per week electricity bill for power required to keep the Mine's underground water pump operating and prevent the Mine from flooding, pay for exploration expenses necessary to keep its mineral claims in good standing, pay property taxes necessary to maintain ownership of the land on which the mine is located, and continue environmental compliance procedures required by the British Columbia government under the Mine's existing permits. Without these expenditures the Mine would have essentially become worthless and, indeed, would have exposed the Mine to substantial damage and environmental liabilities.

41. In the absence of an agreement to grant priority to the new financing Highlands provided Purcell (*i.e.*, the Highlands-Purcell Note), Highlands would not have provided such financing, and Purcell would have ceased operations.

42. There was no alternative financing available at the time Purcell required it, nor any other qualified individual willing to serve as Purcell's President on a deferred-compensation basis. Indeed, Highlands and MacMillan sought the

participation of Lacey and other investors in the new financing of Purcell, but they all declined to participate, thereby leaving Highlands and MacMillan as the only available source of the financing required to save Purcell.

43. Highlands reasonably believed that keeping Purcell afloat, in exchange for the rights conferred by the Priority Agreement, would protect CuVeras's investment in Purcell and thus be in the best interests of CuVeras.

44. The Operating Agreement authorized Highlands to "perform . . . its duties as a Manager in a manner . . . it believes to be in the best interests of the Company." So long as Highlands performed its duties in a manner it believed to be in the best interests of the Company, Highlands "shall not have any liability by reason of being or having been a Manager of the Company." Operating Agreement § 5(d).

45. The Operating Agreement specifically authorized Highlands "to cause the Company to purchase property from, sell property to, or otherwise deal with, any Member or Manager, acting on such Member's or Managers' own behalf, or any Affiliate of any Member or Manager; provided, that, any such purchase, sale or other transaction shall be made on terms and conditions that are no less favorable to the Company than if such purchase, sale or other transaction had been made with an independent third party." *Id.* § 1.7(b). Given current market

conditions (described above) and the lack of other parties willing to provide financing, the terms of the Highlands financing clearly satisfy this standard.

CuVeras and Lacey Wrongfully Remove Highlands as Manager, Refuse to Pay Amounts Owed to Highlands, and Sue Highlands and MacMillan for Entering into the Priority Agreement

46. Under the Noteholder Mortgage and Debenture and, therefore, under the SPA, CuVeras and Lacey agreed not to change the Manager of CuVeras from Highlands without the prior written consent of the Agent, Bull River. Highlands was, therefore, the intended third-party beneficiary of this express restraint on Lacey's authority to remove the manager. Indeed, this provision essentially provided MacMillan with a veto over any removal of Highlands because MacMillan controls Bull River.

47. By "Written Consent of the Members of CuVeras, LLC," solicited on or about June 29, 2016 (the "Written Consent"), Lacey, as the sole Member of CuVeras, purported to remove Highlands as Manager.

48. Defendants neither sought nor received the prior written consent of Bull River to remove Highlands and are clearly in breach of the Noteholder Mortgage and Debenture and, consequently, the SPA. The Written Consent simply states that Lacey, as sole Member of CuVeras, desired to remove Highlands as Manager. The Written Consent fails to state whether CuVeras or Lacey even

sought the required advance consent of Bull River, much less obtained Bull River's consent in writing. They did neither.

49. Lacey did not request and did not receive Bull River's consent to remove Highlands as manager.

50. Consequently, the purported removal of Highlands is invalid and has breached Lacey's obligation to Highlands.

51. Additionally, as discussed above, CuVeras was obligated to pay Highlands certain Management Fees pursuant to the Operating Agreement.

52. Following the purported removal of Highlands, CuVeras refused to pay certain of the Management Fees due and owing to Highlands totaling approximately $2.18 million.

53. CuVeras has also failed to pay certain amounts owed to Highlands under the Highlands-CuVeras Notes; nor has it otherwise complied with the terms of the notes and SPA by converting them into and distributing the appropriate Purcell securities.

54. Furthermore, the Defendants breached the exclusive forum and governing law provisions of the Operating Agreement.

55. Pursuant to Section 12.4 of the Operating Agreement, each member, including Lacey, expressly "consent[ed] to the exclusive jurisdiction of the state and federal courts sitting in Wilmington, Delaware in any action on a claim arising

out of, under or in connection with this Agreement or the transactions contemplated by this Agreement."

56. On October 27, 2016, the Plaintiffs commenced an action against the Defendants in the Supreme Court of the State of New York alleging, among other things, that CuVeras has breached certain promissory notes it issued to the Plaintiffs pursuant to the SPA (the "New York Action").

57. The Plaintiffs commenced the New York Action in accordance with the parties' express contractual agreement that:

> all Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this [SPA] and any other Transaction Documents (whether brought against a party hereto or its respective Affiliates, employees or agents) **shall be commenced exclusively in the New York Courts. Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein** . . . and hereby irrevocably waives, and agrees not to assert in any Proceeding, any claim that it is not personally subject to the jurisdiction of any such New York Court, or that such Proceeding has been commenced in an improper or inconvenient forum.

SPA § 6.8 (emphasis added).

58. Since the notes issued by CuVeras were, by their express terms, governed by the SPA—and, in any event, financing activities that were plainly contemplated under the SPA—the Plaintiffs abided by the parties' agreement and commenced the New York Action for breach of the notes and SPA in New York.

59. On December 22, 2016, almost two months after the commencement of the New York Action, rather than filing a responsive pleading, CuVeras commenced an action in Vancouver, British Columbia (the "Vancouver Action") regarding the same financing transactions that were the subject of the New York Action, and further alleging that Highlands and MacMillan breached fiduciary duties purportedly owed to CuVeras.

60. Prior to CuVeras's filing of the Vancouver Action, the Defendants had requested and the Plaintiffs granted the Defendants' two separate requests for an extension of time to answer the complaint in the New York Action. However, despite numerous conversations between counsel regarding the requested extensions, the Defendants' counsel failed to inform the Plaintiffs' counsel that these extensions were requested in furtherance of Defendants' intention to prepare and file the Vancouver Action.

61. In the Vancouver Action, CuVeras principally alleges that Highlands and MacMillan breached fiduciary duties purportedly owed to CuVeras by providing additional, necessary financing to Purcell and entering into the Priority Agreement by which the security interests granted to Highlands and MacMillan for such financing would be senior to CuVeras's security interest. CuVeras also alleges that Highlands and MacMillan acted "deceitfully" and in bad faith by entering into the Priority Agreement and subordinating the CuVeras Notes.

CuVeras further alleges that MacMillan, on behalf of Highlands, has refused to grant Lacey access to CuVeras's books and records.

62. CuVeras's commencement of the Vancouver Action is improper forum shopping. Putting aside the Defendants' gamesmanship in seeking extensions while secretly working to file the Vancouver Action, the commencement of the Vancouver Action is a direct violation of the Operating Agreement by which Lacey agreed (i) to the exclusive jurisdiction of the Courts of the State of Delaware for disputes arising out of the Operating Agreement, such as the subject disputes regarding Highlands' decisions as Manager of CuVeras, and (ii) that Delaware law would govern any such dispute.

63. The Defendants have not yet effectuated service of the Vancouver Action on the Plaintiffs, who intend to move to dismiss the Vancouver Action for lack of jurisdiction and the Defendants' violation of the Operating Agreement's exclusive forum clause.

64. After commencing the Vancouver Action, the Defendants moved to dismiss the New York Action—in breach of the SPA's exclusive forum clause for disputes regarding the SPA and notes issued thereunder—raising jurisdictional and *forum non conveniens* arguments, despite their express agreement not to assert such arguments. For example, Defendants argue that:

> The parties to this action are individuals and entities located wholly outside of (and far away from) New York State . . . HPP

> and Highlands are both incorporated under the laws of Delaware . . . Lacey is the sole member of CuVeras . . . While CuVeras is incorporated in Delaware, and its registered agent for service of process is located in Dover, Delaware . . . .

Defs.' Mem. (New York Action) at 3.

> CuVeras was formed on or about November 3, 2011, pursuant to the Delaware Limited Liability Company Act, through the filing of a Certificate of Formation with the Secretary of State of the state of Delaware.

Id. at 4.

> Notably, the Operating Agreement also contains forum-selections and governing law clauses wherein "[t]he Members expressly agree that all the terms and conditions hereof shall be construed *under the laws of the State of Delaware* applicable to agreements made and to be performed entirely therein." . . . [emphasis added by Defendants] . . . Each Member also consented to "the exclusive jurisdiction of the state and federal court sitting in Wilmington, Delaware in any action on a claim arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement. Id. §12.4.

Id. at 5.

65. Defendants further noted in their Memorandum of Law in Support of their Motion to Dismiss the New York Action that:

> "Although Defendants do not pose a challenge to the terms of the Operating Agreement for purposes of the instant motion, Defendants reserve the right to challenge validity and effect of terms relating to, among other things, the purported Management Fee, on the basis of fraud or otherwise."

Defs.' Mem. (New York Action) at 5, fn.2.

> "At least one of Plaintiffs' claims - Count II - is premised upon the alleged breach of the Operating Agreement."

Id. at 5, fn.3.

66. Defendants further noted that: Delaware law governed issues of validity, enforcement and interpretation of the [Securities Purchase Agreement]." *Id.* at 6.

67. Defendants also asserted that "New York does not have a compelling interest in adjudicating this case, because the agreements relied upon by Plaintiff provide for the application of Delaware law . . . ." *Id.* at 16.

68. Defendants further argued for the dismissal of the New York Action asserting that: "Second, Count II purports to rely upon the Mortgage and Debenture to the SPA, but the crux of that Count is Plaintiffs' claim for management fees allegedly due and payable under the CuVeras Operating Agreement, which designates Delaware as the choice of law and forum." *Id.* at 19.

69. Due to Defendants' subject matter jurisdiction objection to the New York Action, the Plaintiffs have sought to voluntarily dismiss the New York Action without prejudice and proceed to litigate these matters in this Court. However, despite moving for a dismissal on subject matter jurisdiction grounds which, if successful, would result in dismissal *without* prejudice, Defendants refused to stipulate to the dismissal of the New York Action *without* prejudice. In

light of the claims asserted by Defendants in the Vancouver Action, it is clear that the crux of this dispute concerns the management and governance of CuVeras, a Delaware LLC whose member (*i.e.*, Peter Lacey) and Manager have consented to the exclusive jurisdiction of the Delaware Courts and selected Delaware law to govern such disputes. Accordingly, Delaware is the proper forum for resolution of this case.

COUNT I
(Declaratory Relief Pursuant to 6 *Del. C.* §§ 18-110)

70. Plaintiffs reallege and incorporate by reference paragraphs 1 through 69 above as though fully set forth herein.

71. This claim is brought pursuant to the Section 18-110 of the LLC Act, which empowers the Court of Chancery to "hear and determine the validity of any admission, election, appointment, removal or resignation of a manager of a limited liability company, and the right of any person to become or continue to be a manager of a limited liability company[.]"

72. Defendants failed to obtain the required prior written consent of Bull River before purporting to remove Highlands as Manager of CuVeras by the Written Consent on or about June 29, 2016.

73. Plaintiffs are entitled to a declaratory judgment that Highlands was improperly removed as Manager of CuVeras, the purported removal of Highlands

was invalid and, therefore, that Highlands is and at all times has been the proper Manager of CuVeras.

COUNT II
(Breach of the Operating Agreement—Failure to Pay Management Fees)

74. Plaintiffs reallege and incorporate by reference paragraphs 1 through 73 above as though fully set forth herein.

75. The Court of Chancery is empowered to hear actions alleging breach of Delaware LLC Agreements pursuant to 6 *Del. C.* § 18-111.

76. The Operating Agreement is a valid and enforceable contract representing a legitimate exchange of consideration, rights, and liabilities between Lacey, CuVeras's sole member, and Highlands, CuVeras's Manager.

77. CuVeras owes contractual duties to Highlands under the Operating Agreement pursuant to Delaware law.

78. By the express terms of the Operating Agreement "the Agreement shall be binding upon and inure solely to the benefit of the Members, their respective successors and permitted assigns, and noting herein, express or implied, is intended to or shall confer upon any other persons any legal or equitable right, benefit, or remedy of any nature whatsoever, except as expressly set forth herein. Highlands Pacific LLC is an intended third party beneficiary of Section 4.1(a), Section 12.7 and of the definition of the term 'Management Fee' set forth in Appendix B." *See* Operating Agreement at ¶ 12.11.

79. Paragraph 4.1(a) of the Operating Agreement provides for the priority of distributions from CuVeras, and states, among other things, that prior to making any payment to Members and Noteholders, CuVeras must first have paid the full amount of any management fees due and owing to Highlands.

80. Paragraph 12.7 provides, among other things, that CuVeras cannot amend or otherwise modify the definition of Management Fee set forth in Appendix B of the Operating Agreement without the prior written consent of Highlands.

81. Under the Operating Agreement, Highlands is entitled to be paid management fees as they accrue.

82. CuVeras has breached the Operating Agreement by failing to pay Management Fees owed to Highlands thereunder.

83. Defendants breached the terms of the Noteholder Mortgage and Debenture and the SPA by purporting to remove Highlands as manager without the prior written consent of Bull River and, therefore, the purported removal is null and void. Therefore, in addition to all accrued Management Fees which remain unpaid from the period prior to Highlands' unlawful removal, Highlands is entitled to its unpaid management fee from the attempted removal of Highlands as manager on June 29, 2016 to present.

84. As a direct and proximate result of the breach of the third party beneficiary obligations under the Operating Agreement and the breach of the Noteholder Mortgage and Debenture and SPA, including by the unlawful removal of Highlands as manager and by failing to pay certain of the Management Fee as they came due and owing to Highlands, and as these unpaid fees continues to accrue each week, Highlands has been damaged in an amount to be determined at trial, including expenses and attorneys' fees incurred plus interest.

85. Plaintiffs are therefore entitled to monetary damages in an amount to be determined at trial as a result of CuVeras's failure to pay Management Fees owed to Highlands under the Operating Agreement.

COUNT III
(Breach of the Operating Agreement—Forum Selection Clause)

86. Plaintiffs reallege and incorporate by reference paragraphs 1 through 85 above as though fully set forth herein.

87. Under Section 12.4 of the Operating Agreement, each member, including Lacey, expressly "consent[ed] to the exclusive jurisdiction of the state and federal courts sitting in Wilmington, Delaware in any action on a claim arising out of, under or in connection with this Agreement or the transactions contemplated by this Agreement."

88. CuVeras has breached the Operating Agreement by commencing the Vancouver Action, which relates to the actions of Highlands as Manager of

CuVeras and duties purportedly owed by Highlands to CuVeras and/or Lacey—*i.e.*, subjects expressly governed by the Operating Agreement's exclusive forum and choice of law provisions selecting the Courts of the State of Delaware and Delaware law.

89. Plaintiffs are entitled to a declaratory judgment that the Defendants must bring any claims (or counterclaims) regarding Highlands' actions as manager of CuVeras, including any and all claims asserted in the Vancouver Action, in the Courts of the State of Delaware.

COUNT IV
(Declaratory Judgment—Priority Agreement)

90. Plaintiffs reallege and incorporate by reference paragraphs 1 through 89 above as though fully set forth herein.

91. As described more fully above, the Operating Agreement expressly authorized Highlands to engage in transactions with any Member or Manager, or any affiliate of any Member or Manager, so long as the terms of any such transaction are no less favorable to the Company than if any such transaction had been made with an independent third party.

92. Highlands provided additional financing, and MacMillan provided additional management and administrative services, to Purcell to enable Purcell to continue operations. Without the provision of such financing and management

services, Purcell would have ceased operations risked irreversible damage to its collateral and been unable to repay any of its lenders, including CuVeras.

93. In exchange for desperately-needed financing and management services, Highlands, on behalf of CuVeras, entered into the Priority Agreement by which Purcell, CuVeras and Highlands agreed that the CuVeras Notes would be subordinate to Purcell's indebtedness to Highlands and MacMillan.

94. At all times, Highlands was acting in good faith and believed that entering into the Priority Agreement was (and is) in the best interests of CuVeras, whose promissory notes issued to Purcell would have been worthless if Purcell ceased operations. In addition, the financing and management services provided by Highlands and MacMillan to Purcell, which increased CuVeras's chances of recovering its investment in Purcell, was not available from other sources, much less on better terms.

95. As a result of the foregoing, Highlands, MacMillan and HPP are entitled to a declaration that the Priority Agreement is a binding, valid contract, and that the security, priority and mortgages held by Highlands, HPP, and CuVeras are governed by and determined by the express language of the Priority Agreement such that:

a. Highlands holds first priority mortgage and security interest with respect to the obligations evidenced by the Highlands-Purcell Note;

b. HPP holds a second priority mortgage interest with respect to the obligations evidenced by the HPP Note; and

c. The mortgage and security interests detailed above and granted to Highlands is senior in priority to any mortgage and security interest granted with respect to the CuVeras Note and the mortgage and security interest granted HPP shall be and is *pari passu* in priority with respect to the CuVeras Mortgage and security interest.

COUNT V
(Breach of the Highlands-CuVeras Notes)

96. Plaintiffs reallege and incorporate by reference paragraphs 1 through 95 above as though fully set forth herein.

97. As described more fully above, CuVeras has breached the terms of the Highlands-CuVeras Notes issued under the SPA by failing to pay the Highlands-CuVeras Notes upon maturity or otherwise performing its obligations such as conversion of Highlands' notes to registered securities.

98. After certain transfers and/or assignment related to the original promissory note from CuVeras to Highlands, Highlands is the present holder of a

promissory note from CuVeras for the sum of 100,000 Canadian dollars plus accrued interest. Highlands remains the agent for the transferee/assignor for service and collection on the promissory note from CuVeras for the remainder of balance of the original indebtedness: 590,000 Canadian dollars plus accrued interest.

99. Highlands has been authorized by the transferee/assignor and present holder of the 590,000 Canadian dollars promissory note from CuVeras to the transferee/assignor to pursue service and collection of the this note as agent for the transferee/assignor.

100. The Highlands-CuVeras Notes and the SPA are valid written contracts which are supported by adequate consideration.

101. CuVeras has failed, without legally cognizable excuse or defense, to make payment on the Highlands-CuVeras Notes as required by the terms of the Highlands-Cuveras Notes.

102. As a direct and proximate result of CuVeras' material breach of the Highlands-CuVeras Notes under the SPA, all as described more fully above, Highlands has suffered damage in an amount to be determined at trial but not less than 100,000 Canadian dollars plus accrued interest under the express terms of the Highlands-CuVeras Notes.

103. Highlands is authorized to pursue, on behalf of the transferee as its agent, the damages suffered by the transferee due to CuVeras' breach of the Highlands-CuVeras Notes and specifically to pursue collection of the outstanding principal on the Highlands-CuVeras Notes in the amount of 590,000 Canadian dollars plus expenses and attorneys' fees incurred.

COUNT VI
(Breach of the SPA's Exclusive Forum Clause)

104. Plaintiffs reallege and incorporate by reference paragraphs 1 through 103 above as though set forth fully herein.

105. CuVeras entered into the SPA pursuant to which CuVeras issued certain promissory notes to investors, including the CuVeras Note, Highlands-CuVeras Notes and the HPP Note.

106. As described more fully above, the parties, including CuVeras and Lacey, expressly agreed that any action relating to the SPA or the promissory notes issued thereunder "shall be commenced exclusively in the New York Courts." They also "irrevocably submit[ed] to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute" relating to or contemplated by the SPA" and "irrevocably waive[ed], and agree[d] not to assert in any Proceeding, any claim that [they are] not personally subject to the jurisdiction of any such New York Court, or that such Proceeding has been commenced in an improper or inconvenient forum."

107. In breach of their contractual obligation to litigate such disputes in New York, Defendants moved to dismiss the New York Action on jurisdictional grounds and on the ground of *forum non conveniens*; and, instead of filing any purported counterclaims in the New York Action, Defendants commenced the Vancouver Action.

108. As a result of the foregoing, Plaintiffs have been damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order as follows:

A. Declaring that Highlands was improperly removed as Manager of CuVeras and, therefore, Highlands is the proper Manager of CuVeras;

B. Awarding Plaintiffs compensatory damages for Defendants' breaches of contract in an amount to be determined at trial;

C. Declaring that the Priority Agreement is a valid and enforceable agreement;

D. Awarding Plaintiffs their costs and expenses, including attorneys' fees, incurred in connection with this action and the Vancouver Action; and

E. Granting such other and further relief as this Court deems just and proper.

/s/ Rudolf Koch
Rudolf Koch (#4947)
Andrew J. Peach (#5789)
Matthew W. Murphy (#5938)
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
(302) 651-7700

Attorneys for Highlands Pacific LLC, Highlands Pacific Partners, LP, and Brendan MacMillian

OF COUNSEL

Jeffrey E. Francis
Mark B. Rosen
PIERCE ATWOOD LLP
100 Summer Street, 22nd Floor
Boston, Massachusetts 02110
(617) 488-8100

February 17, 2017

VERIFICATION

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

I, Brendan S. MacMillan, have read the foregoing Verified Complaint and am familiar with the contents thereof. The facts recited therein are true and correct insofar as they concern my own acts and deeds, and are believed by me to be true insofar as they concern the act and deed of any other person or entity.

Brendan S. MacMillan — February 17, 2017

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On February 17, 2017 before me Hasan Ahmed, Notary Public, Personally Appeared **BRENDAN S. MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the laws of the State of CALIFORNIA that the foregoing paragraph is true and correct.

HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

Signature

VERIFICATION

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

Brendan S. MacMillan, being duly sworn, deposes and says:

I am the President of Highlands Pacific LLC ("Highlands") and have been authorized by Highlands to make this verification on its behalf. I have read the foregoing Verified Complaint and am familiar with the contents thereof. The facts recited therein are true and correct insofar as they concern my own acts and deeds, and are believed by me to be true insofar as they concern the act and deed of any other person or entity.

Brendan MacMillan FEBRUARY 17, 2017
Brendan S. MacMillan, President, Highlands Pacific LLC

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On February 17, 2017 before me Hasan Ahmed, Notary Public, Personally Appeared **BRENDAN S. MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

Signature

VERIFICATION

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN FRANCISCO)

Brendan S. MacMillan, being duly sworn, deposes and says:

I am the President of Highlands Pacific LLC, the General Partner of Highlands Pacific Partners, LP ("HPP") and have been authorized by HPP to make this verification on its behalf. I have read the foregoing Verified Complaint and am familiar with the contents thereof. The facts recited therein are true and correct insofar as they concern my own acts and deeds, and are believed by me to be true insofar as they concern the act and deed of any other person or entity.

Brendan S. MacMillan, President, Highlands Pacific LLC — February 17, 2017

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On February 17, 2017 before me Hasan Ahmed, Notary Public, Personally Appeared **BRENDAN S. MACMILLAN** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity, and that by his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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HASAN AHMED
COMM. # 2089880
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
COMM. EXPIRES DEC. 12, 2018

Signature

SUPPLEMENTAL INFORMATION PURSUANT TO RULE 3(A)
OF THE RULES OF THE COURT OF CHANCERY

The information contained herein is for the use by the Court for statistical and administrative purposes only. Nothing stated herein shall be deemed an admission by or binding upon any party.

1. Caption of Case: ***Highlands Pacific LLC, a Delaware Limited Liability Company, Highlands Pacific Partners, LP, a Delaware Limited Partnership, and Brendan MacMillan*, C.A. No. _____-___**

2. Date Filed: **February 17, 2017**

3. Name and address of counsel for plaintiff(s):

Rudolf Koch (#4947)
Andrew J. Peach (#5789)
Matthew W. Murphy (#5938)
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801

4. Short statement and nature of claim asserted: **Complaint seeking a declaratory judgment and compensatory damages, among other relief, from defendants' breaches of a limited liability company operating agreement, securities purchase agreement, and mortgage and debenture.**

5. Substantive field of law involved (check one):

____Administrative law	____Labor law	____Trusts, Wills and Estates
__X__ Commercial law	____Real Property	____Consent trust petitions
____Constitutional law	____348 Deed Restriction	____Partition
____Corporation law	____Zoning	____Rapid Arbitration (Rules 96,97)
____Trade secrets/trade mark/or other intellectual property		____Other

6. Related cases, including any Register of Wills matters (this requires copies of all documents in this matter to be filed with the Register of Wills): **N/A**

7. Basis of court's jurisdiction (including the citation of any statute(s) conferring jurisdiction): **6 *Del. C.* § 18-110; 6 *Del. C.* § 18-111**

8. If the complaint seeks preliminary equitable relief, state the specific preliminary relief sought. **N/A.**

9. If the complaint seeks a TRO, summary proceedings, a Preliminary Injunction, or Expedited Proceedings, check here ___. (If #9 is checked, a Motion to Expedite must accompany the transaction.)

10. If the complaint is one that in the opinion of counsel should not be assigned to a Master in the first instance, check here and attach a statement of good cause. __X__

/s/ Matthew W. Murphy
Matthew W. Murphy (#5938)

STATEMENT OF GOOD CAUSE

The undersigned counsel have reviewed the Verified Complaint and do not believe that this action is suitable for assignment to a Master in Chancery. This action seeks declaratory relief and compensatory damages with respect to claims of breach of contract relating to certain Operating Agreement, Securities Purchase Agreement, and Mortgage and Debenture. As a result of the foregoing, this action should proceed directly before the Chancellor or a Vice Chancellor of this Court.

/s/ Matthew W. Murphy
Rudolf Koch (#4947)
Andrew J. Peach (#5789)
Matthew W. Murphy (#5938)
Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
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Attorneys for Plaintiffs

OF COUNSEL:

Jeffrey E. Francis
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100 Summer Street, 22nd Floor
Boston, Massachusetts 02110
(617) 488-8100

Dated: February 17, 2017

RICHARDS LAYTON & FINGER

Matthew W. Murphy
302-651-7817
Murphy@rlf.com

February 17, 2017

VIA E-FILE

Register in Chancery
Court of Chancery of the State of Delaware
New Castle County Courthouse
500 North King Street
Wilmington, Delaware 19801

Re: ***Highlands Pacific LLC, Highlands Pacific Partners, LP, and Brendan MacMillan v. CuVeras, LLC and Peter Lacey,***
C.A. No. -

Dear Register in Chancery:

Plaintiffs Highlands Pacific ("Highlands"), Highlands Pacific Partners, LP ("HPP"), and Brendan MacMillan ("MacMillan", and collectively with Highlands and HPP, "Plaintiffs") in the above-referenced action filed a Verified Complaint against defendants CuVeras, LLC and Peter Lacey (together, the "Defendants").

In connection therewith, Plaintiffs will use Brandywine Process Servers, Ltd. as Special Process Servers to serve Defendant CuVeras, LLC's registered agent. I would appreciate it if someone from your office would prepare the appropriate summons, addressed as follows:

■ ■ ■

CuVeras, LLC
Pursuant to 6 *Del. C.* § 18-105
c/o National Registered Agents, Inc.
160 Greentree Drive
Suite 101
Dover, DE 19904

Additionally, please issue a summons pursuant to Article 10(a) of the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, November 15, 1965, 20 U.S.T. 361, 658 U.N.T.S. 163, to the following party:

Peter A. Lacey
RR 2, Site 19, Box 6
Red Deer, AB T4N 5E2, Canada

Canada has not objected to service by registered mail pursuant to Article 10(a) of the Hague Convention. *See* Hague Convention on the Service of Judicial and Extrajudicial Documents in Civil or Commercial Matters, November 15, 1965, Status Table 9, *available at* https://www.hcch.net/en/instruments/conventions/status-table/print/?cid=17 (last updated July 20, 2016). Richards, Layton & Finger, P.A. will serve this summons by registered mail, return receipt requested, upon Defendant Peter Lacey.

I would also greatly appreciate it if someone from your office would call me as soon as the summonses are prepared. If you have any questions, please do not hesitate to contact me at 302-651-7817.

Respectfully submitted,

/s/ Matthew W. Murphy

Matthew W. Murphy (#5938)

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

HIGHLANDS PACIFIC LLC, a Delaware Limited Liability Company, HIGHLANDS PACIFIC PARTNERS, LP, a Delaware Limited Partnership, and BRENDAN MACMILLAN, Plaintiffs/Counterclaim Defendants, v. CUVERAS, LLC, a Delaware Limited Liability Company, and PETER LACEY, Defendants/Counterclaimants.	C.A. No. 2017-0130-TMR

PLAINTIFFS/COUNTERCLAIM DEFENDANTS' ANSWER TO DEFENDANTS/COUNTERCLAIM PLAINTIFFS' VERIFIED COUNTERCLAIMS

Plaintiffs and Counterclaim Defendants Highlands Pacific LLC ("Highlands"), Highlands Pacific Partners, LP ("HPP") and Brendan MacMillan ("MacMillan," collectively, the "Plaintiffs"), by and through their undersigned counsel, answer Defendants and Counterclaim Plaintiffs Cuveras, LLC ("CuVeras") and Peter Lacey's ("Lacey" and, together with CuVeras, "Defendants") Verified Counterclaims (the "Counterclaims") as follows:

Nature Of The Action[1]

1. Through these Counterclaims, Defendants ask this Court to remedy harm caused by a series of unlawful and fraudulent acts undertaken unilaterally and behind closed doors by MacMillan on behalf of all Plaintiffs, evidently with the singular goal of furthering Plaintiffs' interests at the direct expense of Defendants and others.

ANSWER: Paragraph 1 of the Counterclaims contains legal conclusions to which no response is required. To the extent a response is required, Plaintiffs deny the allegations contained in Paragraph 1 of the Counterclaims. Plaintiffs further state that Highlands invested more capital than any other investor in CuVeras and Plaintiffs' actions have all been solely to protect CuVeras and the interests of its investors.

2. This dispute arises from the complex reorganization of a Canadian mining company, now known as Purcell Basin Minerals, Inc. ("Purcell"). That reorganization was the result of proceedings that took place between May of 2011 and December of 2014 in the Supreme Court of British Columbia (the "B.C. Court") pursuant to Canada's financial insolvency legislation entitled the

[1] Plaintiffs have reproduced herein the captions Defendants referenced in their Counterclaims merely for ease of reference. However, to the extent the captions contain any allegations, arguments or other factual asserions, Plaintiffs' use of the captions does not represent an admission as to the truth or accuracy of any such allegations or assertions nor does Plaintiffs' use of the captions indicate any agreement with the propositions stated therein at all.

Companies' Creditors Arrangement Act – at the conclusion of which MacMillan was installed as the President and sole director and officer of Purcell.

ANSWER: Plaintiffs deny the allegations contained in the first sentence of Paragraph 2 of the Counterclaims concerning the genesis of this action. Plaintiffs state further that this action arises under the Operating Agreement of CuVeras, LLC (the "Operating Agreement"), various agreements pursuant to which CuVeras and Plaintiffs financed the acquisition and operation of Purcell, and Delaware law. Plaintiffs admit the allegations contained in the second sentence of Paragraph 2 of the Counterclaims, except deny that MacMillan was "installed" as the President and sole director and officer of Purcell. Rather, MacMillan was duly appointed sole director of Purcell on or about August 13, 2014 and President on or about December 9, 2014.

3. CuVeras was formed in the course of those proceedings, for the purpose of raising funds to support the continued operation of Purcell, consistent with orders issued by the B.C. Court. In exchange for those funds, the B.C. Court granted CuVeras certain priority interests in Purcell and its operations.

ANSWER: Plaintiffs admit that CuVeras was formed to finance Purcell's acquisition out of bankruptcy and subsequent operation of the Gallowai Bul River Mine (the "Mine"). Plaintiffs admit the allegations contained in the second

sentence. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 3 of the Counterclaims.

4. MacMillan, through his entity, Highlands, was appointed initial Manager of CuVeras, with authority to manage the affairs of CuVeras and to act on its behalf. Thus, MacMillan effectively had sole control of both Purcell and CuVeras until on or about June 29, 2016, when Highlands validly was removed as the Manager of CuVeras. As of the date of these Counterclaims, MacMillan continues to act as the President and sole director and officer of Purcell, and has refused to accede to the removal of Highlands as Manager of CuVeras.

ANSWER: Plaintiffs admit that, under the Operating Agreement, Highlands was designated as the Manager of CuVeras, and that MacMillan is the President of Highlands. Except as expressly admitted, Plaintiffs deny the allegations contained in the first sentence of Paragraph 4 of the Counterclaims. Plaintiffs deny the allegations contained in the second sentence of Paragraph 4 of the Counterclaims. Plaintiffs admit that MacMillan remains the sole officer and director of Purcell and that Highlands remains the Manager of CuVeras, as the Defendants' purported removal of Highlands as Manager of CuVeras was invalid. Except as expressly admitted, Plaintiffs deny the allegations contained in the third sentence of Paragraph 4 of the Counterclaims.

5. Unbeknownst to Defendants, MacMillan used his control of Purcell and CuVeras to engage in a series of maneuvers to further his own self-interest and the interests of his entities, Highlands and HPP, at Defendants' expense. Among other things, he caused Purcell to issue notes, without fair consideration, to himself and to Highlands. He also entered into an agreement on behalf of himself, Highlands, HPP, Purcell, and CuVeras – signing on behalf of all five parties thereto – that purported to subordinate CuVeras's security interests in Purcell to Plaintiffs' interests. These acts amounted to fraud, blatant self-dealing, and breaches of the duties of care and loyalty that Plaintiffs owed to CuVeras and its stakeholders.

ANSWER: Plaintiffs deny the allegations contained in the first sentence of Paragraph 5 of the Counterclaims. Plaintiffs admit that to save Purcell, and thus CuVeras's investment in Purcell, Highlands and MacMillan provided desperately needed financing to keep the Mine in operation, when there were no other parties willing to offer Purcell the required financing on any known terms, and certainly not on more favorable terms. Except as expressly admitted, Plaintiffs deny the allegations contained in the second sentence of Paragraph 5 of the Counterclaims. Plaintiffs admit that, as part of the financing Highlands and MacMillan provided in order to save Purcell, Highlands, HPP, CuVeras and Purcell entered into a certain Priority Agreement, and respectfully refer the Court to the Priority Agreement for

its full and accurate contents. Furthermore, Plaintiffs note that the Plaintiffs have previously, unilaterally and with full prior disclosure to the Defendants set aside in writing the Purcell Compensation Note and any seniority thereof. Except as expressly admitted, Plaintiffs deny the allegations contained in the third sentence of Paragraph 5 of the Counterclaims. Plaintiffs deny the allegations contained in the fourth sentence of Paragraph 5 of the Counterclaims.

6. Prior to discovering that conduct, Defendants removed Highlands as Manager of CuVeras pursuant to a duly executed Written Consent of the Members of CuVeras, LLC, by its sole member, based upon Highlands's failure to properly manage the company. Highlands, however, has refused to acknowledge that removal, and has refused to relinquish CuVeras's books, records, and accounts to CuVeras and its new Manager.

ANSWER: Plaintiffs admit that by "Written Consent of the Members of CuVeras, LLC," solicited on or about June 29, 2016, Lacey, as the sole Member of CuVeras, purported to remove Highlands as Manager, but state that such removal was invalid and, therefore, Highlands remains the Manager of CuVeras and is under no obligation to relinquish the books and records of CuVeras to the entity Lacey purported to appoint as the new Manager of CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 6 of the Counterclaims.

7. As a result of these and other unlawful acts undertaken by Plaintiffs, Defendants seek a declaration that Highlands's removal as Manager was valid and effective, together with an award of damages in an amount to be determined at trial.

ANSWER: Paragraph 7 of the Counterclaims contains legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit that in the Counterclaims, Defendants purport to seek certain declaratory relief and damages but deny that Defendants are entitled to any such relief and/or damages. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 7 of the Counterclaims.

Parties And Jurisdiction

8. CuVeras is a Delaware Limited Liability Company formed on or about November 3, 2011, with a principal place of business in Alberta, Canada.

ANSWER: Plaintiffs admit that CuVeras is a limited liability company and that its Certificate of Formation was filed with the Secretary of State of the State of Delaware on or about November 3, 2011; however, CuVeras's Operating Agreement was executed on or about December 16, 2011 and designated San Francisco, California as CuVeras's principal place of business. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 8 of the Counterclaims.

9. Lacey is an individual residing in Red Deer, Alberta, and is the sole member of CuVeras.

ANSWER: Plaintiffs admit that Lacey is the sole member of CuVeras, but lack knowledge or information sufficient to form a belief as to the truth or accuracy of the remaining allegations contained in Paragraph 9 of the Counterclaims and therefore deny the same.

10. Highlands is, upon information and belief, a limited liability company organized under the laws of the State of Delaware, with a principal place of business in San Francisco, California. Highlands acted as initial Manager of CuVeras until it was removed from that position on or about June 29, 2016.

ANSWER: Plaintiffs admit the allegations contained in the first sentence of Paragraph 10 of the Counterclaims. Plaintiffs admit that the Operating Agreement designated Highlands as Manager of CuVeras, but deny that Lacey's purported removal of Highlands as Manager on or about June 29, 2016 was valid and/or effective. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 10 of the Counterclaims.

11. HPP is, upon information and belief, a limited partnership organized under the laws of the State of Delaware, with a principal place of business in San Francisco, California.

ANSWER: Plaintiffs admit the allegations contained in Paragraph 11 of the Counterclaims.

12. MacMillan is, upon information and belief, an individual residing in San Francisco, California, and is the principal of Highlands and HPP. MacMillan also is the President and sole director and officer of Purcell.

ANSWER: Plaintiffs admit that MacMillan is the President of Highlands which in turn is the General Partner of HPP. Plaintiffs admit the allegations contained in the second sentence of Paragraph 12 of the Counterclaims.

13. The Court has jurisdiction over this dispute pursuant to 6 *Del. C.* §§ 18-109 through 18-111.

ANSWER: This Paragraph asserts legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit that this Court has jurisdiction over this dispute pursuant to 6 *Del. C.* §§ 18-109 through 18-111, among other provisions of Delaware law and reasons set forth in Plaintiffs' Verified Complaint (the "Complaint").

Facts

CuVeras Is Formed To Provide Funding To Financially Troubled Mining Company Under Oversight Of B.C. Court.

14. Ross Stanfield was the founder and controlling shareholder of a group of companies that formerly carried on business as the Stanfield Mining Group ("Stanfield"), a developer of mineral resources and mining property situated near

the Bull River in British Columbia, known as the Gallowai Bul River Mine (the "Mine").

ANSWER: Plaintiffs admit the allegations of Paragraph 14 of the Counterclaim.

15. The Mine has an advanced mineral deposit containing copper, gold and silver; over 21 kilometers of underground development; and significant site facilities, including trucks, tractors, and substantial mining and milling equipment and infrastructure.

ANSWER: Plaintiffs admit that the Mine is believed to potentially contain certain mineral resources including copper, gold and silver, with copper being the Mine's primary resource. Plaintiffs further admit that there are facilities present at the Mine in need of substantial repair, renovation and improvement prior to any meaningful operations being possible at the Mine. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 15 of the Counterclaims.

16. Following Mr. Stanfield's death on or about August 3, 2010, Stanfield suspended all exploration programs at the Mine due to an inability to raise additional funds through debt or equity placements. In May of 2011, Stanfield sought and obtained protection through proceedings in the B.C. Court pursuant to Canada's financial insolvency legislation entitled the *Companies Creditors Arrangement Act* ("CCAA").

ANSWER: Plaintiffs admit the allegations contained in Paragraph 16 of the Counterclaims.

17. Prior to the commencement of the CCAA proceedings, Stanfield had received over $240 million (CAD) in investments from investors across Western Canada, who were at risk of losing their investments in the Mine.

ANSWER: Plaintiffs admit the allegations of paragraph 17 of the Complaint.

18. In or about November 2011, Lacey and MacMillan (among others) established CuVeras for the purpose of raising money, through the issuance of notes to potential investors, with the goal of providing funding for continued operation of Stanfield (or a successor entity), consistent with an eventual plan of arrangement to be approved by the B.C. Court. More specifically, CuVeras would operate as a financial facility, and apply to the B.C. Court for appointment as debtor-in-possession lender ("DIP Lender") to Stanfield or its successor entity.

ANSWER: Plaintiffs admit that CuVeras was formed to finance Purcell's acquisition and operation of the Mine through, *inter alia*, the issuance of notes to investors, but otherwise refer to the Operating Agreement's provisions regarding the purpose and powers of CuVeras for their full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 18 of the Counterclaims.

19. Lacey's objectives were (i) to provide some return to those who had previously invested over $240 million (CAD) in Stanfield, and (ii) to provide a strong return on investment to those investors who participated, through CuVeras, in providing funding to keep the Mine in operation. Many of the individuals who invested money in CuVeras were previously large investors in Stanfield.

ANSWER: Plaintiffs lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations contained in Paragraph 19 of the Counterclaims and therefore deny the same. Plaintiffs aver, upon information and belief, that Lacey's goal was to provide a return to himself as the largest debt holder in Daystar Technologies ("Daystar"), a public company of which Lacey was Chairman, CEO and the largest stockholder, which was intended to be the acquirer of the Stanfield Companies upon exit from CCAA. Highlands invested more capital than any other investor in CuVeras and has funded the operations of its collateral assets all while Lacey has sought to starve those assets of funds in order to force a deeply discounted sale to affiliates of Lacey and Radford to the detriment of CuVeras's current investors. Moreover, Lacey and Radford, at the outset of his scheme to seize control of CuVeras, both indicated their intention to repudiate CuVeras's obligations respectively to each of Highlands, MacMillan and CuVeras's present investors.

20. Thus, the CuVeras Operating Agreement dated as of December 16, 2011 (the "Operating Agreement"), states that the purpose of the company was to "issue Debt, make loans, and to purchase, acquire, invest in, hold, finance and otherwise deal in the securities of the Stanfield Mining Group." The Operating Agreement contemplated that CuVeras would issue notes to investors, and that those notes ultimately would be satisfied by delivering to the noteholders senior debt securities of Stanfield or its successor entity.

ANSWER: To the extent that the allegations contained in paragraph 20 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 20 of the Counterclaims.

21. Approximately 100 investors, either directly or indirectly, invested a total sum of about 11,000,000 CAD into CuVeras and received senior unsecured notes of CuVeras as consideration. One key incentive for purchasing notes from CuVeras was that, as DIP Lender, CuVeras would have a first priority security interest in the Mine, and therefore its investors would benefit from that security in seeking a return on their investments.

ANSWER: Plaintiffs admit that approximately 100 investors, either directly or indirectly, invested a total some of approximately $10,000,000 CAD (not $11,000,000 CAD as the Defendants contend) into CuVeras and received senior unsecured notes of CuVeras as consideration. Plaintiffs deny that the referenced documents establish, or that the parties ever intended to establish, an absolute priority interest for CuVeras over all other debt issued by Purcell in perpetuity. Plaintiffs further state that CuVeras could have maintained its status among Purcell's creditors if Lacey and/or CuVeras's other investors agreed to provide the additional financing necessary to keep Purcell afloat. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 21 of the Counterclaims.

MacMillan Takes The Lead On The CuVeras Operating Agreement And A Securities Purchase Agreement For The Sale Of CuVeras Notes.

22. Lacey initiated the concept of forming CuVeras to ultimately act as DIP Lender to Stanfield (or its successor), and MacMillan took the lead on preparing the CuVeras Operating Agreement, working with his own counsel on the draft Agreement and later transmitting it to Lacey for execution.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 22 of the Counterclaims. By way of further answer, CuVeras's counsel who assisted in the preparation of the Operating Agreement was outside counsel for Daystar. Lacey, not MacMillan, selected counsel to draft CuVeras's governing documents.

23. MacMillan and Lacey contemplated that MacMillan, through Highlands, would manage CuVeras. However, all parties were cognizant that the actual "management" of CuVeras would require minimal active oversight, given that CuVeras was merely a fundraising vehicle to provide liquidity to Stanfield.

ANSWER: Plaintiffs admit that MacMillan and Lacey contemplated that Highlands would manage CuVeras and, accordingly, designated Highlands as Manager in the Operating Agreement. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 23 of the Counterclaims. Plaintiffs further state that at all relevant times Lacey understood that Highlands' management of CuVeras included substantial activity including, *inter alia*, overseeing the proving up of the Mine's resources through exploration, testing, and the completion of one or more 43-101 compliant resource reports; the drafting and negotiation of DIP financing agreements and Letters of Intent under which funds would be advanced to the Mine; the proper spending of funds advanced to the Mine; all processes required for obtaining needed mining and environmental permitting for the Mine; drafting and completion of the Plan of Arrangement by which Purcell, with CuVeras's financing, acquired the Mine; and all aspects of such financing, including assessing and maximizing tax assets and resulting optimal structuring considerations for both the entities and the investors.

24. The Operating Agreement provided that CuVeras would "have a Manager elected by a Majority Interest," and that any Manager would "remain in office until the earlier of (i) removal by a Majority Interest or (ii) death or incapacity of the Manager." (Operating Agreement §§ 5.1(b), (c).)

ANSWER: To the extent that the allegations contained in Paragraph 24 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs further state that under Section 14.1(j) of the Noteholder Mortgage and Debenture, the consent of Bull River Security Holdings, Ltd. ("Bull River") is required to effectuate any change in the Manager of CuVeras.

25. Highlands was designated as the "initial Manager" under Article V of the Operating Agreement, and thereby exclusively was vested with "all powers to control and manage the business and affairs of the Company," and to "exercise all powers of the Company." (*Id.* §§ 5.1(b), 5.2.)

ANSWER: To the extent that the allegations contained in Paragraph 25 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny

any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

26. One such power covered distributions under the Operating Agreement. Specifically, under Article IV, "distributions may be made by the Manager in its sole discretion as to timing and amount . . . in accordance with the priorities set forth in this Section [ ]." (*Id.* § 4.1.)

ANSWER: To the extent that the allegations contained in Paragraph 26 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

27. After having his counsel draft the Operating Agreement, MacMillan approved its terms and signed it. MacMillan's counsel then sent the Operating Agreement to Lacey for signature, and Lacey executed the Agreement as requested.

ANSWER: Plaintiffs admit that MacMillan, on behalf of Highlands, and Lacey executed the Operating Agreement. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 27 of the Counterclaims. As discussed in Paragraph 22, Lacey, not MacMillan, selected the outside counsel for Lacey's company Daystar to draft the Operating Agreement.

28. Further to CuVeras's purpose of, among other things, issuing debt and making loans to Stanfield, CuVeras also entered into a Securities Purchase Agreement, dated as of January 23, 2012 (the "SPA"). In connection with the SPA, CuVeras "authorized the issuance of senior secured notes in the aggregate original principal amount of $10,000,000, in the form attached [to the SPA] as Exhibit A (collectively, the "*Notes*"), which Notes are expected to be convertible into common stock of . . . [a] U.S. or Canadian company selected by [CuVeras] to become the acquirer of the stock and/or assets of Stanfield." (SPA Recital C.)

ANSWER: Plaintiffs admit that CuVeras entered into the SPA. To the extent that the allegations contained in Paragraph 28 of the Counterclaims purport to describe the contents of the SPA, Plaintiffs further state that the SPA speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 28 of the Counterclaims.

29. The form of Note that, in turn, was attached to the SPA, provided that CuVeras could (i) pay to the Noteholder, on the maturity date, the principal sum of the Note, or (ii) allowed that "[i]n lieu of making such cash payment, [CuVeras] may pay all amounts of principal, interest and fees due hereunder by delivering to the Noteholder senior debt securities of the Stanfield Group Companies with an

initial face value equal to the amounts due on this Note as provided in Section 2 on the reverse side hereof." (*Id.* at 1-2.) Section 2 on the reverse side of the form of Note affirms that discretion, providing that CuVeras "may pay amounts due hereunder (a) in cash or other immediately available funds or (b) by the delivery of senior debt securities of the Stanfield Group Companies . . ."). (*Id.* at 4.)

ANSWER: To the extent that the allegations contained in Paragraph 29 of the Counterclaims purport to describe the contents of the SPA (including the form of Note appended thereto), Plaintiffs state that the form of Note attached to the SPA speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 29 of the Counterclaims.

The B.C. Court Approves A Plan Of Arrangement And Grants CuVeras Certain Priority Rights As Debtor-In-Possession.

30. In the course of the CCAA proceedings, the B.C. Court issued orders authorizing CuVeras to assume the role of DIP Lender and giving CuVeras a priority security interest over the assets of Purcell.

ANSWER: Plaintiffs admit that the B.C. Court issued certain orders during the CCAA proceedings, which speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those orders for their full and accurate contents. Except as expressly

admitted, Plaintiffs deny the allegations contained in Paragraph 30 of the Counterclaims.

31. On November 18, 2014, pursuant to the CCAA, the B.C. Court approved a plan of compromise and arrangement dated September 25, 2014 (the "Plan of Arrangement"), which was subsequently amended by the Amendment Addendum 1, dated October 29, 2014. Among other things, the Plan of Arrangement enabled the Stanfield Mining Group to reorganize into Purcell and continue operating as a going concern upon completion of the Plan of Arrangement.

ANSWER: Plaintiffs admit that the B.C. Court approved the Plan of Arrangement, as amended by the B.C. Court, which speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 31 of the Counterclaims.

32. CuVeras, as the DIP lender for Purcell, was given a priority security interest in the assets of Purcell pursuant to the Plan of Arrangement and an order of the B.C. Court dated December 15, 2011, as subsequently amended by further Orders of the B.C. Court granted on June 26, 2012, March 28, 2013 and May 26, 2014 in the CCAA proceeding (together the "Court Orders").

ANSWER: Plaintiffs admit that the B.C. Court issued certain orders during the CCAA proceedings, which speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those orders for their full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 32 of the Counterclaims.

33. On December 9, 2014, pursuant to the Court Orders and the Plan of Arrangement, Purcell issued a 10% Senior Note to CuVeras in the principal sum of $12,009,795 with a maturity date of December 9, 2016 (the "Original CuVeras Note"). Among other things, the Original CuVeras Note stipulates that it "shall rank senior to all other indebtedness for borrowed money of the issuer whether now or hereafter existing, and shall rank pari passu with all other Notes issued pursuant to the Plan [of Arrangement]." The Original CuVeras Note was signed by MacMillan on behalf of Purcell.

ANSWER: Plaintiffs admit that in exchange for financing which passed through CuVeras, Purcell issued a 10% Senior Note of Purcell Basin Minerals Inc. payable to CuVeras in the original principal amount of 12,009,795 Canadian dollars (the "Original CuVeras Note"). Plaintiffs further state that the Original CuVeras Note speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full

and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 33 of the Counterclaims.

34. Also on December 9, 2014, pursuant to the Court Orders, Purcell issued a 10% Senior Note to HPP in the principal sum of $2,338,000 with a maturity date of December 9, 2016 (the "Original HPP Note"). Among other things, the Original HPP Note stipulates that it "shall rank senior to all other indebtedness for borrowed money of the issuer whether now or hereafter existing, and shall rank *pari passu* with all other Notes issued pursuant to the Plan [of Arrangement]." The Original HPP Note was signed by MacMillan on behalf of Purcell.

ANSWER: Plaintiffs admit that in exchange for success in financing and structuring a Plan of Arrangement to bring the Stanfield Companies' assets out of the CCAA proceedings and transfer the assets into Purcell, HPP received from the B.C. Court a fee upon completion of the Plan of Arrangement equal to 7% of the imputed enterprise value of Purcell in the form of a Senior Promissory Note in the original principal amount of 2,338,000 in Canadian dollars (the "Original HPP Note"). Plaintiffs further state that the Original HPP Note speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

MacMillan Takes Control Of CuVeras And Purcell; Fails To Properly Manage CuVeras; And Unilaterally And Deceitfully Subordinates CuVeras's Security Interest In Purcell.

35. MacMillan has served as the President and sole Director of Purcell from December 9, 2014 until the present. He also, through Highlands, served as initial Manager of CuVeras until June 29, 2016.

ANSWER: Plaintiffs admit that at all relevant times MacMillan has served as the President and sole director of Purcell and that Highlands has served as the Manager of CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 35 of the Counterclaims, including any allegation that Lacey's purported removal of Highlands as Manager of CuVeras was valid and/or effective.

36. Thus, throughout 2015 and into 2016, MacMillan was entrusted with sole effective control of both Purcell and CuVeras. During that time, MacMillan made no substantive disclosures to Purcell or CuVeras stakeholders regarding the financial or other status of Purcell or CuVeras.

ANSWER: Plaintiffs admit that at all relevant times MacMillan has served as the President and sole director of Purcell and that Highlands has served as the Manager of CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 36 of the Counterclaims.

37. In 2016, Lacey and other interested stakeholders in CuVeras learned

that Highlands had allowed CuVeras to be struck off the Delaware register for failure to make its regulatory filings and pay associated sustaining fees, and had failed to prepare and file tax forms for CuVeras. Further, Highlands and MacMillan refused to provide any financial statements of CuVeras to Lacey, the sole Member.

ANSWER: Plaintiffs lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 37 of the Counterclaims and therefore deny the same. Plaintiffs aver, upon information and belief, that CuVeras has made all tax filings, to the extent that any have been required, and Lacey was made fully aware of CuVeras's actions in connection with its tax filings, if any. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 37 of the Counterclaims.

38. Accordingly, Highlands was removed as Manager on June 29, 2016, pursuant to a duly executed Written Consent of the Members of CuVeras, LLC, signed by Lacey as the sole Member.

ANSWER: Plaintiffs admit that by "Written Consent of the Members of CuVeras, LLC," solicited on or about June 29, 2016, Lacey, as the sole Member of CuVeras, purported to remove Highlands as Manager, but state that such removal was invalid and ineffective and, therefore, Highlands remains the Manager of

CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 38 of the Counterclaims.

39. The Operating Agreement expressly provides that any Manager would "remain in office until . . . removal by a Majority Interest[.]" (Operating Agreement §§ 5.1(b), (c).) "Majority Interest" is defined as "the vote or consent of at least a majority of the Percentage Interests of the Common Units", and a "Member" is defined as "any Person who holds Units of the Company[.]" Lacey is designated on Appendix A to the Operating Agreement as the sole Member (and therefore, the sole Unitholder) of CuVeras. Thus, he holds the Majority Interest and is authorized to remove the Manager in his capacity as sole Member. The Written Consent of the Members of CuVeras, signed by Lacey in his capacity as the sole Member, is binding and effective and operated to remove Highlands as Manager as of June 29, 2016.

ANSWER: Plaintiffs restate and incorporate by reference herein their Answer to Paragraph 38 of the Counterclaims. To the extent that the allegations contained in Paragraph 39 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs further state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs further state that Lacey's purported removal of

Highlands as Manager was invalid and ineffective for, among other reasons, failure to comply with Section 14.1(j) of the Noteholder Mortgage and Debenture.

40. At the time of Highlands's removal as Manager, Lacey and the other CuVeras stakeholders were unaware that MacMillan had taken additional actions to benefit himself and harm CuVeras. Additional revelations regarding MacMillan's conduct continued to surface throughout the second half of 2016.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 40 of the Counterclaims.

41. Those revelations came to light after concerns arose surrounding the management of Purcell under MacMillan's authority, in part based upon MacMillan's refusals to make disclosures regarding Purcell's financial status. After having requests repeatedly rebuffed by MacMillan, several stakeholders in Purcell applied to the B.C. Court for, among other things, an order compelling MacMillan to make financial disclosures on behalf of Purcell.

ANSWER: Plaintiffs admit that Lacey and Purcell stockholder Reg Radford commenced certain proceedings in British Columbia regarding the corporate governance of Purcell (the "B.C. Proxy Battle"). Plaintiffs state that the pleadings and orders in that proceeding speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those pleadings and orders for their full and accurate contents. Except as

expressly admitted, Plaintiffs deny the allegations contained in Paragraph 41 of the Counterclaims. Plaintiffs further aver that parties aligned with Lacey and Radford represented that, as Purcell had no funds to pay for an audit, they would pay for an audit to be conducted. However, the parties aligned with Lacey and Radford withdrew and refused to finance the audit instead, preferring to claim wrongdoing by Purcell management based on the inability of Purcell to conduct an audit because it had no funds to conduct such audit. It is Plaintiffs, through Highlands, that are now solely funding the preparation of such audit.

42. In September of 2016, the B.C. Court issued an order requiring Purcell to make certain financial disclosures by no later than October 24, 2016. Certain financial information subsequently was made available through Purcell's website, and contained troubling disclosures regarding acts undertaken by MacMillan in his role as President and sole director and officer of Purcell.

ANSWER: Plaintiffs admit that in the B.C. Proxy Battle, the court issued certain orders, including orders regarding certain disclosures to be made by Purcell, but state that the orders in the B.C. Proxy Battle speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those orders for their full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 42 of the Counterclaims.

43. For instance, Purcell's forced disclosures revealed that MacMillan's compensation for serving as President of Purcell was "set by the board of Directors" – of which MacMillan is the sole member – and that a purported board resolution dated December 9, 2014 provided that MacMillan would be paid "a base fee of US$40,000 and an additional US$8,000 per week," and, further, that the "minimum amount payable to Mr. MacMillan regardless of the length of his service is US$800,000." The December 9, 2014 resolutions passed unilaterally by MacMillan also provided that any unpaid compensation "would accrue interest at 18% per annum or the highest amount allowable by law," and that "any unpaid Compensation shall become a secured obligation of the Company, ahead of all other payables."

ANSWER: Plaintiffs admit that the Board of Directors of Purcell passed certain resolutions regarding the compensation to be paid to MacMillan for his service, but state that the referenced resolutions speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those resolutions for their full and accurate contents. Plaintiffs further state that apart from the share issuance negotiated with a significant shareholder and corporate counsel described below MacMillan has deferred all compensation due to him from Purcell for operating the company and the Mine and has agreed to a compensation package negotiated and approved by a

significant independent shareholder with the advice and oversight of Mercer Canada and Purcell Corporate Counsel. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 43 of the Counterclaims.

44. Moreover, the October 2016 financial information disclosed, for the first time, that pursuant to certain "April 25, 2016 resolutions" (the "April 25, 2016 Resolutions") and a "Priority Agreement" dated April 25, 2016 (the "Priority Agreement"), MacMillan attempted to unilaterally cause Purcell to grant a first priority security interest over Purcell's assets to secure certain obligations purportedly owed to MacMillan and his holding company, Highlands, while subordinating the Original CuVeras Note and extending its maturity date by 13 years to December 9, 2029.

ANSWER: Plaintiffs admit that Purcell, Highlands, HPP and CuVeras entered into the Priority Agreement, which speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to the Priority Agreement for its full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 44 of the Counterclaims.

45. Specifically, among other things, the April 25, 2016 Resolutions purport to give effect to the following on behalf of Purcell:

(a) A Senior Promissory Note of Purcell payable to Highlands in the

original principal amount of $15,000,000 with a maturity date of December 8, 2016 (the "Highlands Note"). The Highlands Note states that it "shall rank senior to all other indebtedness (with the exception of the [MacMillan Note]) for borrowed money of the Issuer whether now or hereafter existing, and pari passu with the [MacMillan Note]."

(b) A Compensatory Note of Purcell payable to MacMillan personally in the original principal amount of US$1,453,802 with a maturity date of December 8, 2016 (the "MacMillan Note"). The MacMillan Note states that it "shall rank senior to all other indebtedness (with the exception of the [Highlands Note]) for borrowed money of the Issuer whether now or hereafter existing, and pari passu with the [Highlands Note]."

(c) An Amended Note of Purcell payable to CuVeras in the principal sum of $12,009,795 with a maturity date of December 9, 2029 (the "Amended CuVeras Note") – thirteen (13) years later than the maturity date of the Original CuVeras Note issued pursuant to the Plan of Arrangement. The Amended CuVeras Note states that it "shall rank junior to the indebtedness represented by the [Highlands Note] and the [MacMillan Note]..."

(d) An Amended Note of Purcell payable to HPP in the principal sum of

$2,338,000 with a maturity date of December 9, 2018, and which ranks junior to the Highlands Note and the MacMillan Note (the "Amended HPP Note").

ANSWER: Plaintiffs admit that on or about April 25, 2016 Purcell, Highlands, HPP and CuVeras entered into certain financing agreements, evidenced by the referenced notes, which speak for themselves. Moreover, Plaintiffs admit that the Compensatory Note is no longer in existence as per the terms of the negotiated compensation described above, all of which was previously disclosed in full to the Defendants. Plaintiffs deny any inaccurate characterization or interpretation of these notes, and respectfully refer the Court to the referenced notes for their full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 45 of the Counterclaims.

46. In other words, MacMillan issued two new senior notes to himself and to Highlands on behalf of Purcell, and amended the Original CuVeras Note to place it fourth in line behind the new Highlands and MacMillan Notes, and the HPP note that previously ranked *pari passu* with the Original CuVeras Note.

ANSWER: Plaintiffs admit that on or about April 25, 2016 Purcell, Highlands, HPP and CuVeras entered into certain financing agreements, evidenced by the referenced notes, which speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the

Court to the referenced notes for their full and accurate contents. Plaintiffs state further that, in contrast to the Defendants' assertions, the HPP Note retained its *pari passu* seniority ranking with the CuVeras Note and that Purcell desperately needed the financing provided by the Plaintiffs in exchange for the terms of the Priority Agreement—financing that was unavailable from any third party, much less on terms more favorable to Purcell or CuVeras.

47. Purcell's website also discloses that, as part of the April 25, 2016 Resolutions, the "Board" – again, with MacMillan as its sole member – purported to issue MacMillan three million common shares of Purcell at $0.10 CDN per share, making MacMillan Purcell's majority shareholder.

ANSWER: Plaintiffs admit that the Board of Directors of Purcell passed certain resolutions on or about April 25, 2016, which speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those resolutions for their full and accurate contents. Plaintiffs further state that apart from the share issuance negotiated with a significant shareholder and corporate counsel described below MacMillan has deferred all compensation due to him from Purcell for operating the company and the Mine and has agreed to a compensation package negotiated and approved by a significant independent shareholder with the advice and oversight of Mercer Canada and Purcell Corporate Counsel. Plaintiffs further state that with

Defendants' full knowledge, the Mine was appraised by an independent professional and was valued at between five and seven million CAD which is substantially less than the twenty million CAD in secured debt on the Mine. Hence, rather than taking cash out of the company, MacMillan allowed for his compensation to be settled with a share issuance done at a very significant premium to the market value of the equity, resulting in value creation for both CuVeras and Purcell investors. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 47 of the Counterclaims.

48. The issuance of the 3 million shares has purported to give MacMillan complete control of Purcell in advance of an upcoming shareholders meeting. Lacey, along with Reg Radford, another stakeholder in CuVeras and Purcell, commenced a separate proceeding in the B.C. Court (Docket No. S-1610280), seeking, among other things, an order setting aside the issuance of the 3 million shares. A hearing in that case was heard on November 28 and 29, 2016, and the decision remains under reserve as at the time of writing.

ANSWER: Plaintiffs admit that Lacey and Purcell stockholder Reg Radford commenced the B.C. Proxy Battle. Plaintiffs state that the pleadings and orders in that proceeding speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those pleadings and orders for their full and accurate contents. Plaintiffs further state

that apart from the share issuance negotiated with a significant shareholder and corporate counsel described above MacMillan has deferred all compensation due to him from Purcell for operating the company and the Mine and has agreed to a compensation package negotiated and approved by a significant independent shareholder with the advice and oversight of Mercer Canada and Purcell Corporate Counsel. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 48 of the Counterclaims.

49. The "April 25, 2016 resolutions" referred to by MacMillan in the financial disclosure are actually titled "Minutes of Meeting of the Board of Directors" of Purcell. By all accounts MacMillan was the only person at the meeting, signed the minutes by himself, and did not discuss or disclose the terms of the minutes or the documents with anyone else. MacMillan has since advised that he back-dated the minutes. Specifically, in an affidavit filed with the B.C. Court (Docket No. S-1610280), MacMillan asserted that "the terms of the April Resolution and the documents ultimately approved under it were prepared subsequently and were settled on approximately May 27, 2016. It would be more accurate to describe the April Resolution as a consent director's resolution rather than the minutes of a meeting that took place that day."

ANSWER: Plaintiffs state that the pleadings and orders in the B.C. Proxy Battle speak for themselves, and Plaintiffs deny any inaccurate characterization or

interpretation of them, and respectfully refer the Court to those pleadings and orders for their full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 49 of the Counterclaims.

50. In a further effort to benefit himself and his entities at the expense of CuVeras, MacMillan, again purporting to act on behalf of himself, Purcell, CuVeras, Highlands, and HPP, entered into the Priority Agreement dated April 25, 2016. The Priority Agreement purports to give MacMillan and Highlands each a "first priority mortgage and security interest" with respect to the Highlands and MacMillan Notes, which – if effective – would subordinate the priority interest that the B.C. Court granted to CuVeras as DIP Lender.

ANSWER: Plaintiffs admit that Purcell, Highlands, HPP and CuVeras entered into the Priority Agreement, which speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to the Priority Agreement for its full and accurate contents. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 50 of the Counterclaims.

51. MacMillan signed the Priority Agreement on behalf of all five parties to the Agreement: CuVeras, Purcell, Highlands, HPP, and himself personally. MacMillan, in short, entered into the Priority Agreement with himself and without any disclosure to any stakeholders of CuVeras or Purcell or third party

consultation.

ANSWER: Plaintiffs admit that Purcell, Highlands, HPP and CuVeras entered into the Priority Agreement, which speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to the Priority Agreement for its full and accurate contents. Plaintiffs further state that Purcell desperately needed the financing provided in exchange for the terms of the Priority Agreement; without such financing, which was not available from other parties or on terms more favorable to Purcell or CuVeras, the Mine would have flooded and existing permits would have been violated, and Purcell would have ceased operations and been unable to repay its debt to CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 51 of the Counterclaims.

52. The Priority Agreement purports to confirm the following:

(a) Purcell grants a first priority mortgage and security interest to Highlands and to MacMillan personally with respect to the obligations set out in the Highlands Note and the MacMillan Note;

(b) Purcell grants a second priority mortgage and security interest to HPP to provide security with respect to the Amended HPP Note;

(c) CuVeras (i) consents to the grant of each of the mortgages and security interests granted to Highlands, MacMillan and HPP in the

Priority Agreement, (ii) agrees that the mortgage and security interests granted to Highlands and MacMillan in the Priority Agreement shall be and are senior in priority to any security interest in the assets of Purcell held by CuVeras and (iii) agrees that the mortgage and security interest granted to HPP in the Priority Agreement shall be and is *pari passu* in priority to any security held by CuVeras.

ANSWER: Plaintiffs restate and incorporate by reference herein in response to Paragraph 52, Plaintiffs' response to Paragraph 51 of the Counterclaims as if set forth fully herein. The Priority Agreement is a written document, the terms of which speak for themselves and Plaintiffs deny any inaccurate characterizations or interpretations of it and respectfully refer the Court to the Priority Agreement for its full and accurate contents.

53. The actions described in the April 25, 2016 minutes and the Priority Agreement, including any consent given by CuVeras, were taken by MacMillan alone without the knowledge of other stakeholders in CuVeras, including its sole Member, Lacey. MacMillan and Highlands acted deceitfully, in bad faith, and in breach of their fiduciary duties, favoring their own self-interest in violation of duties owed to CuVeras and to its stakeholders.

ANSWER: Plaintiffs admit that MacMillan, on behalf of Purcell, Highlands, HPP and CuVeras executed the financing agreements and Priority

Agreement referenced in the April 25, 2016 minutes, but state that those agreements speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those documents for their full and accurate contents. Plaintiffs further state that the financing provided through those agreements saved Purcell and thus CuVeras's investment in Purcell. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 53 of the Counterclaims.

Highlands Refuses To Acknowledge Its Proper And Lawful Removal As Manager Of CuVeras; Additional Details Of Plaintiffs' Wrongdoing Emerge.

54. Highlands was removed as Manager of CuVeras on June 29, 2016, based on its failure properly to manage the company. Only after Highlands's removal did Defendants learn of the various unlawful measures, described above, that Plaintiffs took in an attempt to enrich themselves at CuVeras's expense.

ANSWER: Plaintiffs admit that on or about June 29, 2016 Lacey purported to remove Highlands as Manager of CuVeras, but state that the purported removal was invalid and ineffective. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 54 of the Counterclaims.

55. MacMillan, through Highlands, had sole effective control over CuVeras from approximately December 9, 2011 until on or about June 29, 2016. Unbeknownst to Defendants, MacMillan used his control over CuVeras to attach to the SPA a "Noteholder Mortgage and Debenture" that, upon information and

belief, purports to prohibit the removal of Highlands as Manager of CuVeras without the prior consent of Bull River Securities Holdings Ltd. ("Bull River"), an entity controlled by MacMillan.

ANSWER: Plaintiffs admit that at all relevant times Highlands was the Manager of CuVeras, but otherwise deny the allegations contained in Paragraph 55 of the Counterclaims. Plaintiffs further state that the Noteholder Mortgage and Debenture, which requires Bull River's consent for any change in the Manager of CuVeras, was expressly referred to in the Agency and Interlender Agreement and referred to in and attached to the SPA. Lacey agreed to be bound by the SPA in a certain Assignment and Assumption Agreement dated January 23, 2012, and separately signed the Agency and Interlender Agreement referencing the Mortgage and Debenture on January 5, 2012. Moreover, Lacey again signed both the SPA and the Agency and Interlender Agreement Agreement on June 5, 2014. Lacey had access to the Noteholder Mortgage and Debenture and was on notice if not actually aware of its terms.

56. MacMillan never provided Lacey or other CuVeras stakeholders with a copy of the Noteholder Mortgage and Debenture, despite repeated requests. Indeed, Defendants were not aware of the existence of the Noteholder Mortgage and Debenture until Plaintiffs commenced litigation in New York State Court.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 56 of the Counterclaims, and restate and incorporate by reference herein their Answer to Paragraph 55 of the Counterclaims.

57. In other words, MacMillan intended to convey to Lacey and to other CuVeras stakeholders that the Operating Agreement controlled the election or removal of any Manager of CuVeras. Meanwhile, MacMillan purported to give himself veto power over any potential removal of Highlands as Manager of CuVeras, which, if effective, would derogate the powers granted to the Majority Interest of CuVeras under the terms of the Operating Agreement.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 57 of the Counterclaims, and restate and incorporate by reference herein their Answer to Paragraph 55 of the Counterclaims.

58. Defendants did not learn until October 2016 of other unilateral measures MacMillan took, through the April 25, 2016 Resolutions and the execution of the Priority Agreement, to benefit himself at the expense of CuVeras: those actions came to light only after the B.C. Court forced Purcell to make certain financial disclosures in October of 2016.

ANSWER: Plaintiffs lack knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 58 of the Counterclaims concerning Defendants' awareness of the referenced transactions

and therefore deny the same. Plaintiffs deny the remaining allegations contained in Paragraph 58 of the Counterclaims.

59. If the B.C. Court had not forced Purcell to make those disclosures, Defendants still would not know about the actions MacMillan took to harm the interests of CuVeras and its stakeholders. Even the disclosures made in October of 2016 make clear that they are far from complete: they are entitled "Preliminary Financial Information for the Financial Year Ended December 31, 2015," and MacMillan, on behalf of Purcell, represents that further information will be forthcoming following an audit.[2]

ANSWER: Plaintiffs deny the allegations contained in the first sentence of Paragraph 59 of the Counterclaims. Plaintiffs state that the disclosures referenced in the second sentence of Paragraph 59 of the Counterclaims speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those disclosures for their full and accurate contents.

60. Separately, Defendants have discovered that, as Manager of CuVeras, Highlands never registered CuVeras's security interest in the assets of Purcell with the British Columbia Personal Property Registry.

ANSWER: Plaintiffs admit that the registration of security interests are matters of public record and the documents evidencing such registrations are

[2] The disclosures were released at the following URL: http://purcellbasin.com/site/financial-info (last visited April 6, 2017).

written documents the terms of which speak for themselves. All registrations for CuVeras were done with the advice and oversight of CuVeras's Canadian Counsel. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 60 of the Counterclaims.

61. In stark contrast, after adopting the April 25, 2016 Resolutions and after entering into the Priority Agreement on behalf of all parties thereto, MacMillan registered with the British Columbia Personal Property Registry the purported security interests held by Highlands and HPP over the assets of Purcell.

ANSWER: Plaintiffs admit that they perfected the referenced security interests of Highlands, HPP and MacMillan and registered them with the British Columbia Personal Property Registry. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 61 of the Counterclaims.

62. These additional revelations following Highlands's removal as Manager on June 29, 2016 only add to the list of reasons why Highlands is not fit, and has no right, to continue as Manager of CuVeras.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 62 of the Counterclaims.

63. Nevertheless, Highlands has refused to accede to the removal, and instead has insisted that it is still CuVeras's rightful Manager. MacMillan, through Highlands, has refused to grant CuVeras's new Manager access to the books,

records, or financial accounts of CuVeras.

ANSWER: Plaintiffs admit that Lacey's purported removal of Highlands as Manager of CuVeras was invalid and ineffective and that, therefore, Highlands is not obligated to transfer the books and records of CuVeras to the entity Lacey has purported to appoint as the new Manager of CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 63 of the Counterclaims.

64. Moreover, Plaintiffs have now sued Defendants, initially through an action in New York, and now through the instant action, for a declaration that Highlands is still CuVeras's rightful Manager and that the removal was invalid.

ANSWER: Plaintiffs admit that they have sued the Defendants, seeking, *inter alia*, a declaration that Highlands is the rightful Manager of CuVeras, but respectfully refer the Court to the Complaint in this action for its full and accurate contents.

COUNT I
(Declaratory Relief Pursuant to 6 *Del. C.* §§ 18-110)

65. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 64 of the Counterclaims as if fully set forth herein.

66. This claim is brought pursuant to Section 18-110 of the Delaware Limited Liability Corporation [*sic*] Act, under which the Court of Chancery is empowered to "hear and determine the validity of any admission, election, appointment, removal or resignation of a manager of a limited liability company, and the right of any person to become or continue to be a manager of a limited liability company[.]"

ANSWER: This Paragraph asserts legal conclusions to which no response is required. To the extent a response is required, Plaintiffs admit that Section 18-110 of the LLC Act applies to actions concerning the validity of an appointment or removal of a manager of a Delaware LLC.

67. Highlands was designated as the initial Manager of CuVeras pursuant to the Operating Agreement.

ANSWER: Plaintiffs admit the allegations contained in Paragraph 67 of the Counterclaims.

68. The Operating Agreement provides that the "Manager shall remain in office until . . . removal by a Majority Interest[.]"

ANSWER: Plaintiffs admit that Paragraph 68 of the Counterclaims contains an accurate but selective quotation of the Operating Agreement. To the extent that the allegations contained in Paragraph 68 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the

Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs state further that Section 14.1(j) of the Noteholder Mortgage and Debenture requires Bull River's consent to any changes in the Manager of CuVeras.

69. "Majority Interest" is defined as "the vote or consent of at least a majority of the Percentage Interests of the Common Units[.]" The Operating Agreement does not establish particular steps that must be followed by the Majority Interest in effectuating the removal of the Manager.

ANSWER: Plaintiffs admit that Paragraph 69 of the Counterclaims contains an accurate but selective quotation of the Operating Agreement. To the extent that the allegations contained in Paragraph 68 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs state further that Section 14.1(j) of the Noteholder Mortgage and Debenture requires Bull River's consent to any changes in the Manager of CuVeras.

70. Peter A. Lacey is designated on Appendix A to the Operating Agreement as the sole Member of CuVeras. Therefore, he holds the Majority Interest and is authorized to remove the Manager in his capacity as sole Member.

ANSWER: To the extent that the allegations contained in Paragraph 70 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs state further that Section 14.1(j) of the Noteholder Mortgage and Debenture requires Bull River's consent to any changes in the Manager of CuVeras.

71. Highlands validly was removed as Manager of CuVeras on or about June 29, 2016, pursuant to a duly executed Written Consent of the Members of CuVeras, LLC, by its sole member.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 71 of the Counterclaims.

72. Highlands has refused to accede to its removal. Despite repeated requests by CuVeras and its current Manager, 1974315 Alberta Ltd., Highlands has refused to transfer (or even provide access) to CuVeras's books, records, or accounts. Moreover, Plaintiffs have commenced this action – as well as a previous

action in New York – seeking a declaration that the removal of Highlands is invalid and that Highlands is the proper Manager of CuVeras.

ANSWER: Plaintiffs admit the allegations contained in the first sentence of Paragraph 72 of the Counterclaims, with the exception of any characterization of the purported removal of Highlands as being valid, which Plaintiffs deny. Plaintiffs further state that Lacey's purported removal of Highlands as Manager of CuVeras was invalid and ineffective for failure to comply with Section 14.1(j) of the Noteholder Mortgage and Debenture. Plaintiffs admit that they have sued the Defendants, seeking, *inter alia,* a declaration that Highlands is the rightful Manager of CuVeras, but respectfully refer the Court to their Verified Complaint in this action for its full and accurate contents. Plaintiffs further state that the parties have reached an agreement to dismiss the New York action without prejudice, in favor of this action.

73. Defendants are entitled to a declaratory judgment that Highlands was properly removed as Manager of CuVeras, and an order requiring Highlands to immediately relinquish all books, records, and accounts to CuVeras's current Manager.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 73 of the Counterclaims.

COUNT II
(Breach Of Fiduciary Duty Against Highlands and MacMillan)

74. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 73 of the Counterclaims as if fully set forth herein.

75. Highlands, as Manager of CuVeras from November of 2011 to June of 2016, owed duties of care and loyalty to CuVeras.

ANSWER: This Paragraph asserts legal conclusions to which no response is required. To the extent a response is required, Plaintiffs state that Highlands' duties to CuVeras are governed by the Operating Agreement and Delaware law.

76. MacMillan, as President and principal of Highlands, and therefore as effective Manager of CuVeras, also owed duties of care and loyalty to CuVeras.

ANSWER: This Paragraph asserts legal conclusions to which no response is required. To the extent a response is required, Plaintiffs deny the allegations contained in Paragraph 76 of the Counterclaims.

77. Highlands and MacMillan breached their duties of care and loyalty to CuVeras by, among other things:

78. Entering into the Priority Agreement and purporting to subordinate CuVeras's security and mortgage interests in Purcell to the interests of Highlands, MacMillan, and HPP;

79. Approving and signing the April 25, 2016 Board Minutes; and

80. Registering the security interests of Highlands and HPP while failing to do so for CuVeras.

ANSWER: Plaintiffs deny the allegations contained in Paragraphs 77 through 80 of the Counterclaims.

81. As a result of Highlands's and MacMillan's breaches of their duties of care and loyalty to CuVeras, Defendants have been injured in an amount to be proven at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 81 of the Counterclaims.

COUNT III
(Fraud Against MacMillan)

82. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 81 of the Counterclaims as if fully set forth herein.

83. The Operating Agreement provides that the "Manager shall remain in office until . . . removal by a Majority Interest[.]"

ANSWER: Plaintiffs admit that Paragraph 83 of the Counterclaims contains an accurate but selective quotation of the Operating Agreement. To the extent that the allegations contained in Paragraph 83 of the Counterclaims purport

to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs state further that Section 14.1(j) of the Noteholder Mortgage and Debenture requires Bull River's consent to any changes in the Manager of CuVeras.

84. "Majority Interest" is defined as "the vote or consent of at least a majority of the Percentage Interests of the Common Units[.]" The Operating Agreement does not establish particular steps that must be followed by the Majority Interest in effectuating the removal of the Manager.

ANSWER: Plaintiffs admit that Paragraph 84 of the Counterclaims contains an accurate but selective quotation of the Operating Agreement. To the extent that the allegations contained in Paragraph 84 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs state further that Section 14.1(j) of the Noteholder Mortgage and Debenture requires Bull River's consent to any changes in the Manager of CuVeras.

85. Peter A. Lacey is designated on Appendix A to the Operating Agreement as the sole Member of CuVeras. Therefore, he holds the Majority Interest and, under the terms of the Operating Agreement, is authorized to remove the Manager in his capacity as sole Member.

ANSWER: To the extent that the allegations contained in Paragraph 85 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents. Plaintiffs state further that Section 14.1(j) of the Noteholder Mortgage and Debenture requires Bull River's consent to any changes in the Manager of CuVeras.

86. MacMillan, through Highlands as the initial Manager of CuVeras, had sole effective control over CuVeras from approximately December 9, 2011.

ANSWER: Plaintiffs admit that Highlands was at all relevant times the Manager of CuVeras. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 86 of the Counterclaims.

87. Unbeknownst to Defendants, MacMillan used his control over CuVeras to draft and attach to the SPA a "Noteholder Mortgage and Debenture" that, upon information and belief, purports to prohibit the removal of Highlands as

Manager of CuVeras without the prior consent of Bull River, an entity controlled by MacMillan.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 87 of the Counterclaims. Plaintiffs further state that the Noteholder Mortgage and Debenture—expressly referenced in the SPA to which Lacey is a party and attached thereto and the Agency and Interlender Agreement which Lacey also executed—speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

88. MacMillan never provided Lacey, and has not provided to CuVeras's new Manager, a copy of the Noteholder Mortgage and Debenture, despite repeated requests. Indeed, Defendants were not aware of the existence of the Noteholder Mortgage and Debenture until Plaintiffs commenced litigation in New York State Court.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 88 of the Counterclaims.

89. In other words, MacMillan intended to convey to Lacey and to other CuVeras stakeholders that the Operating Agreement controlled the election or removal of any Manager of CuVeras. Meanwhile, MacMillan purported to give himself veto power over any potential removal of Highlands as Manager of

CuVeras, which, if effective, would derogate the powers granted to the Majority Interest of CuVeras under the terms of the Operating Agreement.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 89 of the Counterclaims.

90. MacMillan knew that his representations relating to the Operating Agreement were false, and that he secretly had purported to take steps to give himself the authority to block the removal of Highlands as Manager. MacMillan made those representations, and concealed the terms of the Noteholder Mortgage and Debenture, in order to prevent Lacey from exercising the power of the Majority Interest of CuVeras under the Terms of the Operating Agreement.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 90 of the Counterclaims.

91. In reliance upon MacMillan's representations and omissions, Lacey – as sole Member of CuVeras – (i) did not take steps to remove Highlands as Manager of CuVeras as soon as he otherwise would have, had he known of the steps taken by MacMillan to purportedly vest himself with total control of the management of CuVeras going forward; and (ii) took steps to effectuate the removal of Highlands that Highlands and MacMillan have now deemed insufficient.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 91 of the Counterclaims.

92. Highlands and MacMillan have now brought lawsuits against Defendants in multiple jurisdictions, seeking to have Highlands declared the rightful Manager of CuVeras based upon purported failure by Defendants to seek the consent of Bull River prior to removing Highlands.

ANSWER: Plaintiffs admit that they have sued the Defendants in New York and Delaware, seeking, *inter alia,* a declaration that Highlands is the rightful Manager of CuVeras, but respectfully refer the Court to the Complaint in this action for its full and accurate contents. Plaintiffs further state that they initially commenced the New York action in accordance with the parties' contractual agreement under the SPA and that the parties have reached an agreement to dismiss the New York action without prejudice, in favor of this action.

93. As the result of the foregoing, Defendants have been damaged in an amount to be determined at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 93 of the Counterclaims.

COUNT IV
(Breach Of Contract Against Highlands)

94. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 93 of the Counterclaims as if fully set forth herein.

95. Highlands was designated as the initial Manager of CuVeras pursuant to the Operating Agreement. As initial Manager, Highlands is a party to the Operating Agreement.

ANSWER: To the extent that the allegations contained in Paragraph 95 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

96. Highlands remained as Manager until its valid removal on June 29, 2016.

ANSWER: Highlands admits that at all relevant times it was and is the rightful Manager of CuVeras, but denies the remaining allegations contained in Paragraph 96 of the Counterclaims.

97. Under the Operating Agreement, Highlands was required to manage the business of CuVeras, and was authorized to "exercise all the powers of [CuVeras] except as otherwise provided by law or by this Agreement."

ANSWER: To the extent that Paragraph 97 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the

Operating Agreement speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

98. CuVeras issued Notes to approximately one hundred (100) investors pursuant to the SPA. The SPA, and the Form of Note attached thereto, required payment on the Notes in the form of cash, or through the delivery of senior debt securities of the Stanfield Group Companies (or their successor), on or before the maturity dates reflected on the Notes.

ANSWER: Plaintiffs admit that CuVeras issued Notes to certain investors pursuant to the SPA. Plaintiffs further state that the SPA, including the Form of Note attached thereto, speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

99. Upon information and belief, (i) the Notes issued pursuant to the SPA reached their maturity dates prior to June 29, 2016, when Highlands was removed as Manager; and (ii) Highlands never made payment on the notes through cash or through the delivery of senior debt securities of the Stanfield Group Companies or Purcell.

ANSWER: Plaintiffs admit that certain Notes issued by CuVeras have reached their maturity dates and that CuVeras is obligated to make payment under

the terms of the Notes it issued, but deny that Highlands, rather than CuVeras, is obligated to make payments due under those Notes.

100. Therefore, Highlands has breached its obligations under the Operating Agreement by failing to manage the business of CuVeras and to exercise all powers of CuVeras on its behalf.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 100 of the Counterclaims.

101. As a result of the foregoing, Defendants have been damaged in an amount to be determined at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 101 of the Counterclaims.

COUNT V
(Breach Of The Implied Covenant Of Good Faith And Fair Dealing Against Highlands)

102. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 101 of the Counterclaims as if fully set forth herein.

103. Highlands, as initial Manager, is a party to the Operating Agreement.

ANSWER: Plaintiffs admit the allegations contained in Paragraph 103 of the Counterclaims. Plaintiffs further state that the Operating Agreement speaks for

itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

104. The underlying and basic purpose of the Operating Agreement was to allow CuVeras to raise funding for Purcell in exchange for Purcell's issuance of debt, consistent with the Plan of Arrangement.

ANSWER: To the extent that the allegations contained in Paragraph 104 of the Counterclaims purport to describe the contents of the Operating Agreement, Plaintiffs state that the Operating Agreement, including its provisions regarding the purpose of CuVeras, speaks for itself, and Plaintiffs deny any inaccurate characterization or interpretation of it, and respectfully refer the Court to that document for its full and accurate contents.

105. The Plan of Arrangement and the Court Orders provided that CuVeras, as DIP Lender to Purcell, would have a priority interest in Purcell. That priority interest was granted to CuVeras to further the purpose of raising funding to provide capital to Purcell and allow it to continue as a going concern upon completion of the Plan of Arrangement.

ANSWER: Plaintiffs state that the Plan of Arrangement and B.C. Court orders speak for themselves, and Plaintiffs deny any inaccurate characterization or interpretation of them, and respectfully refer the Court to those documents for their full and accurate contents. Plaintiffs deny that those documents establish, or that

the parties ever intended to establish, an absolute priority interest for CuVeras over all other debt issued by Purcell in perpetuity. Plaintiffs further state that CuVeras could have maintained its status among Purcell's creditors if Lacey and/or CuVeras's other investors agreed to provide the additional financing necessary to keep Purcell afloat. Except as expressly admitted, Plaintiffs deny the allegations contained in Paragraph 105 of the Counterclaims.

106. The parties understood and relied upon that purpose in entering into the Operating Agreement. In other words, the intended status of CuVeras as DIP Lender – with the priority that accompanies DIP Lender status – was an implied term in the Operating Agreement.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 106 of the Counterclaims.

107. Highlands has frustrated this purpose, and breached this implied term, by entering into the Priority Agreement, which purports to grant Highlands, MacMillan, and HPP superior priority mortgage and security interests in Purcell than that granted to CuVeras under the Plan of Arrangement and the Court Orders.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 107 of the Counterclaims.

108. As a result of the foregoing, Defendants have been damaged in an amount to be determined at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 108 of the Counterclaims.

COUNT VI
(Unjust Enrichment Against All Plaintiffs)

109. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 108 of the Counterclaims as if fully set forth herein.

110. By granting themselves mortgage and security interests in Purcell that are superior to those granted to CuVeras under the Plan of Arrangement, Plaintiffs have enriched themselves at CuVeras's expense.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 110 of the Counterclaims.

111. These acts were taken without any legally cognizable justification.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 111 of the Counterclaims.

112. Defendants have no adequate remedy at law, and as a result of the foregoing, have been damaged in an amount to be determined at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 112 of the Counterclaims.

COUNT VII
(Declaratory Relief – Invalidation Of Priority Agreement Against All Plaintiffs)

113. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 112 of the Counterclaims as if fully set forth herein.

114. MacMillan, through his entities, purported to enter into the Priority Agreement on behalf of all parties thereto – in violation of his fiduciary duties to CuVeras and its stakeholders – thereby attempting to grant Plaintiffs mortgage and security interests in Purcell that are superior to those granted to CuVeras under the Plan of Arrangement.

ANSWER: Plaintiffs admit that MacMillan, on behalf of Purcell, Highlands, HPP and CuVeras, executed the Priority Agreement, but deny the remaining allegations of Paragraph 114 of the Counterclaims.

115. These acts were undertaken in secret; in violation of fiduciaries duties owed to CuVeras and its stakeholders; and without any legally cognizable justification.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 115 of the Counterclaims.

116. As a result of the foregoing, Defendants are entitled to a declaratory judgment in their favor nullifying the Priority Agreement.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 116 of the Counterclaims.

COUNT VIII
(Aiding And Abetting Against MacMillan and HPP)

117. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 116 of the Counterclaims as if fully set forth herein.

118. Highlands, as Manager of CuVeras from November of 2011 to June of 2016, owed duties of care and loyalty to CuVeras, and breached those duties through the acts enumerated above.

ANSWER: Plaintiffs state that Highlands' duties to CuVeras are governed by the Operating Agreement and Delaware law, but otherwise deny the allegations contained in Paragraph 118 of the Counterclaims.

119. MacMillan and HPP knowingly participated in Highlands's breach of its duties to CuVeras by, among other things: (i) causing Purcell to issue senior secured Notes to MacMillan and Highlands; (ii) by amending the CuVeras Note, including by extending its maturity date to 2029 and providing that the amended CuVeras Note would "rank junior to the indebtedness represented by the

[Highlands Note] and the [MacMillan Note]; and (iii) by entering into the Priority Agreement on behalf of all parties thereto, thereby purporting to subordinate CuVeras's priority interests to those of MacMillan, Highlands, and HPP.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 119 of the Counterclaims.

120. As a result of Highlands's breach, and MacMillan's and HPP's participation therein, Defendants have been damaged in an amount to be proved at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 120 of the Counterclaims.

COUNT IX
(Civil Conspiracy Against All Plaintiffs)

121. Defendants reallege and incorporate by reference paragraphs 1 through ___ above as though fully set forth herein.

ANSWER: Plaintiffs reallege and incorporate by reference their Answers to Paragraphs 1 through 120 of the Counterclaims as if fully set forth herein.

122. MacMillan, Highlands, and HPP conspired to enrich themselves as the expense of CuVeras.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 122 of the Counterclaims.

123. In furtherance of that conspiracy, Plaintiffs secretly and unlawfully (i) caused Purcell to issue senior secured Notes to MacMillan and Highlands; (ii) amended the CuVeras Note, including by extending its maturity date to 2029 and providing that the amended CuVeras Note would "rank junior to the indebtedness represented by the [Highlands Note] and the [MacMillan Note]; and (iii) entered into the Priority Agreement on behalf of all parties thereto, thereby purporting to subordinate CuVeras's priority interests to those of MacMillan, Highlands, and HPP.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 123 of the Counterclaims.

124. By reason of that conspiracy, and the unlawful acts of Plaintiffs undertaken in furtherance of that conspiracy, Defendants have been damaged in an amount to be proved at trial.

ANSWER: Plaintiffs deny the allegations contained in Paragraph 124 of the Counterclaims.

GENERAL DENIAL AND DEFENSES

With respect to all paragraphs in the Counterclaims in which Defendants pray for relief, Plaintiffs deny that Defendants are so entitled under applicable law. Discovery and investigation may reveal that any one or more of the following defenses should be available to Plaintiffs in this matter. Plaintiffs, therefore, assert

said defenses in order to preserve the right to assert them. Upon completion of discovery, and if the facts warrant, Plaintiffs may withdraw any of these defenses as may be appropriate. Further, Plaintiffs reserve the right to amend their Answer to assert additional defenses, cross-claims, counterclaims, and other claims and defenses as discovery proceeds. Further answering and by way of additional defense, Plaintiffs state the following without assuming or shifting any burden of production or proof that would otherwise rest with Defendants:

First Affirmative Defense

The Counterclaims, in whole or in part, fail to state any claim upon which relief can be granted.

Second Affirmative Defense

Lacey's purported removal of Highlands as Manager of CuVeras was invalid and ineffective.

Third Affirmative Defense

The Counterclaims are barred, in whole or in part, under the doctrines of estoppel, laches, acquiescence and unclean hands.

Fourth Affirmative Defense

The subject financing transactions by which Defendants claim Highlands and MacMillan breached their alleged duties to CuVeras were entirely fair to

CuVeras and its members and/or consistent with Highlands' duties and powers under the Operating Agreement.

Fifth Affirmative Defense

Defendants' claims are barred, in whole or in part, because Defendants have failed to show and cannot show that Plaintiffs acted in bad faith.

Sixth Affirmative Defense

Highlands did not breach any fiduciary duties owed to the Defendants.

Seventh Affirmative Defense

MacMillan did not in his individual capacity owe any fiduciary duties to CuVeras or Lacey as an investor or member of CuVeras.

Eighth Affirmative Defense

Defendants' contract claims are barred by their own breaches of the referenced contracts.

Ninth Affirmative Defense

Defendants' claims are barred, in whole or in part, because Defendants have failed to show and cannot show that Plaintiffs' actions or failures to act have caused any damages.

Tenth Affirmative Defense

Plaintiffs did not breach any implied covenant(s).

Eleventh Affirmative Defense

Defendants' unjust enrichment and implied covenant claims are barred because the parties' rights and obligations are governed by express contracts.

/s/ Rudolf Koch
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