

COURT FILE 2201 09318  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF **ARNAKI LTD.**  
DEFENDANT **SOLVAQUA INC.**  
DOCUMENT **AFFIDAVIT OF DAN BARONA**

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File No. 50500-8

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

Clerk's Stamp:

**AFFIDAVIT OF DAN BARONA**  
**(Sworn November 30 2022)**

I, Dan Barona of the City of Ottawa, in the Province of Ontario, MAKE OATH AND SAY THAT:

1. I am a Sr. Debt Services Manager for Export Development Canada ("EDC") and as such, have knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, in which case I have stated the source of the information and believe it to be true.
2. Export Development Corporation ("EDC") is a Crown corporation providing credit support to Canadian exporters. Part of EDC's credit support program includes a portfolio credit insurance for sales projects. Most often, this type of insurance is required by the exporter's lender as part of their security. Under the insurance coverage, if an export transaction fails, the client and/or its lender have the benefit of the insurance proceeds.
3. Solvaqua Inc. ("**Solvaqua**") is a client of EDC. In 2020, Solvaqua approached EDC for credit support regarding a sales project with VivaVentures Inc. ("**VivaVentures**") and its parent company, Vivakor Inc. ("**Vivakor**"). The sales project included delivery of certain equipment (the "**Equipment**") and other goods to be provided by Solvaqua to Vivakor (the "**Transaction**").

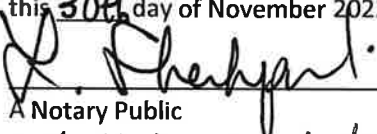
Attached hereto and marked as **Exhibit "A"** is a copy of the Charter for the project signed by VivaVentures and Solvaqua. Solvaqua's signatory was its CEO, Chris Tesarski.

4. In June 2020, EDC approved credit support for Solvaqua and the Transaction and provided an insurance certificate effective May 1, 2020, for an Export Receivables policy (the "**Policy**"). The Policy was subsequently modified in November 2020. Attached hereto and marked as **Exhibits "B" and "C"** respectively, are copies of the Policy approval and modification notices.
5. The Policy was governed by General Terms and Conditions, a copy of which is attached hereto and marked as **Exhibit "D"**.
6. At the request of Solvaqua and its lender, Arnaki Ltd. ("**Arnaki**"), EDC was given a Direction to Pay with respect to any insurance proceeds under the Policy. The Direction to Pay indicated that all insurance proceeds were to be paid to Murchinson Ltd. ("**Murchinson**"). Murchinson is the parent company of Arnaki and, according to Arnaki, was in charge of all debt recovery in Canada with respect to Solvaqua. Attached hereto and marked as **Exhibit "E"** is a copy of the Direction to Pay.
7. In July, 2021, Solvaqua issued an invoice to Vivakor for the Transaction in the amount of \$2.5 million (USD). EDC was subsequently advised by Solvaqua on July 5, 2021, that the Transaction was in jeopardy; this was prior to any delivery of Equipment under the Transaction. Shortly thereafter, counsel for Arnaki and Murchinson began requesting that EDC payout insurance proceeds to Murchinson under the Policy as a result of the failed Transaction. Attached hereto and marked as **Exhibit "F"** are copies of email correspondence between Scott Reeves, counsel for Arnaki and Murchinson to EDC in which Mr. Reeves requests and follows up regarding the payment. Subsequently, EDC paid the amount of \$1,386,000 USD (which is 90% of \$1,540,000 USD, the approved loss amount) to Murchinson.
8. In the course of the failure of the Transaction and the subsequent payment to Murchinson, Steve Rubayika of EDC engaged in conversations with Chris Tesarski, the CEO of Solvaqua. In these conversations, Solvaqua advised EDC that the failure of the Transaction had led to severe cash flow issues for Solvaqua and, as a result, Solvaqua's issues with Arnaki and Murchinson had not been resolved. Solvaqua agreed that, as a result of the payment to Murchinson, EDC had essentially acquired the rights to the Equipment, as well as any rights as against Vivakor. Since Solvaqua was in the best position to sell the Equipment at that time, EDC and Solvaqua further

agreed that the Equipment would remain in the possession of Solvaqua, but for the benefit of EDC, that Solvaqua would attempt to either complete the sale to Vivakor or a third-party, and the proceeds would be paid to EDC. All of these discussions occurred over the phone between Steve Rubayika of EDC and Chris Tesarski of Solvaqua. I am advised by both parties and do verily believe that the foregoing is an accurate description of the conversations. These telephone conversations occurred between July 2021 and February 5, 2022.

9. As a result of the foregoing discussions, Solvaqua also executed an Assignment Agreement dated February 8, 2022, a copy of which is attached hereto and marked as **Exhibit "G"**.

SWORN BEFORE ME at the City of  
Ottawa, in the Province of Ontario, this  
this 30<sup>th</sup> day of November 2022.

  
A Notary Public

*Leila Shahparaki, Asst. General Counsel, EDC*

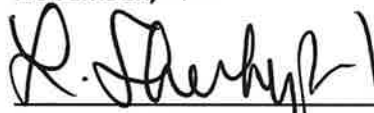


DAN BARONA

Project Charter  
For VIVAVENTURES WMS Process Water Recovery  
April 9, 2020

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF DAN BARONA.

SWORN BEFORE ME THIS 30<sup>th</sup> DAY OF  
NOVEMBER, 2022.



A Notary Public

Leila Shahparaki, Asst. General Counsel, EDC

**Document Control**

**Document Information**

Document ID	WMS Water Recovery
Document Owner	Allan Mahoney
Issue Date	April 2 <sup>nd</sup> , 2020
Last Saved Date	April 2 <sup>nd</sup> , 2020
File Name	WMS 202 Charter

**Document History**

[1.0]	April 2 <sup>nd</sup> , 2020	New issue

**Document Approvals**

Project Sponsor	Chris Tesarski		
Project Review Group	Chris Tesarski Audrey Tesarski		
Project Manager	Allan Mahoney		
Quality Manager	Pending		
Procurement Manager			
Communications Manager			

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## **1 Executive Summary**

It is estimated that well over 80 per cent of wastewater worldwide (over 95 per cent in some developing countries) is released into the environment without treatment (UNESCO, 2017, p. 10). A United-Nations backed study showed that annual treated wastewater in North America roughly equates to the volume of Niagara Falls; less than 4 percent is reused (Collins, 2013, para. 1).

The market for water and wastewater treatment technologies is likely to grow at a compound annual growth rate of 9% during the forecast period 2019 - 2024. One of the major driving factors of the market is the rapidly diminishing freshwater resources across the globe. However, lack of awareness on appropriate usage of water treatment techniques is likely to restrain the market ("Wastewater Growth Trends," 2019, para. 1). The demand for innovative treatments to enable reuse of water is on the rise as operators and municipalities seek the most cost-effective strategies to handle the increasing volumes of oily and organic wastewater and the effective recovery from a release of hydrocarbons to a waterway. It is sometimes the case where the most cost-effective strategy in the short-term is not always the most cost effective long-term. SOLVAQUA supports organizations in their short and long-term waste reduction goals by providing location specific and process specific solutions for the treatment of wastewater for reuse or repurposing.

The primary environmental benefit from our technology is to provide Clean Water for re-use in many sectors such as:

- Industrial
- Oil & gas operations
- Irrigation
- Municipal
- ReInjection
- Agriculture
- Recreation
- Disaster Recovery
- A preface for reintroduction into navigable water or for preparation of drinking water

The use of our technology results in environmental benefits by enabling increased volumes of produced water for re-use in fracking or by providing a more effective injection fluid and by reducing the amount of fresh water used for industrial and oil & gas purposes.

Enabling the processing of industrial wastewaters, existing wastewater storage, polluted lakes, rivers, streams and storage sites (tailings ponds). Reuse of wastewater reduces the continued use of freshwater while wastewater is being discharged.

## **2 Project Definition**

### **2.1 High Level Vision**

Our vision is to provide an integrated and automated daily treatment process of wastewater for the recovery of water and reduction in waste. This processed fluid from SolvaQUA will undergo additional processing to allow for effective Secondary, Tertiary and Desalination processes. The By-Product Waste will be recycled, reused or repurposed.

### **2.2 Objectives**

The objective in 2020 is for SolvaQUA to:

- Design, manufacture and sell 25,000+ bpd Wastewater Management Systems (WMS) for commercial processing of wastewater.

**2.3 Overview of Scope**

SolvAQUA will provide equipment and ongoing support utilizing an automated daily treatment process for the treatment of wastewater to recover water for reuse and provide a reduced by-product waste that can be recycled, reused, repurposed or as a reduced volume for disposal meeting regulatory requirements.

**2.4 Procurement Items**

SolvAQUA will provide processing equipment, chemical additives and service execution support for the processing of the fodder crop irrigation wastewater (wastewater).

- SolvAQUA Skid to process up to 25,000 barrels of wastewater per day.
- Chemical additives for the processing of up to 25,000 barrels of wastewater per day.
- Service Technician to mobilize, setup processing equipment, initiate service execution and train local operators.
- Service Technician to assess the competence of personnel.
- Service Execution process documents are provided for daily operations and recording of predictive maintenance.

**2.5 Calculation of Material – Produced Water Processing (Field Forms)**

**WMS Volumes (21, 650 bpd)**

Chemical Additive	Bulk Concentration	Volume Dosed per month	Final Concentration	Minimum Volumes on site + contingency
NaOH pH	50%	650,000 bbl.	N/A	
MFD	2.0%	650,000 bbl.	30 ppm	20 x 264 gal Totes
Activator	48%	650,000 bbl.	150 - 200 ppm	40 x 264 gal Totes
Conditioner	100%	650,000 bbl.	3 ppm	1 x 275 gal tote

**3 Responsibilities**

**3.1 SolvAQUA**

- SolvAQUA WMS Processing Skid, 25,000 bpd rated
- Chemical Additives to process wastewater
- Suction and Discharge hoses for WMS unit
- Competent personnel to initiate service execution
- SolvAQUA competent personnel to assess competence.

**3.2 Client/Representative**

- Waste/Source fluid supply
- Electrical Power
- Crossovers to source fluid and settling tanks.
- Settling Tanks
- Clean water tanks
- By-Product tanks
- By-Product disposal
- Onsite fluid testing
- Personnel to operate WMS equipment and manage chemical additives.



**4 Performance**

**4.1 Service Execution Performance Criteria**

Criteria	Description
SolvAQUA WMS Operation	WMS processing unit will deliver a maximum of 25,000 bpd per unit with a <5% non-productive time.
Contingency Additives	No-less-than 30 days of chemical additives on site for ongoing operations and as a contingency volume.
PMITP	Preventive Maintenance Inspection and Test document provided with WMS unit.
Assessment of Competence	Operations personnel will be assessed based on agreed upon times between SolvAQUA and Client/Representative.

**4.2 Review Process**

- Quarterly reviews with Client/Representative:
  - Service Execution performed (CEO)
  - Minor or Serious Non-Conformance (COO)
  - Major Non-Conformance (CEO)
  - Lessons Learned (COO)
- Yearly Reviews with Client/Representative (CEO, COO)

**4.3 Major Deliverables**

In order to meet the project requirements SolvAQUA must provide the equipment and infrastructure to process wastewater to meet project agreed upon requirements.

Deliverable	Components	Description
Equipment	Wastewater Processed	Commercial unit. Initiate project.
Equipment	Wastewater Management System	WMS
Chemicals	<ul style="list-style-type: none"> <li>• pH Adjustment</li> <li>• NFD</li> <li>• Aluminum Sulfate</li> <li>• Conditoner Polymer</li> </ul>	Minimum 15 days chemical on site
Process Deliverables	Documetation  Training Assessment	<ul style="list-style-type: none"> <li>• Equipment Manuals</li> <li>• Predictive Maintenance recommendations</li> <li>• 2 Years Spares List</li> <li>• Training and Competence process</li> </ul>

**5 Project Organization**

**5.1 Customer**

Customer Group	Customer Representative
VIVAVENTURES Inc.	Matt Nicosia
SolvAQUA Inc.	Chris Tesarski Allan Mahoney

**5.2 Key Stakeholders**

Stakeholder / Group	Stakeholder Interest
	TBD

### 5.3 Identify Key Internal Stakeholders

**Project Sponsor:** SolvAQUA with Client

The Project Sponsor will be primarily responsible for:

- Leading the Project Governance Council as Chairman
- Defining the vision, purpose and objectives of the project
- Approving the requirements, timetable and resources
- Approving the provision of funds and resources
- Authorizing acceptance of the final solution delivered by the project

**Project Governance Council** (To be determined)

The Project Governance Council will be primarily responsible for:

- Overseeing the progress of the project
- Resolving all high-level risks, issues and change requests
- Ensuring that the project team has everything it needs to deliver successfully

**Project Manager:** Allan Mahoney

The Project Manager will be primarily responsible for:

- Delivering the project on time, within budget and to specification
- Managing project staff, suppliers, customers and all other project stakeholders
- Undertaking the activities required to initiate, plan, execute and close the project successfully

**Project Team/Leaders:** (To be determined. Can be suppliers)

The Project Leaders will be primarily responsible for:

- Undertaking all tasks allocated by the Project Manager per the Project Plan
- Reporting progress of the execution of tasks to the Project Manager on a frequent basis
- Escalating risks and issues to be addressed by the Project Manager

## 6 Equipment Specifications

### 6.1 Fodder WMS System Description and Features

The system consists of the following:

- Feed pump
- Flow meter
- Pipe mixers
- Chemical injection pumps
- Skid

In the process, feed water will be injected into the pipe mixers using a feed pump. SolvAQUA proprietary chemicals such as NFD will be injected continuously to the pipe mixer. Aluminum Sulfate will be added to adjust the fully activate the nano-polymer forming a floc. A conditioner is added to bulk the floc. Both the TSS and organics present in the feed water will be entrapped, encapsulated/bonded. These bonded particles have flowed through static mixers to promote slow and gentle mixing with the polymers required to help the particles form bridges and agglomerate into much larger flocs. Once formed, the large flocs are easily removed by filtration, straining, floatation or sedimentation.

#### Housing

- 8' x 10' SeaCan
  - Class I Division II certified
- Environmental containment pan

- Internal structure to support mounted equipment
- LED Lighting
- Heated and cooled
- Painted with epoxy paint

**Fluid Processing Equipment (Additional Details pending)**

- Pump and Motor
- VFD
- PLC
- Magnetic Flow Meter
- Dosing Pumps and Motors
- Static Mixers
- Internal Additive Tanks
- Chemical Mixing System

**Instrumentation/Control System**

- Powered with Pending
- Power cord
- CIDII Enclosure for instrumentation
- Internal power supplies
- Installed PLC and VFD (PLC is expandable to support additional functions)
- HMI Touchscreen Display
- Cellular/Satellite modem w/ WIFI and GPS
- Cellular/GPS/WIFI Combination Antenna
- Satellite Antenna (Iridium System)
- Programming logic to control system parameters
  - VFD Drive for main pump
  - Control of dosing pumps
  - Flowmeter input
  - Pressure inputs
  - Control of dosing pumps based on main pump operation as well as flowmeter readings
  - Data storage
- Remote access troubleshooting capability w/ satellite/cellular connect is available (account data plan not included)
- Remote monitoring capability via private network (Through instrumentation provider – annual fee applies)

**7 Project Considerations****7.1 Key Assumptions**

Within this project scope, it is assumed that:

- There may be additional secondary and tertiary processing based on wastewater test results
- There are no permitting issues for the removal and disposal or reuse of the by-product,
- Additive, Settling, Water and By-Product tanks will be supplied by the client
- 25,000 bpd WMS will meet upper and lower end requirements for processing of wastewater.
- Client/Representative team will manage the wastewater processing as a stand-alone team 7 days of onsite training and monitoring.
- Competence assessment process and remote monitoring will enable effective ongoing operation.
- By-product disposal or reuse will be managed by the client.

- The long-term internment (burial) in a secure landfill site approved for such by the appropriate state or federal agency.

**7.2 Equipment and Chemical Provided & Valuation of Same**

- One 25,000 bpd WMS - \$300,000 US
  - 5 units = \$1,500,000 US
- 3 months of chemicals for 5 WMS = 9,750,000 bbl
  - Five units = ~\$1,000,000 US

- **Payment & Deployment Schedule**

- |  |   |     |
|--|---|-----|
| ● Navajo Nation (2 systems)            | Deployment Date will be July 1 <sup>st</sup> , 2020   | 20% |
| ● Mexico Industrial                    | Deployment Date will be August 1 <sup>st</sup> , 2020 | 20% |
| ● Kuwait Gulf war Oilspill Remediation | Deployment Date will be Sept 1 <sup>st</sup> , 2020   | 20% |
| ● Balance Due (Initial PO)             | October 1 <sup>st</sup> , 2020                        |     |
| ● Regular Cashflow/Billing Cycle       | November 1 <sup>st</sup> , 2020                       |     |

The above Payment & Deployment Schedule may be adjusted in writing by consent of both parties. However, any such adjustment shall not extend the balance due and payable from this initial Charter past December 31<sup>st</sup>, 2020.

**7.3 Assumptions:**

- One 25,00 bpd WMS unit is design, built, tested and installed by end of June 2020
- Chemical costs will stay consistent in 2020
- Monthly volumes required will be >95% efficiency
- Client/Representative will manage operation of WMS steady state

**8 Appendix**

**8.1 Supporting Documentation**

- US7750066 MFD Patent



**PROJECT CHARTER**

All correspondence and/or billing Statements and Invoices shall be emailed to:

As to VIVAVENTURES: [matt@vivakor.com](mailto:matt@vivakor.com)  
As to SOLVAQUA: [ctesarski@solvaqua.com](mailto:ctesarski@solvaqua.com)

All correspondence and/or billing Statements and Invoices shall be delivered by hand to:

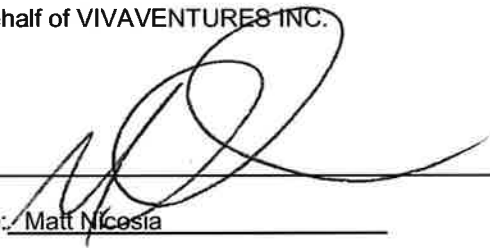
VIVAVENTURES, INC.  
**a wholly owned subsidiary of VIVAKOR INC.**  
8565 S. Eastern Ave., Suite 150  
Las Vegas, NV 89123  
(949) 281-2606

SOLVAQUA INC.  
Suite 1050, 444 – 5<sup>th</sup> Ave SW  
Calgary, AB, Canada  
T2P 2T8

The undersigned have the authority to hereby bind and authorize the respective corporations for the above Charter and Purchase Order.

Executed on this 17 day of April, 2020.

On behalf of VIVAVENTURES INC.

  
\_\_\_\_\_  
Name: Matt Nicosia

Title: CEO

On behalf of SOLVAQUA INC.

  
\_\_\_\_\_  
Name: Chris Tesarski

Title: CEO

June 26, 2020


audrey tesarski  
SOLVAQUA INC.  
1050-444 5 AVE SW  
CALGARY, AB, T2P 2T8  
CANADA

Dear audrey,

**Re: Offer - SOLVAQUA INC.**  
Export Receivables Policy - Quote Number 128300/134110

**THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF DAN BARONA.**

**SWORN BEFORE ME THIS 30<sup>th</sup> DAY OF  
NOVEMBER, 2022.**

  
A Notary Public  
Leila Shahparaki  
Asst. General Counsel  
EDC

Thank you for your interest in our Portfolio Credit Insurance. We have received your application and are pleased to make you the following offer for an Export Receivables Policy (the "Policy"). The key features of the coverage are set out in the Coverage Certificate below. For the full terms and conditions of coverage, please also refer to the Policy General Terms and Conditions included in the same email as this offer and posted to your account.

## ACCEPTANCE

To accept this offer, you must [login](#) to your Portfolio Credit Insurance account and navigate to the 'Offers/Quotes' tab under 'Manage Policy'. Highlight this offer and select the 'Details' button. Then follow the instructions for the acceptance process. If you do not accept the offer by July 16, 2020, it will expire.

## COVERAGE OF KEY BUYERS

We have concluded our analysis of your key buyers and wish to confirm the following:

### Approvals in Principle

If you accept this offer, the following credit approvals will be issued as indicated below, provided that, in our opinion, there is no material adverse change in the creditworthiness of the buyer after the date of this offer.

<b>Buyer's Legal Name and Address</b>	R & R READY MIX LLC 8424 39TH ST NW NEW TOWN, ND, ND 58763 UNITED STATES
<b>Credit Limit Requested</b>	USD 3,000,000
<b>Credit Limit Approved in Principle</b>	USD 0
<b>Payment Terms</b>	Up to 90 days

### Information Required to Reconsider Decision

- Purchase order numbers, amounts and scheduled shipping dates.

If you have this information, login to your account. From My Portfolio select the buyer, use the Manage Limit feature to request an

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Appeal (or Increase), complete the application form, attach or enter the required information and submit your request.

- A copy of the Buyer's latest fiscal year-end financial statements and latest interim financial statements (on a consolidated basis if applicable and audited if available).

If you have this information, login to your account. From My Portfolio select the buyer, use the Manage Limit feature to request an Appeal (or Increase), complete the application form, attach or enter the required information and submit your request.

<b>Buyer's Legal Name and Address</b>	VIVAKOR, INC. 8565 S EASTRN AVE STE 150 LAS VEGAS, NV, 89123 UNITED STATES
<b>Credit Limit Requested</b>	USD 2,000,000
<b>Credit Limit Approved in Principle</b>	USD 2,000,000
<b>Payment Terms</b>	Up to 90 days
<b>Special Conditions</b>	
This is subject to the following:	
<ul style="list-style-type: none"><li>• Coverage for this Buyer is issued in the context of the COVID 19 crisis.</li></ul>	

## COVERAGE CERTIFICATE

**Issued:** June 26, 2020

**Effective Date:** May 1, 2020

This Policy is issued in Canada by **EXPORT DEVELOPMENT CANADA** (the "Insurer", "we", "us" and "our") and is delivered to the Main Insured identified below ("you" and "your"), together, the "Parties". This Coverage Certificate forms part of the Export Receivables Policy number **SE102960** and, as of its effective date, it replaces any previous Coverage Certificate.

Any capitalized terms (other than section headings) not specified in the Coverage Certificate are defined in the General Terms and Conditions of the Policy.

### INSUREDS

<b>Main Insured</b>	SOLVAQUA INC. 1050-444 5 AVE SW CALGARY, AB, T2P 2T8 CANADA
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### COVERAGE

<b>Policy Period</b>	From May 1, 2020 to April 30, 2021  If the Policy is cancelled earlier, the Policy Period will end on the day before the date of cancellation.
<b>Annual Period</b>	From May 1 to April 30 of each year of the Policy Period  If the Policy is cancelled prior to April 30, the Annual Period will end on the day before the date of cancellation.
<b>Insured Events</b>	Bankruptcy Default (non-payment) Repudiation (refusal to accept Goods) Currency Conversion & Transfer Export Restrictions Import Restrictions War & Related Disturbances
<b>Insured Percentage</b>	90 %
<b>Maximum Liability</b>	Overall Maximum Liability: USD 2,000,000 for each Annual Period
<b>Policy Currency</b>	USD
<b>Coverage Description</b>	You are covered for Goods Shipped during the Policy Period under Contracts with Buyers located in countries set out in the Country Table below.
<b>Deductible</b>	USD 0



## COVERAGE CERTIFICATE

### COVERAGE LIMITATIONS AND SPECIFICATIONS

<b>Exclusions</b>	Coverage under the Policy is subject to certain important exclusions, as set out in your Policy documentation.
<b>Disputes</b>	A Loss is not eligible for a claim payment under the Policy while there is a dispute between you and the Buyer. See Section 3 of the Policy General Terms and Conditions.
<b>Goods Shipped when Buyer in Default</b>	We are not liable for the payment of a claim for a Loss if, when the Goods were Shipped, the Buyer was in default of its payment obligations to you for more than 60 days.

### PREMIUM AND DECLARATION OF SALES

For each Annual Period, you must pay the Minimum Annual Premium and any additional premium, as set out below, plus any applicable tax. The Minimum Annual Premium is calculated according to the following formula:

$$\text{Minimum Annual Premium} = \text{Anticipated Annual Insured Sales} \times \text{Premium Rate} \times 80 \%$$

The Premium Amount per Premium Period is payable, as invoiced, at the beginning of each Premium Period.

You must declare to us the total Actual Insured Sales for each Declaration Period no later than 20 days after the end of the Declaration Period. You do not have to declare Excluded Contracts.

“Actual Insured Sales” means the Invoice Value of all Goods Shipped during the Declaration Period pursuant to all Contracts with Buyers located in each of the countries listed in the Country Table below.

If the Actual Insured Sales for the Annual Period are less than 80 % of the Anticipated Annual Insured Sales, the Minimum Annual Premium remains unchanged.

If the Actual Insured Sales for the Annual Period are more than 80 % of the Anticipated Annual Insured Sales, you must also pay additional premium following the end of each Annual Period, as invoiced. The amount of the additional premium is calculated using the following formula:

$$\text{Additional Premium} = (\text{Actual Insured Sales} - (\text{Anticipated Annual Insured Sales} \times 80 \%)) \times \text{Premium Rate}$$

<b>Minimum Annual Premium</b>	USD 49,920
<b>Anticipated Annual Insured Sales</b>	USD 16,000,000
<b>Premium Rate</b>	0.390 %
<b>Premium Amount per Premium Period</b>	USD 12,480
<b>Premium Period</b>	Quarterly
<b>Declaration Period</b>	Annually

## COVERAGE CERTIFICATE

### CLAIMS AND OVERDUES

<b>Reporting Overdue Accounts</b>	You must immediately notify us when a Buyer has been in default under Contracts for more than 60 days for an aggregate amount payable greater than or equal to \$ 100,000.  "\$" means the Contract Currency if the Contract Currency is USD or CAD and if the Contract Currency is not USD or CAD, "\$" means the Policy Currency.
<b>Waiting Period</b>	120 days  For Bankruptcy, there is no Waiting Period.  For Repudiation, the Waiting Period is the period it takes you to resell or otherwise dispose of the Goods, with our approval.
<b>Latest Date to Submit a Claim</b>	150 days from the date of Loss

### RECOVERIES

When we pay a claim, all amounts payable to you by the Buyer that are recovered or realized (other than from a taxation authority as a refund of sales tax) will be allocated as follows:

- first, to reimburse external recovery expenses paid or approved by us;
- second, to you and us in the same proportions in which the Loss Amount was shared between both Parties, until the aggregate of those amounts equals the Loss Amount;
- third, to default interest, these amounts to be allocated between you and us in the proportions earned; and
- last, to your account.

### CREDIT LIMITS

For coverage to apply to sales to a Buyer, you must establish a Credit Limit for the Buyer.

#### Credit Approvals and Fees

A Credit Limit can be established by obtaining a Credit Approval from us. The Credit Approval may stipulate specific conditions that apply to, or restrict coverage for, that Buyer.

You must pay a Credit Approval fee equal to USD 7 multiplied by the number of Credit Approvals in effect on the last day of each quarter. The Credit Approval fees are payable, as invoiced, at the end of each quarter.

### COUNTRY TABLE

Countries	Payment Terms
UNITED STATES	Up to 90 days



# PORTFOLIO CREDIT INSURANCE

November 26, 2020

audrey tesarski  
SOLVAQUA INC.  
1050-444 5 AVE SW  
CALGARY, AB, T2P 2T8  
CANADA


Dear audrey,

**Re: Policy Modification - SOLVAQUA INC.**  
Export Receivables Policy - Quote Number 136681/144042

A modification has been made to your Policy. The change is reflected in the Coverage Certificate.

THIS IS EXHIBIT "C" REFERRED TO IN THE  
AFFIDAVIT OF DAN BARONA.

SWORN BEFORE ME THIS 30<sup>th</sup> DAY OF  
NOVEMBER, 2022.

  
A Notary Public  
Leila Shahparaki  
Asst. General Counsel  
EDC

## COVERAGE CERTIFICATE

**Issued:** November 26, 2020

**Effective Date:** November 1, 2020

This Policy is issued in Canada by **EXPORT DEVELOPMENT CANADA** (the "Insurer", "we", "us" and "our") and is delivered to the Main Insured identified below ("you" and "your"), together, the "Parties". This Coverage Certificate forms part of the Export Receivables Policy number **SE102960** and, as of its effective date, it replaces any previous Coverage Certificate.

Any capitalized terms (other than section headings) not specified in the Coverage Certificate are defined in the General Terms and Conditions of the Policy.

### INSUREDS

<b>Main Insured</b>	SOLVAQUA INC. 1050-444 5 AVE SW CALGARY, AB, T2P 2T8 CANADA
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### COVERAGE

<b>Policy Period</b>	From May 1, 2020 to April 30, 2021  If the Policy is cancelled earlier, the Policy Period will end on the day before the date of cancellation.
<b>Annual Period</b>	From May 1 to April 30 of each year of the Policy Period  If the Policy is cancelled prior to April 30, the Annual Period will end on the day before the date of cancellation.
<b>Insured Events</b>	Bankruptcy Default (non-payment) Repudiation (refusal to accept Goods) Currency Conversion & Transfer Export Restrictions Import Restrictions War & Related Disturbances
<b>Insured Percentage</b>	90 %
<b>Maximum Liability</b>	Overall Maximum Liability: USD 2,000,000 for each Annual Period
<b>Policy Currency</b>	USD
<b>Coverage Description</b>	You are covered for Goods Shipped during the Policy Period under Contracts with Buyers located in countries set out in the Country Table below.
<b>Deductible</b>	USD 0

## COVERAGE CERTIFICATE

### COVERAGE LIMITATIONS AND SPECIFICATIONS

<b>Exclusions</b>	Coverage under the Policy is subject to certain important exclusions, as set out in your Policy documentation.
<b>Disputes</b>	A Loss is not eligible for a claim payment under the Policy while there is a dispute between you and the Buyer. See Section 3 of the Policy General Terms and Conditions.
<b>Goods Shipped when Buyer in Default</b>	We are not liable for the payment of a claim for a Loss if, when the Goods were Shipped, the Buyer was in default of its payment obligations to you for more than 60 days.

### PREMIUM AND DECLARATION OF SALES

For each Annual Period, you must pay the Minimum Annual Premium and any additional premium, as set out below, plus any applicable tax. The Minimum Annual Premium is calculated according to the following formula:

$$\text{Minimum Annual Premium} = \text{Anticipated Annual Insured Sales} \times \text{Premium Rate} \times 80\%$$

The Premium Amount per Premium Period is payable, as invoiced, at the beginning of each Premium Period.

You must declare to us the total Actual Insured Sales for each Declaration Period no later than 20 days after the end of the Declaration Period. You do not have to declare Excluded Contracts.

“Actual Insured Sales” means the Invoice Value of all Goods Shipped during the Declaration Period pursuant to all Contracts with Buyers located in each of the countries listed in the Country Table below.

If the Actual Insured Sales for the Annual Period are less than 80 % of the Anticipated Annual Insured Sales, the Minimum Annual Premium remains unchanged.

If the Actual Insured Sales for the Annual Period are more than 80 % of the Anticipated Annual Insured Sales, you must also pay additional premium following the end of each Annual Period, as invoiced. The amount of the additional premium is calculated using the following formula:

$$\text{Additional Premium} = (\text{Actual Insured Sales} - (\text{Anticipated Annual Insured Sales} \times 80\%)) \times \text{Premium Rate}$$

<b>Minimum Annual Premium</b>	USD 49,920
<b>Anticipated Annual Insured Sales</b>	USD 16,000,000
<b>Premium Rate</b>	0.390 %
<b>Premium Amount per Premium Period</b>	USD 12,480
<b>Premium Period</b>	Quarterly
<b>Declaration Period</b>	Annually

# COVERAGE CERTIFICATE

## CLAIMS AND OVERDUES

<b>Reporting Overdue Accounts</b>	You must immediately notify us when a Buyer has been in default under Contracts for more than 60 days for an aggregate amount payable greater than or equal to \$ 100,000.  "\$" means the Contract Currency if the Contract Currency is USD or CAD and if the Contract Currency is not USD or CAD, "\$" means the Policy Currency.
<b>Waiting Period</b>	120 days  For Bankruptcy, there is no Waiting Period.  For Repudiation, the Waiting Period is the period it takes you to resell or otherwise dispose of the Goods, with our approval.
<b>Latest Date to Submit a Claim</b>	150 days from the date of Loss

## RECOVERIES

When we pay a claim, all amounts payable to you by the Buyer that are recovered or realized (other than from a taxation authority as a refund of sales tax) will be allocated as follows:

- first, to reimburse external recovery expenses paid or approved by us;
- second, to you and us in the same proportions in which the Loss Amount was shared between both Parties, until the aggregate of those amounts equals the Loss Amount;
- third, to default interest, these amounts to be allocated between you and us in the proportions earned; and
- last, to your account.

## CREDIT LIMITS

For coverage to apply to sales to a Buyer, you must establish a Credit Limit for the Buyer.

### Credit Approvals and Fees

A Credit Limit can be established by obtaining a Credit Approval from us. The Credit Approval may stipulate specific conditions that apply to, or restrict coverage for, that Buyer.

You must pay a Credit Approval fee equal to USD 7 multiplied by the number of Credit Approvals in effect on the last day of each quarter. The Credit Approval fees are payable, as invoiced, at the end of each quarter.

## COUNTRY TABLE

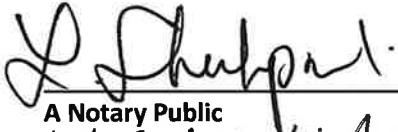
Countries	Payment Terms
BRAZIL	91 to 180 days
UNITED STATES	Up to 90 days
UNITED STATES	91 to 180 days

PORTFOLIO CREDIT INSURANCE

# EXPORT RECEIVABLES POLICY GENERAL TERMS AND CONDITIONS

THIS IS EXHIBIT "D" REFERRED TO IN THE  
AFFIDAVIT OF DAN BARONA.

SWORN BEFORE ME THIS 30<sup>th</sup> DAY OF  
NOVEMBER, 2022.



A Notary Public

*Leila Shahparaki, Asst. General Counsel, EDC*

Canada

  
TAKE ON **THE WORLD**

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## GENERAL TERMS AND CONDITIONS

These General Terms and Conditions, together with the Coverage Certificate and your Credit Approvals, determine your insurance coverage. They are legal documents so please read them carefully.

The Policy is issued and delivered to the Main Insured (“you” or “your”) by the Insurer (“we”, “us” or “our”), each a “Party”, and together the “Parties”, to this Policy. The Main Insured and the Insurer are identified in the Coverage Certificate.

Capitalized terms not defined in these General Terms and Conditions are set out in the Coverage Certificate.

## COVERAGE

1. We insure you against the risk of non-payment of an undisputed amount payable by a Buyer under a Contract for Goods Shipped during the Policy Period, which non-payment causes you to sustain a loss (“Loss”). The Loss must be a direct result of the occurrence of an Insured Event to be eligible for coverage. This coverage is provided in consideration of your undertaking to pay all required premium and fees when due and is subject to all the terms and conditions of the Policy.
2. The only Insured Events covered by the Policy are those specified in the Coverage Certificate. Insured Events are also individually defined in Section 43 even though some may not be applicable to you.
3. If there is a dispute between you and the Buyer with regard to any matter which brings into question the amount owing (or whether there is any amount owing) to you by the Buyer, including disputes arising out of other sales contracts, shipments or commercial arrangements, covered or not under this Policy, we have no liability with respect to the claim or the Loss until the dispute is finally settled or resolved, by negotiation or otherwise and the amount of the Loss is clearly established. Once the dispute is finally settled or resolved, the Loss Amount will be calculated in accordance with Sections 20 and 21, as applicable, if the Loss is covered.
4. We agree to pay the Insured Percentage of the Loss Amount in connection with a Loss, subject to the terms and conditions of the Policy.

## CREDIT LIMITS AND MAXIMUM LIABILITY

5. For coverage to apply to sales to a Buyer, the country in which the Buyer is located must be listed in the Coverage Certificate and you must establish a Credit Limit for the Buyer by following the procedures specified in the “Credit Limits” section of the Coverage Certificate.
6. (1) We may, at any time, by giving notice to you:
  - (a) change or cancel a Credit Approval or your Discretionary Credit Limit (if a Discretionary Credit Limit is set out in the Coverage Certificate);
  - (b) exclude a Buyer or a country; and
  - (c) change the conditions of coverage applicable to any Buyer or country.

Any of these changes, cancellations or exclusions apply only to Goods Shipped after you receive our notice. A Loss relating to Goods Shipped after you receive our notice of cancellation or exclusion is excluded from coverage. If the notice is a notice of change, a Loss for Goods Shipped after you receive the notice is subject to the changes set out in the notice.
- (2) If you request a Credit Approval for a Buyer in a country that is not in the Country Table of the Coverage Certificate, or for payment terms that are not in the Country Table of the Coverage Certificate, your Credit Approval request will be deemed to be a request to add the country or payment terms to the Coverage Certificate whether or not we agree to issue the Credit Approval. You will then have to declare all your sales in that country or with those payment terms, as the case may be, if the Policy requires you to declare your sales to us. Refer to the “Premium and Declaration of Sales” section of the Coverage Certificate.
7. Credit Approvals may be issued on the basis of the information you gave us. If that information is untrue, incomplete or incorrect, the Credit Approval will be void as if it had never been issued.

8. Regardless of the total amount of all Credit Limits, our maximum liability for all Losses in respect of Goods Shipped during each Annual Period is limited to the Overall Maximum Liability amount specified in the Coverage Certificate. Separate maximum liabilities applicable only to certain categories of Losses may also apply.

### **ADDITIONAL INSUREDS**

9. (1) If there is an Additional Insured section in the Coverage Certificate, the terms and conditions of coverage that apply to you also apply to any Additional Insured specifically identified in that section.
- (2) We may cancel the coverage for any Additional Insured on 60 days' prior notice to you. We will not be liable for the payment of a claim for any Goods Shipped by the Additional Insured after the end of the notice period. Also, the Additional Insured continues to be bound by all of its respective Policy duties and obligations, including those relating to claims paid prior to the cancellation or that may be paid after the cancellation.
- (3) For each Additional Insured, the Main Insured must:
- (a) be the authorized agent for the Additional Insured to deal with us on its behalf in all matters relating to the Policy (for example: requesting Credit Limits, providing us with authorizations or releases of liability, filing claims, and receiving claim payments);
  - (b) be the only party communicating with us on behalf of the Additional Insured with respect to the Policy; and
  - (c) notify us immediately if the Main Insured stops acting as agent for the Additional Insured. Once we receive this advice, we may cancel coverage under the Policy for the Additional Insured with 60 days' notice.
- (4) In addition, for Additional Insureds located outside of Canada:
- (a) premium paid in respect of the Additional Insured's covered sales is exclusive of any tax (for example a tax on premium) which may be payable by the Additional Insured in the Additional Insured's country; and
  - (b) the Main Insured must notify us immediately if there is any material change to the information provided to us relating to the Additional Insured, including, a change in the ownership or location of the Additional Insured or in the sales of the Additional Insured.

### **DOCUMENTATION RISK**

10. Although we may have received or commented on a Contract or any other documentation, you solely are responsible for ensuring the effectiveness of all documentation and ensuring the existence of a legally valid, binding and enforceable payment obligation by the Buyer and any applicable guarantor or other relevant party.

### **EXCLUSIONS**

11. We are not liable for the payment of a claim for a Loss if:
- (1) at any time, you made any misrepresentation, or failed to disclose any information, that is material to our rights, liabilities or obligations under the Policy;
  - (2) you agreed with the Buyer to change the payment terms under the Contract;
  - (3) you do not have sole right, title and interest to the receivable (for example, you have factored or sold your receivable without entering into a Tripartite Agreement) or your rights and interests under the Contract are not free and clear of any third party claims or encumbrances;
  - (4) you or your agent caused the Loss or breached the Contract (for example by failing to perform under the Contract) or could have avoided the Loss by acting in a commercially reasonable manner;
  - (5) the Buyer failed to pay the down payment in accordance with the terms of the Contract, if the Contract provides for a down payment;

- (6) when the Goods were Shipped, the Buyer was in default of its payment obligations to you for a period longer than the period specified in the “Goods Shipped when Buyer in Default” section of the Coverage Certificate;
- (7) you or your agent, an Affiliate or an agent of an Affiliate have engaged in or knowingly been party to any action, in relation to the Contract, that is prohibited by Canada’s *Corruption of Foreign Public Officials Act* or by the criminal laws dealing with the bribery of public officials that are applicable in a country in which the agent or Affiliate is located. If however, the claim is payable to a third party pursuant to a Direction to Pay or Tripartite Agreement, we will make the claim payment to that third party, provided that the third party is not a Related Entity. In those cases, you must pay us on demand the amount of the claim payment plus interest at the Bank of Canada’s prime business rate determined on the date of our demand plus 2% per annum, calculated from the date the claim was paid to the date of demand. Additional interest may apply to any late payment as per Section 29;
- (8) when the Goods were Shipped, you or the Buyer did not have all permits, certificates, licenses or other approvals required to perform the Contract;
- (9) you are entitled to be indemnified for the Loss under any other insurance policy or other similar risk transfer agreement;
- (10) the Loss is directly or indirectly caused by, or contributed to by, or arises from:
  - (a) ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
  - (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or
  - (c) any weapon or war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
- (11) regardless of the War and Related Disturbances Insured Event, the Loss is directly or indirectly caused by, or contributed to by, or arises from the occurrence of war (whether before or after the outbreak of hostilities) between any of the following five powers: The People’s Republic of China, France, the United Kingdom, the Russian Federation, and the United States of America.

## **YOUR DUTIES AND OBLIGATIONS**

### **12. You must:**

- (1) pay premium and Credit Approval fees, as specified in the Coverage Certificate, when due;
- (2) declare your sales as specified in the Coverage Certificate, if required by the terms of the Coverage Certificate;
- (3) notify us immediately of any event or circumstance of which you are aware that could cause a Loss, including any deterioration of the financial condition of the Buyer;
- (4) immediately notify us when a Buyer has been in default under Contracts (see the “Claims and Overdues” section of the Coverage Certificate for details);
- (5) take all reasonable steps, before and after the filing of a claim application, to prevent and minimize a Loss or potential Loss as though the Contract were not insured, including:
  - (a) follow reasonable commercial practices for collecting and monitoring overdue accounts;
  - (b) file a proof of claim in the bankruptcy of the Buyer if the Buyer enters bankruptcy;
  - (c) stop shipping to the Buyer when you become aware that the risk of non-payment is occurring or is likely to occur; and
  - (d) take any steps requested by us, which may include us asking you to stop shipping; and

- (6) comply with Sanctions legislation, immediately notify us of a Contract that becomes prohibited by Sanctions and discontinue all activities under the Contract if you have control over the discontinuation of the activity, and, in consultation and collaboration with us, seek the permits, certificates or other approvals that may be required or desirable when we request you to do so.

## **CLAIMS PROCESS**

13. (1) When making a claim application, you must establish:
  - (a) that an Insured Event and a Loss have occurred;
  - (b) that the Loss is covered; and
  - (c) the Loss Amount.
- (2) If the Loss arises from business transacted by your agent, by an Additional Insured or an Affiliate, or their agent, you must have them sign, and you must remit to us, a form (provided by us) in which they make a declaration to the effect that they have not engaged in activities prohibited by criminal laws dealing with corruption or the bribery of foreign public officials in relation to the Contract in question.
14. We are not liable to pay a claim if you do not file your claim application prior to the 'Latest Date to Submit a Claim' which is specified in the Coverage Certificate.
15. We are entitled to investigate all aspects of each claim. You must assist us with the investigation and provide us with any Information that we reasonably request, including a copy of the Contract, documents evidencing the debt and the shipment and any Information required to determine whether any of the exclusions specified in the Policy apply to the claim. You must also keep in your possession all documents that support the claim for a period of 5 years and be ready to produce them to us upon request.
16. We have no obligation to assess a claim application until the Insured Event has occurred.
17. We will advise you of our decision on your claim application within 30 days of receipt of a complete claim application and all additional Information we may reasonably request.
18. If we pay a claim and later discover that you had no right to any part of the claim payment, we may demand repayment of the amount to which you were not entitled. If we discover that you did not comply with any of your recovery obligations under the Policy, we may demand repayment of the entire claim payment. You must pay the amount to be repaid, upon demand, plus interest at the Bank of Canada's prime business rate determined on the day of our demand plus 2% per annum, calculated from the date the claim was paid to the date of demand by us. Additional interest may apply to any late payment as per Section 29.
19. We reserve all our rights under the Policy. No action or failure to act on our part will constitute a waiver of our rights under the Policy (for example: investigating a claim or overdue payment, preventing or minimizing a Loss, or negotiating with a Buyer or any third party).

## **CALCULATION OF LOSS AMOUNT**

20. The amount of a Loss is calculated in the Contract Currency, and is the lesser of:
  - (1) the Invoice Value of the Goods Shipped,  
plus  
any additional insurance, freight or other handling costs that you incurred as a result of any interruption or diversion of delivery directly caused by the occurrence of the Insured Event which resulted in the Loss (including demurrage costs caused by the Buyer's action or inaction, but excluding all other demurrage costs),  
less:
    - (a) any amount which you have agreed the Buyer is entitled to take into account by way of payment, credit, set-off or counterclaim;
    - (b) all amounts received or recovered by you or on your behalf with respect to the Goods that are the subject of the Loss or realized through any security or guarantee in respect of the Goods;

- (c) all amounts received through the resale or disposal of the Goods; and
- (d) all costs included in the Invoice Value which, because of the occurrence of the Insured Event, you did not actually incur;

and

- (2) the Credit Limit for the Buyer less the amount of any previous claim payments made for the same Buyer (which have not been recovered).

The amount that is the result of the calculation above is referred to as the “Loss Amount”.

- 21. In case of a dispute between you and the Buyer as referenced in Section 3, the Loss Amount will not be calculated until the dispute is finally settled or resolved. If there is a settlement with the Buyer or a final ruling by a court or arbitrator resolving the dispute, that portion of the agreed settlement amount or the amount awarded to you in the ruling, that relates to the Loss, will be used to calculate the Loss Amount in Section 20 above, instead of the Invoice Value of the Goods Shipped, and any deductions listed in Section 20(1) already taken into account in the award or settlement amount will not apply.
- 22. If there is a Non-Qualifying Loss section in the Coverage Certificate, we are not liable for the payment of a claim for a Loss when the Loss Amount is equal to or less than the Non-Qualifying Loss amount.

## DEDUCTIBLE

- 23. (1) The total Loss Amount of all Losses you sustain for Goods Shipped during an Annual Period must reach the amount of the Deductible specified in the Coverage Certificate before we are required to pay any claim for Goods Shipped during that Annual Period. A Loss must be eligible for a claim payment under the Policy to be allocated to the Deductible. Each Loss Amount calculated for Goods Shipped during an Annual Period is reduced by the amount of the Deductible remaining for that Annual Period. The amount of the Deductible is specified in the Coverage Certificate.
- (2) Deductibles apply to each Annual Period, which means that if Goods are Shipped over multiple Annual Periods, a separate Deductible (as applicable) will apply for each Annual Period, based on when the Goods were Shipped.

## CLAIM PAYMENTS AND CURRENCY CONVERSIONS

- 24. Claims are paid in the Contract Currency if we offer the option of making the claim payment in that currency; otherwise claims are paid in the Policy Currency. The list of currencies available for claim payments can be obtained from us upon request and we may change it from time to time without any prior notice.
- 25. When necessary, currencies are converted to the Policy Currency at the exchange rate applicable on the Business Day immediately before the date you submit your claim (for example: to calculate the remaining maximum liability, a deductible, etc.). The exchange rate will be obtained from Reuters (or such other source as we may notify you) and “Business Day” means a day on which: (1) exchange rates are available from Reuters or such other source; and (2) EDC is open for business in Ottawa, Canada.

## LOSS RECOVERY

- 26. (1) **If the Main Insured is located outside of Quebec**, on payment of a claim, including payments made directly to a third party pursuant to a Direction to Pay or Tripartite Agreement, we are subrogated to all your recovery rights for the entire amount due under the Contract (i.e., we take your place with respect to those rights), whether or not you are fully indemnified under the Policy for that amount. We may take legal action in your name to exercise any subrogated rights. On payment of a claim, you must:
  - (a) fully co-operate with us in our recovery efforts, which may include the defence of any counterclaim that is brought against us; and
  - (b) if we request, take all steps necessary or expedient to recover the Loss Amount, including:
    - (i) indemnify us against any liability that we may incur as a result of any reasonable action taken by us to recover the Loss or that we may incur as a result of your actions or omissions;

- (ii) bring legal proceedings, or provide us with any documentation or authorization necessary to allow us to give instructions on your behalf or bring legal proceedings in your name; and
  - (iii) transfer and assign to us all of your right, title and interest in all amounts owed to you under the Contract, or any security or guarantee in respect of the Loss, and give notice of the assignment only as directed by us.
- (2) **If the Main Insured is located in Quebec**, in accordance with Quebec law, on payment of a claim, including payments made directly to a third party pursuant to a Direction to Pay or Tripartite Agreement, we are subrogated to all your recovery rights under the Contract (i.e., we take your place with respect to those rights) up to the amount paid under the Policy. We may take legal action in our name to exercise any subrogated rights. On payment of a claim, you must:
- (a) fully co-operate with us in our recovery efforts, which may include the defence of any counterclaim that is brought against us; and
  - (b) if we request:
    - (i) indemnify us against any liability that we may incur as a result of any reasonable action taken by us to recover the Loss or that we may incur as a result of your actions or omissions; and
    - (ii) transfer and assign to us all of your right, title and interest in all amounts owed to you for the Loss, or any security or guarantee in respect of the Loss, up to the amount paid under the Policy.
- (3) In the case of Subsections 26(1) and 26(2) above, we waive all subrogation rights if the claim is paid to a third party pursuant to a Direction to Pay or Tripartite Agreement in circumstances where no claim payment would otherwise have been made as a result of the application of the corruption exclusion specified in Subsection 11(7) if no Direction to Pay or Tripartite Agreement had been in place.
27. If we pay a claim, we will share with you all reasonable external recovery and loss mitigation expenses that we previously approved. Our share of the expenses is limited to the Insured Percentage applicable to the Loss. We are not responsible for paying any expenses (including legal fees):
- (1) associated with a dispute between you and the Buyer;
  - (2) relating to the defence of any set-off or counterclaim by the Buyer; or
  - (3) incurred once the Loss Amount has been fully recovered.
28. After we pay a claim with respect to a Buyer, you must report to us all amounts you recover from that Buyer or from anyone on its behalf. All amounts recovered (other than from a taxation authority as a refund of sales tax) are applied as specified in the Coverage Certificate, if applicable. You must immediately remit amounts recovered that are due to us, and until paid, these amounts must be held in trust for us.

## **PAYMENTS AND CREDITS**

29. (1) If you fail to pay any amount when due to us under this Policy as invoiced, you will pay interest calculated at a rate and in the manner as set out in your invoice.
- (2) You must pay all amounts invoiced by us in the currency of the invoice. If you do not pay in the currency of the invoice, we will convert the amount paid to the currency of the invoice at the foreign exchange rate applicable on the date we received payment. The exchange rate will be obtained from Reuters, or such other source as we may notify you. Any shortfall will be subject to late interest. Any overpayment will be credited to your account.
- (3) If you make a payment to us and do not direct us to apply this payment to any particular amount owing to us in connection with an EDC Product, we may apply that payment to any unpaid amount which you owe us, in the order and manner of our choice.
- (4) If we are unable to contact you to obtain your instructions within a period of 30 days with respect to the application of a credit in your favour under the Policy (other than a premium credit specified in the Coverage Certificate), we will choose to either:

- (a) apply the credit to any unpaid amount which you owe us in connection with any EDC Product, in the order and manner of our choice; or
  - (b) remit the amount to you.
- (5) We may reduce any amount we owe you under the Policy, by any amount you owe us under the Policy or under any other EDC Product. These rights are in addition to any other rights (including rights of set-off) that we may have.
- (6) You are responsible to pay all banking fees with respect to all payments made to us under this Policy, including banking fees for wire transfers and non-sufficient funds cheques.

## **POLICY CANCELLATION**

30. (1) You may cancel the Policy immediately upon notice to us and we will not be liable for the payment of a claim for any Goods Shipped after the date of your notice.
- (2) We may cancel the Policy:
- (a) on 60 days' prior notice to you; or
  - (b) on 15 days' prior notice to you if you failed to fully and properly perform any of your duties or obligations when required under the Policy, unless you correct the failure within the 15-day notice period;
- and in either case, we will not be liable for the payment of a claim for any Goods Shipped after the end of the notice period.
- (3) We may also cancel the Policy immediately upon notice to you if you, your agent or Affiliate or an agent of an Affiliate has engaged in or knowingly been party to any action, in relation to any insured Contract, that is prohibited by Canada's *Corruption of Foreign Public Officials Act* or by the criminal laws dealing with the bribery of public officials that apply in a country in which the agent or Affiliate is located. In that case, we will not be liable for the payment of a claim for any Goods Shipped after the date of our notice.
- (4) When the Policy is cancelled, the Parties continue to be bound by all of their respective Policy duties and obligations, including those relating to claims paid prior to the cancellation or that may be paid after cancellation. No coverage is provided under any circumstances for Goods Shipped after the effective date of cancellation of the Policy.

## **OTHER CONDITIONS**

31. The Policy and the Application on which the Policy is based form the entire contract of insurance. No other statements, undertakings or agreements will form part of the contract of insurance.
32. An entity is your agent for purposes of the Policy when you have authorized that entity to act on your behalf or when that entity can reasonably be considered to have been acting as your agent. Statements or actions of your agent in dealings with us or third parties will bind you. All references in the Policy to "you" include your agent, except where the context clearly requires otherwise. A payment by a Buyer to your agent is deemed to be a payment to you.
33. (1) The Policy is issued on the basis of the statements made and information provided by you or your agent during the registration process and in the Application. If any of those statements or any of that information is untrue, incomplete or incorrect, the Policy will be void as if the Policy had never been issued.
- (2) You must act with the utmost good faith at all times and disclose to us:
- (a) any material change to the statements made in the registration process and in the Application (for example if your corporate structure changes or you move outside of Canada); and
  - (b) all material facts and circumstances of which you become aware or should be aware relating to the risk covered under the Policy.

34. (1) The full, proper and timely performance of all of your duties and obligations under the Policy is a condition precedent to coverage and to any of our other obligations under the Policy, including our liability to pay claims. For greater clarity, every action specified in the Policy that you must perform, or not perform, is deemed to be one of your duties and obligations under the Policy (for example, your obligations in Section 13 regarding the claims process and in Section 9 regarding any Additional Insured).
- (2) No failure or delay on our part in the exercise of any right under this Policy is a waiver of that right. If at any time we waive the application of an exclusion or our right to enforce strict compliance by you of any of your duties or obligations under the Policy, we retain our right to enforce the exclusion and strict compliance with your duties and obligations in the future.
35. Upon our request, you must provide us with copies of any and all Information in connection with any matter under the Policy or give us access to and allow us to make copies of the Information. You will take all reasonable steps to allow us to obtain or review any Information that is in the possession of any other entity. We may request all Information with respect to any claim that has already been paid. You must keep all relevant Information for these purposes for a period of 5 years.
36. (1) Every notice of any kind, request, approval, waiver, consent and agreement (“Notice”) to be given or made under the Policy must be in writing. Notices must be delivered by hand, mail, email or through your online account with us. Notices to you will be sent to the address (including email address) you provided to us when you registered for your online account or that you provide to us from time to time after registration. Notices to us must be sent through your online account or, if by hand or mail, to 150 Slater St., Ottawa, ON, K1A 1K3, Canada (or another mailing address that EDC may notify you from time to time), and if by email, to the email address of your underwriter which can be found in your online account.
- (2) All Notices are effective when received. Notices are deemed received:
- (a) upon delivery if delivered by hand;
  - (b) on the earlier of actual receipt and seven days after posting if sent by mail; and
  - (c) on the date of transmission if sent by email or through your online account.
37. Regardless of anything to the contrary in the Policy, if the provision of insurance, the payment of a claim, or the provision of any benefit under the Policy would expose us to any sanction, prohibition or restriction under Sanctions, then we will not be liable to pay any claim in relation to the affected coverage and we will have the right to cancel your Policy. Where permissible by law, we agree to use reasonable efforts consistent with our internal policy and legal and regulatory restrictions to cure or avoid such exposure (including applying for permits or certificates) if those efforts are not disadvantageous to us, in our reasonable judgment.
38. You cannot assign the Policy or any right, title or interest in it to anyone without our prior consent.
39. If any provision of the Policy is unenforceable to any extent, the rest of this Policy will not be affected and all other provisions of this Policy will be enforceable to the fullest extent permitted.
40. The collection, use and disclosure of any personal information in connection with the Policy will be made in compliance with the *Privacy Act*. The personal information will be retained by us as per the standard retention period under the *Privacy Act* or any longer retention period we deem appropriate to continue to conduct business with you. You may request access to your personal information under the *Privacy Act* by sending us a letter at our address specified in Section 36(1) above c/o “Compliance and Ethics/Privacy & Access to Information”, mentioning the *Privacy Act* and describing the information that you are seeking.
41. The Policy is governed by and will be interpreted in accordance with the laws of the Canadian province or territory where the Main Insured is located (as specified in the Coverage Certificate) and the federal laws of Canada applicable in that province or territory. Any legal proceeding with respect to the Policy must be brought to the courts of that province or territory, and, as a condition of receiving the benefit of the insurance coverage provided under this Policy, all insured parties consent and agree to submit to the jurisdiction of the courts of that province or territory in all matters in respect of the Policy.



42. Without prior consent of the other Party, no Party will release any information provided by the other Party that is not publicly available (“Confidential Information”) to anyone, other than to its shareholders, employees, officers, directors, agents, brokers, advisors, consultants, legal counsel and to regulatory authorities. This duty of confidentiality is subject to the requirements of law, regulation, legal process, and audit. We may also disclose the Confidential Information pursuant to Export Development Canada’s and Canada’s international commitments, to the extent required for us to comply with applicable laws and to our potential or actual reinsurers, retrocessionaires, co-insurers, insurers and service providers (including affiliates, directors, officers, employees, advisors, auditors, reinsurers, or agents of any of those entities).

## **INTERPRETATION AND DEFINITIONS**

43. All references in this Policy to “days” mean calendar days, and an “entity” includes an individual, a partnership, a sole proprietorship and a body corporate. Unless the context requires otherwise, the singular includes the plural and vice versa.

The following definitions apply to the Policy:

- (1) “Affiliate” means an entity:
  - (a) which has a direct or indirect equity interest in you (i.e. your parent company);
  - (b) in which you have a direct or indirect equity interest (i.e. your subsidiary); or
  - (c) which is related to you through a common third party’s direct or indirect equity interest in both that entity and you (i.e. your sister-company);
- (2) “Annual Period” means the period specified in the Coverage Certificate;
- (3) “Application” means the application for insurance and any and all additional written information you or anyone on your behalf submitted to us for purposes of the issuance of the Policy;
- (4) “Bankruptcy” means circumstances where:
  - (a) the Buyer is the subject of bankruptcy or insolvency proceedings under the laws of its country; or
  - (b) a legally binding composition arrangement has been concluded among the Buyer and all its creditors, where creditors agree to receive partial payments for the amounts owed to them by the Buyer;
- (5) “Buyer” means your customer i.e., the entity that has the obligation to pay for the Goods;
- (6) “CAD” means the lawful currency of Canada;
- (7) “Confidential Information” has the meaning set out in Section 42;
- (8) “Contract” means a contract of sale:
  - (a) that is not an Excluded Contract;
  - (b) with a Buyer located in a country listed in the Coverage Certificate;
  - (c) with payment terms specified in the Country Table of the Coverage Certificate for the country in which the Buyer is located; and
  - (d) that complies with the provisions of any Credit Approval issued for the Buyer and any other applicable provisions set out in the Coverage Certificate;
- (9) “Contract Currency” means the currency in which the Buyer must pay under the Contract;
- (10) “Coverage Certificate” means the document that sets out terms and conditions of coverage specific to you and stipulates special conditions which amend these General Terms and Conditions;
- (11) “Credit Approval” means the document in which we set out the Credit Limit and specific terms on which we insure sales to a Buyer;
- (12) “Credit Limit” means the maximum Loss Amount for a Buyer covered under the Policy;
- (13) “Currency Conversion & Transfer” means:

- (a) the operation of a law (or a governmental directive having the force of law) in the Buyer's country which restricts or prevents the conversion or transfer of currency, provided that:
  - (i) the law or directive was not in effect on the date the Goods were Shipped but was in effect on the Due Date and continued to apply throughout the Waiting Period set out in the Coverage Certificate (a period of consecutive days starting on the date the law or directive came into effect);
  - (ii) the Buyer has complied with all requirements in its country for the conversion or transfer of currency to make the required payment; and
  - (iii) the Buyer has made an irrevocable deposit for transfer to you of a sum equal to the amount of the required payment in the Contract Currency (or the equivalent in the currency of the Buyer's country if the Contract Currency is not available to the Buyer), unless the Buyer was precluded from making the deposit by a law or any governmental directive having the force of law in that country;
- (b) the operation of a law (or a governmental directive having the force of law) in the Buyer's country which restricts or prevents you from converting or transferring a payment made to you by the Buyer in its country within 30 days of the payment, provided that:
  - (i) the law or directive was not in effect on the date the Goods were Shipped but was in effect on the Due Date and continued to apply throughout the Waiting Period set out in the Coverage Certificate (a period of consecutive days starting on the date the law or directive came into effect); and
  - (ii) you have complied with all requirements in the Buyer's country for the conversion or transfer of currency to convert the payment made by the Buyer into a freely convertible currency or to transfer the payment out of the Buyer's country;
- (14) "Default" means the Buyer's failure to pay by the Due Date any part of the Invoice Value of the Goods and the failure was not remedied during the Waiting Period set out in the Coverage Certificate (a period of consecutive days starting on the Due Date), provided that, in the case of Goods that are not services, the Buyer (or someone on its behalf) took delivery of the Goods that were delivered in accordance with the terms of the Contract;
- (15) "Direction to Pay" means a document under which you direct us to pay claims to a third party and provide that party with certain information;
- (16) "Due Date" means the date on which payment under a Contract is owed;
- (17) "EDC Product" means any product provided by Export Development Canada ("EDC") to you or to a third party for your benefit (for example: this Policy or any other insurance product, a bonding product or a financing product). If a product is only administered by EDC but EDC is not the insurer or lender, that product is not an EDC Product;
- (18) "Excluded Contract" means a sales contract:
  - (a) with a Buyer who is an individual acting in a personal capacity;
  - (b) with a Buyer that is a Related Entity, unless we specifically acknowledged your affiliation with the Buyer in a Credit Approval;
  - (c) with a federal, provincial, state, territorial, municipal or other government Buyer;
  - (d) to be entirely paid by an irrevocable letter of credit;
  - (e) to be entirely paid to you by a Canadian or American Buyer with hard currency, money order, bank draft, credit card or certified cheque before the Goods are delivered;
  - (f) that you are prohibited by law from performing;
  - (g) that violates Sanctions in place at the time the sales contract was entered into;
  - (h) which we notified you is not insured under the Policy; or
  - (i) which is not covered, as per the "Coverage Description" section of the Coverage Certificate;

- (19) "Export Restrictions" means the cancellation or non-renewal by a governmental or quasi-governmental authority of an existing export permit (or the imposition by a governmental or quasi-governmental authority of new restrictions which prevent the export of the Goods), after the Goods were Shipped and the cancellation, non-renewal or new restrictions remained effective throughout the Waiting Period set out in the Coverage Certificate (a period of consecutive days starting on the date the cancellation, non-renewal or new restrictions became effective). For a Loss caused by an Export Restriction to be covered, the Loss must be an amount that would have been payable by the Buyer if the Export Restriction had not occurred;
- (20) "Goods" means the goods and services that you sell;
- (21) "Import Restrictions" means the cancellation or non-renewal by a governmental or quasi-governmental authority of an existing import permit (or the imposition by a governmental or quasi-governmental authority of new restrictions which prevent the import of the Goods), after the Goods were Shipped and the cancellation, non-renewal or new restrictions remained effective throughout Waiting Period set out in the Coverage Certificate (a period of consecutive days starting on the date the cancellation, non-renewal or new restrictions became effective). For a Loss caused by an Import Restriction to be covered, the Loss must be an amount that would have been payable by the Buyer if the Import Restriction had not occurred;
- (22) "Information" means information or data of any kind that is in any way relevant to any matter under the Policy, regardless of the medium in which it is stored or through which it is transmitted, including all communications, financial records, accounts and other documents that you or an Affiliate possess or control that relate to any matter under the Policy;
- (23) "Insured Event" means any of the following (if listed in the Coverage Certificate):
- (a) Bankruptcy;
  - (b) Default;
  - (c) Repudiation;
  - (d) Currency Conversion and Transfer;
  - (e) Export Restrictions;
  - (f) Import Restrictions;
  - (g) War and Related Disturbances; and
  - (h) any other event expressly designated as an Insured Event in a Special Condition of the Coverage Certificate;
- (24) "Invoice Value" means the value of the Goods Shipped and of any insurance, freight or other handling costs, that you incurred on behalf of the Buyer at the time the Goods were Shipped, as invoiced, excluding:
- (a) any tax that is reimbursable by a taxation authority if not paid by the Buyer;
  - (b) any amount which the Contract allows the Buyer to withhold at its discretion (i.e., a holdback);
  - (c) any amount to be paid by an irrevocable letter of credit;
  - (d) any amount paid with hard currency, money order, bank draft, credit card or certified cheque, and any amount you secured with cash collateral, before the Goods are Shipped; and
  - (e) any default interest (i.e., interest on a late payment);
- (25) "Loss" has the meaning set out in Section 1;
- (26) "Loss Amount" means the amount of a Loss calculated in accordance with Section 20;
- (27) "Policy" means these General Terms and Conditions, the Coverage Certificate, the Credit Approvals and any amendments to these documents;

- (28) “Policy Period” means the period during which Goods Shipped are eligible for coverage under the Policy, as specified in the Coverage Certificate;
- (29) “Repudiation” means the failure by the Buyer to take delivery of the Goods within 30 days from the date the Goods were placed at the Buyer’s disposal in accordance with the delivery terms of the Contract and, following this failure, you have resold or otherwise disposed of the Goods with our prior approval;
- (30) “Related Entity” means:
- (a) an Affiliate; or
  - (b) an entity:
    - (i) who has a family relationship with you;
    - (ii) whose direct or indirect owner has a family relationship with you or your direct or indirect owner (for example, your shareholder is the brother of your Buyer’s shareholder); or
    - (iii) who has any other kind of non-arm’s length relationship with you, or with your direct or indirect owner, which could cause an insurer to believe that you might not act prudently with respect to sales to that entity, to our detriment (for example, your shareholder and your Buyer’s shareholder have a friendship that goes beyond a normal business relationship);
- (31) “Sanctions” means the economic or financial sanctions imposed by Canada or the United States of America or any of their respective governmental institutions, agencies and subdivisions;
- (32) “Shipped” means:
- (a) in the case of goods, that the goods you sold have been placed in transit for delivery to the destination specified by the Buyer or, where the Contract does not require you to place the goods in transit (for example goods sold out of consignment or goods already in the Buyer’s possession), that the Buyer has been invoiced for the goods; and
  - (b) in the case of services, that any part of the services you sold have been completed in accordance with the terms of the Contract;
- (33) “Tripartite Agreement” means an agreement among you, us and a third party who acquires an interest in all or some of the receivables that are insured under the Policy, outlining the conditions under which the Policy applies to the receivables;
- (34) “USD” means the lawful currency of the United States of America; and
- (35) “War and Related Disturbances” means war or hostilities between two or more countries, or rebellion, revolution, insurrection, civil commotion or acts of political terrorism, in any country other than Canada which continued throughout the Waiting Period set out in the Coverage Certificate (a period of consecutive days starting on the date the event began). This Insured Event does not include an event that was within the scope of marine cargo insurance that was available on the date the Goods were Shipped, whether or not marine cargo insurance was obtained. For a Loss caused by War and Related Disturbances to be covered, the Loss must be an amount that would have been payable by the Buyer if the War and Related Disturbances had not occurred.



SWORN BEFORE ME THIS 30<sup>th</sup> DAY OF  
NOVEMBER, 2022,

## EXPORT RECEIVABLES POLICY

DIRECTION TO PAY J. Dhuyfart  
A Notary Public

Leila Shahparaki  
Asst. General Counsel  
EDC

This Direction to Pay is given in connection with Export Receivables Policy Number SE102960 issued by EDC to **SOLVAQUA INC.** Terms defined in the Policy have the same meaning when used in this Direction to Pay. Once processed, this Direction to Pay will be sent to you and the Financial Institution by e-mail.

Any reference to "Company" in this form includes the Main Insured and any Additional Insured covered under the Policy and for the purpose of this Direction to Pay, the Company is acting on its own behalf and on behalf of any Additional Insured under the Policy.

### Financial Institution Details

Name of Financial Institution	Murchinson LTD.
Branch Address	145 Adelaide St West, 4th Floor, 145 Adelaide St West, 4th Floor, M5H 4E5 Toronto, ON, CANADA
Contact Name	c/o Scott Reeves
Contact Telephone	403.571.8015
Contact Email	sreeves@tinglemerrett.com

On behalf of my Company:

1. I direct EDC to pay directly to the above Financial Institution, any monies that are now payable or that may become payable to my Company under the Policy (including any recoveries);
2. I consent to EDC providing the Financial Institution with all information and documents concerning the Policy which is also available to my Company, including information concerning my Company's compliance with the terms and conditions of the Policy, declarations of sales (if applicable), Credit Approvals, overdue reports and losses and claims;
3. I understand and agree that, immediately following the date this Direction to Pay is noted in EDC's records, the Financial Institution will, among other things, receive copies of, or otherwise be given access to, information related to Credit Approvals and defaults under, and termination of, the Policy. I agree to EDC using any technology as EDC may choose from time to time for the purposes of providing any such information to the Financial Institution;
4. I acknowledge that, if any of the information disclosed to the Financial Institution in conformity with this Direction to Pay is considered "personal information" as defined by the Privacy Act, it will only be disclosed in compliance with the Privacy Act; and
5. I acknowledge that this Direction to Pay cannot be revoked without the written consent of the Financial Institution.

This Direction to Pay is not an assignment of the Policy and does not give the Financial Institution any right against EDC whatsoever (including the right to file a claim or sue under the Policy).

EDC reserves the right to set-off any amount payable under the Policy or this Direction to Pay against any other amount owed to EDC by the Company or by the Financial Institution.

This Direction to Pay will apply to this Policy as it may be renewed, extended or amended from time to time.

# EXPORT RECEIVABLES POLICY

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By submitting, you are agreeing that you have read and understood this Direction to Pay form and you will be bound by its terms as if an original written signature had been affixed.

This document was submitted online by **audrey tesarski** and received on **September 02, 2020 04:35:27 (ET)**.

This Direction to Pay has been noted in EDC's records on September 3, 2020.

**EXPORT DEVELOPMENT CANADA**

*R. Sanganero*

**Elvina Hussein**

---

**From:** Scott Reeves <sreeves@tinglemerrett.com>  
**Sent:** August 20, 2021 2:02 PM  
**To:** Rubayika, Steve  
**Cc:** Chris Tesarski; Paul Zogala; jfenttiman@murchinsonltd.com  
**Subject:** [EXTERNE]RE: Claim for SOLVAQUA INC  
**Attachments:** TM Client Wire Instructions USD - BMO (as at 2021) (00612568xA1159).doc

EXTERNAL EMAIL – USE CAUTION  
COURRIEL EXTERNE – FAITES PREUVE DE PRUDENCE

Mr. Rubayikja,

Please remit the claim settlement funds to the account instructions attached. Let me know if you have any questions.

Best regards,  
Scott Reeves.

\*\*\*\*\*  
This message is intended for the addressee(s) only. It may contain confidential or privileged information. No rights to privilege have been waived. Any copies, retransmittal, taking or action in reliance on, or other use of the information in this communication by persons other than the addressee(s) is prohibited. If you have received this message in error, please reply to the sender by e-mail and delete or destroy all copies of this message.

Scott Reeves  
Partner  
  
#1250, 639 - 5th Avenue S.W.  
Calgary, Alberta T2P 0M9  
403.571.8015  
403.571.8008 (f)  
[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)

THIS IS EXHIBIT "F" REFERRED TO IN THE  
AFFIDAVIT OF DAN BARONA.

SWORN BEFORE ME THIS 30th DAY OF  
NOVEMBER, 2022.



A Notary Public  
Leila Shahparaki  
Asst. General Counsel  
EDC

**From:** Rubayika, Steve <SRubayika2@edc.ca>  
**Sent:** August 19, 2021 12:25 PM  
**To:** Scott Reeves <sreeves@tinglemerrett.com>  
**Cc:** Chris Tesarski <ctesarski@solvaqua.com>  
**Subject:** Claim for SOLVAQUA INC

Good afternoon Scott,

We are currently processing the claim for our mutual customer SOLVAQUA INC in the amount of USD 2,000,000. In the event of a favorable decision, according to the Policy, payment will be made to your Bank unless you instruct us to pay the Insured directly.

Please provide us your instruction as soon as a possible.

Thank you and good day!

**Steve Rubayika**

Debt Service Manager | Claims & Recoveries Department  
Directeur services de la dette | Service des indemnisations et recouvrement  
EXPORT DEVELOPMENT CANADA  
EXPORTATION ET DÉVELOPPEMENT CANADA  
T: 613-597-7875 | M: 343-548-3366  
150 Slater, Ottawa, ON, Canada, K1A 1K3  
[SRubayika@edc.ca](mailto:SRubayika@edc.ca) | [edc.ca](http://edc.ca)  
[LinkedIn](#) | [Twitter](#) | [Facebook](#) | [YouTube](#)

Please feel free to respond in the official language of your choice.  
N'hésitez pas à me répondre dans la langue officielle de votre choix.



This email, and any attachment, is confidential and may contain privileged information. If you are not an intended recipient, please delete this email and all copies and notify us immediately. Any unauthorized use or disclosure is prohibited.

As well, EDC values your privacy. Please see our [Privacy Practice](#) for information about how we handle your personal information.

Ce message et tout document joint sont confidentiels et peuvent contenir de l'information ne pouvant être divulguée. Si vous n'en êtes pas le destinataire, veuillez supprimer ce message et toute copie de celui-ci et nous avvertir immédiatement. Toute utilisation ou communication non autorisée est interdite.

De plus, EDC attache une grande importance au respect de votre vie privée. Veuillez consulter notre [énoncé de confidentialité](#) afin de connaître nos pratiques en matière de protection des renseignements personnels.



## Elvina Hussein

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**From:** Rubayika, Steve  
**Sent:** November 18, 2021 3:48 PM  
**To:** Scott Reeves  
**Cc:** Chris Tesarski  
**Subject:** RE: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

Good afternoon Mr. Reeves,

As a follow up to my voicemail from today, I would like to advise this file was assigned to me for review. At the present time, we are waiting on additional claim information in order to complete our assessment on the matter; the file is under investigation.

Please note that, we typically correspondent with the direction to pay only for instruction at a) the reception of a claim and b) the claim decision stage.

As a matter of practice, I have taken the liberty to exclude from the response (in cc) any individual not previously documented on the policy as point of contact; my apologies for any inconvenience this might cause you.

Do not hesitate to contact me directly, if you have any additional question.

Kind regards,

**Steve Rubayika**  
Debt Service Manager | Claims & Recoveries Department  
Directeur services de la dette | Service des indemnisations et recouvrement  
EXPORT DEVELOPMENT CANADA  
EXPORTATION ET DÉVELOPPEMENT CANADA  
T: 613-597-7875 | M: 343-548-3366  
150 Slater, Ottawa, ON, Canada, K1A 1K3  
[SRubayika@edc.ca](mailto:SRubayika@edc.ca) | [edc.ca](http://edc.ca)  
[LinkedIn](#) | [Twitter](#) | [Facebook](#) | [YouTube](#)

Please feel free to respond in the official language of your choice.  
N'hésitez pas à me répondre dans la langue officielle de votre choix.



**From:** Scott Reeves <[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)>  
**Sent:** Monday, November 15, 2021 5:59 PM  
**To:** EDC Support <[support@edc.ca](mailto:support@edc.ca)>  
**Cc:** Paul Zogala <[pzogala@murchinsonltd.com](mailto:pzogala@murchinsonltd.com)>; Joshua Fenttiman <[jfenttiman@murchinsonltd.com](mailto:jfenttiman@murchinsonltd.com)>; Ralph Olson <[ralpholson2000@gmail.com](mailto:ralpholson2000@gmail.com)>; [ctesarski@solvacqua.com](mailto:ctesarski@solvacqua.com)  
**Subject:** RE: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501  
**Importance:** High

Dear Sirs,

Please review the email string below. With respect to the captioned claim, initially filed on April 27, 2021, notwithstanding our telephone inquiry of May 30, 2021 and subsequent email inquiries dated October 4 and October

26, we have yet to receive any meaningful correspondence from you as to the status of the claim. At this stage, as you can appreciate, we consider this issue extremely concerning and urgent.

We request an immediate audience on the matter with senior management of EDC before **Friday, November 19, 2021**. My contact information is below.

Sincerely,  
Scott Reeves.

\*\*\*\*\*

This message is intended for the addressee(s) only. It may contain confidential or privileged information. No rights to privilege have been waived. Any copies, retransmittal, taking or action in reliance on, or other use of the information in this communication by persons other than the addressee(s) is prohibited. If you have received this message in error, please reply to the sender by e-mail and delete or destroy all copies of this message.

Scott Reeves  
Partner



#1250, 639 - 5th Avenue S.W.  
Calgary, Alberta T2P 0M9  
403.571.8015  
403.571.8008 (f)  
[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)

**From:** EDC Support <[support@edc.ca](mailto:support@edc.ca)>  
**Sent:** Wednesday, October 27, 2021 5:02 PM  
**To:** Scott Reeves <[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)>  
**Subject:** RE: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

Hello Scott,

Thank you for your follow-up. We have sent an email to the appropriate team for an answer to your original inquiry.

Best regards,

**Camille Lamontagne**

(she, her, hers | elle, à elle, avec elle)

**Customer Care | Services au client**

EXPORT DEVELOPMENT CANADA

EXPORTATION ET DÉVELOPPEMENT CANADA

Toll free/Sans frais: 1.866.716.7201 | Local/locale: 1.613.597.3300

8:30 am to 5:00 pm Coast to Coast/ de 8 h 30 à 17 h, d'un océan à l'autre.

150 Slater, Ottawa, ON, Canada, K1A 1K3

[support@edc.ca](mailto:support@edc.ca) | [edc.ca](http://edc.ca)

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Pour obtenir de l'aide sur nos nouveaux portails clients (Assurance crédit d'EDC - Portefeuille ou Factures et relevés de compte), visitez notre site [Aide et soutien - Assurance crédit](#).

Please feel free to respond in the official language of your choice. | N'hésitez pas à me répondre dans la langue officielle de votre choix.

**From:** Scott Reeves <[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)>  
**Sent:** Tuesday, October 26, 2021 12:48 PM  
**To:** EDC Support <[support@edc.ca](mailto:support@edc.ca)>  
**Cc:** 'Chris Tesarski' <[ctesarski@solvaqua.com](mailto:ctesarski@solvaqua.com)>; 'Paul Zogala' <[pzogala@murchinsonltd.com](mailto:pzogala@murchinsonltd.com)>; 'Joshua Fenttiman' <[jfenttiman@murchinsonltd.com](mailto:jfenttiman@murchinsonltd.com)>; 'Ralph Olson' <[ralpholson2000@gmail.com](mailto:ralpholson2000@gmail.com)>  
**Subject:** [EXTERNE]RE: Solvaqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

EXTERNAL EMAIL – USE CAUTION  
COURRIEL EXTERNE – FAITES PREUVE DE PRUDENCE

Good morning,

I have not received a response to my inquiry below. Please provide a reply at your earliest opportunity.

Best regards,  
Scott Reeves.

\*\*\*\*\*

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Scott Reeves  
Partner



#1250, 639 - 5th Avenue S.W.  
Calgary, Alberta T2P 0M9  
403.571.8015  
403.571.8008 (f)  
[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)

**From:** EDC Support <[support@edc.ca](mailto:support@edc.ca)>  
**Sent:** Wednesday, October 6, 2021 7:32 AM  
**To:** Scott Reeves <[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)>  
**Cc:** 'Chris Tesarski' <[ctesarski@solvaqua.com](mailto:ctesarski@solvaqua.com)>; 'Paul Zogala' <[pzogala@murchinsonltd.com](mailto:pzogala@murchinsonltd.com)>; 'Joshua Fenttiman' <[jfenttiman@murchinsonltd.com](mailto:jfenttiman@murchinsonltd.com)>; 'Ralph Olson' <[ralpholson2000@gmail.com](mailto:ralpholson2000@gmail.com)>  
**Subject:** RE: Solvaqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

Hi Scott,

Thank you for contacting EDC Customer Care.

We have received your inquiry and have forwarded it to the appropriate team for response.

If you have any questions or concerns, please contact us anytime.

Your Customer Care reference number is: # **681501**

Regards,

**Nada El Khayri**

**Customer Care | Services au client**

EXPORT DEVELOPMENT CANADA

EXPORTATION ET DÉVELOPPEMENT CANADA

Toll free/Sans frais: 1.866.716.7201 | Local/locale: 1.613.597.3300

8:00 am to 8:00 pm Coast to Coast/ de 8 h 00 à 20 h, d'un océan à l'autre.

150 Slater, Ottawa, ON, Canada, K1A 1K3

[support@edc.ca](mailto:support@edc.ca) | [edc.ca](http://edc.ca)

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**Sent:** Monday, October 4, 2021 11:05 PM

**To:** [support@edc.ca](mailto:support@edc.ca)

**Cc:** Chris Tesarski <[ctesarski@solvagua.com](mailto:ctesarski@solvagua.com)>; Paul Zogala <[pzogala@murchinsonltd.com](mailto:pzogala@murchinsonltd.com)>; Joshua Fenttiman <[jfenttiman@murchinsonltd.com](mailto:jfenttiman@murchinsonltd.com)>; Ralph Olson <[ralpholson2000@gmail.com](mailto:ralpholson2000@gmail.com)>

**Subject:** SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486)

Dear Sirs,

I represent Murchinson Inc. as first loss payee under EDC Export Receivables Policy Number SE102960. I am writing to inquire as to the status of payout of the claim as the Buyer has now been in default since April 27, 2021.

Please contact me at your earliest opportunity to discuss and report.

Best regards,

Scott Reeves.

\*\*\*\*\*

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Scott Reeves

Partner



#1250, 639 - 5th Avenue S.W.

Calgary, Alberta T2P 0M9

403.571.8015

403.571.8008 (f)

[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)

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**Archived:** November 21, 2022 8:16:28 AM

**From:** Debt Management Services

**Sent:** Thu, 18 Nov 2021 12:45:29 +0000Received: from YQXPR0101CA0032.CANPRD01.PROD.OUTLOOK.COM (2603:10b6:c00:15::45) by YQXPR01MB5065.CANPRD01.PROD.OUTLOOK.COM (2603:10b6:c01:27::18) with Microsoft SMTP Server (version=TLS1\_2, cipher=TLS\_ECDHE\_RSA\_WITH\_AES\_256\_GCM\_SHA384) id 15.20.4713.19; Thu, 18 Nov 2021 12:45:28 +0000Received: from QB1CAN01FT018.eop

**To:** Rubayika, Steve

**Subject:** FW: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref# 681501

**Importance:** High

---

Hello Steve,

Please see the inquiry below concerning 219567 which is assigned to you.

Thanks.

Susan

**From:** EDC Support <Support@edc.ca>

**Sent:** Wednesday, November 17, 2021 4:58 PM

**To:** 'Debt Management Services'

**Subject:** FW: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

**Importance:** High

Hello Team,

Please find below this below this email which is intended to you.

The request is regarding the following Claim: **219567**. Kindly refer to the exchange for further details on the request.

The customer care reference number is: **695298**.

Best regards,

**Eli Sessi-Mensah**

(he, him, his | il, avec lui, à lui)

Associate | Customer Care

Associé | Service au client

EXPORT DEVELOPMENT CANADA

EXPORTATION ET DÉVELOPPEMENT CANADA

T: 613-597-3300 | M: 613-219-1781

150 Slater, Ottawa, ON, Canada, K1A 1K3

[Esessi-mensah@edc.ca](mailto:Esessi-mensah@edc.ca) | [edc.ca](mailto:edc.ca)

[LinkedIn](#) | [Twitter](#) | [Facebook](#) | [YouTube](#)

Please feel free to respond in the official language of your choice. | N'hésitez pas à me répondre dans la langue officielle de votre choix.

Please feel free to respond in the official language of your choice. | N'hésitez pas à me répondre dans la langue officielle de votre choix.

**From:** Scott Reeves <sreeves@tinglemerrett.com>

**Sent:** Monday, November 15, 2021 5:59 PM

**To:** EDC Support <support@edc.ca>

**Cc:** Paul Zogala <pzogala@murchinsonltd.com>; Joshua Fentiman <jfentiman@murchinsonltd.com>; Ralph Olson <ralpholson2000@gmail.com>; ctesarski@solvagua.com

**Subject:** RE: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

**Importance:** High

Dear Sirs,

Please review the email string below. With respect to the captioned claim, initially filed on April 27, 2021, notwithstanding our telephone inquiry of May 30, 2021 and subsequent email inquiries dated October 4 and October 26, we have yet to receive any meaningful correspondence from you as to the status of the claim. At this stage, as you can appreciate, we consider this issue extremely concerning and urgent.

We request an immediate audience on the matter with senior management of EDC before **Friday, November 19, 2021**. My contact information is below.

Sincerely,  
Scott Reeves.

\*\*\*\*\*  
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Scott Reeves

Partner

tingleprintcol

#1250, 639 - 5th Avenue S.W.

Calgary, Alberta T2P 0M9

403.571.8015

403.571.8008 (t)

[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)

**From:** EDC Support <support@edc.ca>

**Sent:** Wednesday, October 27, 2021 5:02 PM  
**To:** Scott Reeves <[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)>  
**Subject:** RE: [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

Hello Scott,

Thank you for your follow-up. We have sent an email to the appropriate team for an answer to your original inquiry.

Best regards,

**Camille Lamontagne**  
(she, her, hers | elle, à elle, avec elle)  
**Customer Care | Services au client**  
EXPORT DEVELOPMENT CANADA  
EXPORTATION ET DÉVELOPPEMENT CANADA  
Toll free/Sans frais: 1.866.716.7201 | Local/locale: 1.613.597.3300  
8:30 am to 5:00 pm Coast to Coast/ de 8 h 30 à 17 h, d'un océan à l'autre.  
150 Slater, Ottawa, ON, Canada, K1A 1K3  
[support@edc.ca](mailto:support@edc.ca) | [edc.ca](http://edc.ca)  
[LinkedIn](#) | [Twitter](#) | [Facebook](#) | [YouTube](#)

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**Subject:** [EXTERNE]RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

**EXTERNAL EMAIL – USE CAUTION**  
**COURRIEL EXTERNE – FAITES PREUVE DE PRUDENCE**

Good morning,

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Best regards,  
Scott Reeves.

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Scott Reeves  
Partner  


#1250, 639 - 5th Avenue S.W.,  
Calgary, Alberta T2P 0M9  
403.571.8015  
403.571.8008 (t)  
[sreeves@tinglemerrett.com](mailto:sreeves@tinglemerrett.com)

**From:** EDC Support <[support@edc.ca](mailto:support@edc.ca)>  
**Sent:** Wednesday, October 6, 2021 7:32 AM  
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**Subject:** RE: SolvAqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486) - CCT Ref # 681501

Hi Scott,

Thank you for contacting EDC Customer Care.

We have received your inquiry and have forwarded it to the appropriate team for response.

If you have any questions or concerns, please contact us anytime.

Your Customer Care reference number is: # **681501**

Regards,

**Nada El Khayri**  
**Customer Care | Services au client**  
EXPORT DEVELOPMENT CANADA  
EXPORTATION ET DÉVELOPPEMENT CANADA  
Toll free/Sans frais: 1.866.716.7201 | Local/locale: 1.613.597.3300  
8:00 am to 8:00 pm Coast to Coast/ de 8 h 00 à 20 h, d'un océan à l'autre.  
150 Slater, Ottawa, ON, Canada, K1A 1K3  
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**Cc:** Chris Tesarski <[ctesarski@solvaqua.com](mailto:ctesarski@solvaqua.com)>; Paul Zogala <[pzogala@murchinsonltd.com](mailto:pzogala@murchinsonltd.com)>; Joshua Fenttiman <[jfenttiman@murchinsonltd.com](mailto:jfenttiman@murchinsonltd.com)>; Ralph Olson <[ralpholson2000@gmail.com](mailto:ralpholson2000@gmail.com)>  
**Subject:** Solvaqua Inc./ Vivakor, Inc. - Claim Reference 219567 (Thread:3385486)

Dear Sirs,

I represent Murchinson Inc. as first loss payee under EDC Export Receivables Policy Number SE102960. I am writing to inquire as to the status of payout of the claim as the Buyer has now been in default since April 27, 2021.

Please contact me at your earliest opportunity to discuss and report.

Best regards,  
Scott Reeves.

.....  
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Scott Reeves  
Partner  
tingleprintcol

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Calgary, Alberta T2P 0M9  
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# PORTFOLIO CREDIT INSURANCE

## EXPORT RECEIVABLES POLICY

### NOTICE OF TRANSFER

Date: February 8, 2022

VIVAVENTURES, INC.  
2820 W. CHARLESTON SUITE 22  
LAS VEGAS, NV, 89102  
UNITED STATES  
(the "Buyer")

Claim No.: 223866

**THIS IS EXHIBIT "G" REFERRED TO IN THE  
AFFIDAVIT OF DAN BARONA.**

**SWORN BEFORE ME THIS 30th ADAY OF  
NOVEMBER, 2022.**

*Leila Shahparaki  
Asst. General Counsel  
EDC*

  
A Notary Public

**Re: Debt in the amount of USD 2,000,000.00 owed by the Buyer to the Creditor (the "Debt")**

<b>Creditor:</b>	SOLVAQUA INC. 300-340 MIDPARK WAY SE CALGARY, AB, T2X 1P1 CANADA (the "Creditor")
<b>EXPORT DEVELOPMENT CANADA ("EDC"):</b>	EXPORT DEVELOPMENT CANADA 150 Slater Street Ottawa, Ontario K1A 1K3 ("EDC")

To whom it may concern:

Please note that insurance coverage is provided by EDC in respect of the above referenced Debt. Following a claim payment by EDC to the Creditor, the entire unencumbered right to collect the Debt has been transferred from the Creditor to EDC. The right to collect the Debt does not constitute a transfer or assignment by the Creditor to EDC of any liabilities or obligations of the Creditor under any contract concerning the Debt, or otherwise.

EDC shall not be liable or responsible, directly or indirectly, for any liabilities or obligations of the Creditor to the Buyer or any third party, including but not limited to, any claim by the Buyer or any third party for damages, set-offs, warranties, interest, costs, fees, charges or other expenses or any other claims of any nature.

Therefore as of the date of this notice of transfer, the Buyer is hereby directed to pay any and all portions of the Debt as per the instructions of EDC or its agent.

Signed in Calgary, on 08/18/2022  
(City) (Month, day, year)

The undersigned hereby attests to being a duly authorized officer of the Creditor.

**EXPORT RECEIVABLES POLICY**  
NOTICE OF TRANSFER



Signature:

Name:

Chris D. Tesarski

Title:

CEO

This ASSIGNMENT AGREEMENT (this "Agreement") is made effective as of February 1, 2022

**BETWEEN:** SOLVAQUA INC. (the "Creditor")  
300-340 MIDPARK WAY SE  
CALGARY, AB, T2X 1P1  
CANADA  
("you" and "your")

**AND:** EXPORT DEVELOPMENT CANADA ("EDC")  
150 Slater Street  
Ottawa, Ontario  
K1A 1K3  
("we", "us" and "our")

#### **BACKGROUND**

1. We issued insurance policy No. SE102960 (the "Policy") to you, insuring against the risk of non-payment of amounts owing to you pursuant to various sales contracts.
2. VIVAVENTURES, INC. (the "Buyer"), a corporation with its principal place of business at 2820 W. CHARLESTON SUITE 22, LAS VEGAS, NEVADA, UNITED STATES, has failed to make payments due and owing to you in an aggregate amount of USD 2,000,000.00 (the "Debt"), pursuant to the terms of one or more sales contracts between you and the Buyer (the "Contract") covered under the Policy.
3. Pursuant to the terms of the Policy, we made a claim payment to you (the "Claim Payment") in respect of the Debt.
4. In consideration of us making the Claim Payment and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as set out in this Agreement.

#### **ASSIGNMENT**

5. You absolutely and unconditionally assign, transfer and grant to us the entire unencumbered right, title, and interest in and to the Debt. This assignment, transfer and grant includes, without limitation, all rights to receive principal, interest, fees, expenses, damages, penalties and other amounts in connection with the Debt, and all other claims, causes of action and other rights relating to the Debt.

#### **RECOVERY RIGHTS**

6. You agree and acknowledge that we may demand, sue for, compromise, recover and receive all sums which now are due and payable on account of the Debt, or which may become due and payable on account of the Debt in the future.
7. You also grant to us full authority to do all things necessary to enforce or compromise the Debt.
8. You also agree and acknowledge that we may exercise, or not exercise, the powers granted by this section at our sole discretion. For greater certainty, we have no obligation to prove, defend, demand or take any action with respect to the Debt.

#### **NO ASSUMPTION OF OBLIGATIONS**

## EXPORT RECEIVABLES POLICY

ASSIGNMENT AGREEMENT-CLAIM NUMBER: 223866

---

9. This Agreement does not constitute an assignment or transfer by you to us, or an assumption by us, of any of your liabilities or obligations under the Contract or otherwise.
10. We are not liable or responsible, directly or indirectly, for any of your liabilities or obligations to the Buyer or any third party and nothing in this Agreement is to be interpreted in this manner.
11. For greater clarity, we are not liable or responsible, directly or indirectly, for any claim by the Buyer or any third party for damages, set-offs, warranties, interest, costs, fees, charges or other expenses or any other claims of any nature.

### REPRESENTATIONS AND WARRANTIES

12. You represent and warrant that:
  - (1) the Contract is in full force and effect and is a legal, valid and binding obligation of you and the Buyer, enforceable in accordance with its terms;
  - (2) you have duly performed and fulfilled all of your obligations under the Contract and are not aware of any: provision of the Contract; or other matter, which could restrict, reduce, prohibit or adversely affect our ability to collect the Debt or enforce any rights or remedies with respect to the Debt;
  - (3) the Buyer has not denied, made any counterclaim or disputed, in any way, the fact that it owes the entire Debt to you;
  - (4) you have full power and authority to:
    - a) execute this Agreement and all documents to which you are a party that are delivered in connection with this Agreement; and
    - b) fulfill your obligations under this Agreement; and
  - (5) this Agreement constitutes a legal, valid and binding obligation on your part, enforceable against you in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, reorganization or similar laws relating to or limiting creditors' rights generally or by general principles of equity.
13. Subject to our rights and to the assignment and transfer contemplated by this Agreement, you also represent and warrant that:
  - (1) the Debt is due and owing to you;
  - (2) no portion of the Debt has been sold, assigned, transferred, or pledged to any third party;
  - (3) no portion of the Debt has been credited or is subject to any set-off with the Buyer; and
  - (4) you own and have sole legal and beneficial title to the Debt, and have the right to assign and transfer to us the entire legal and beneficial title to the Debt, free and clear of any mortgage, lien, charge, pledge, security interest, encumbrance or other right, claim or interest (howsoever arising) of any third party.

### COVENANTS

14. You will provide to us all agreements, correspondence and all other information relating to or evidencing the Contract or the Debt.

## EXPORT RECEIVABLES POLICY

ASSIGNMENT AGREEMENT-CLAIM NUMBER: 223866

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15. You will execute and deliver or cause to be executed and delivered anything that we require to enable us to obtain the full benefit of this Agreement and to perfect or enforce our rights under this Agreement, including all required assurances, agreements, instruments or documentation.
16. You irrevocably appoint us or, at our discretion, our agents, as your true and lawful attorney, with full power of substitution to execute, acknowledge and deliver all such agreements, instruments or other documents, and to take all such further action as may be necessary or appropriate in your name to carry out the intent of this Agreement.
17. You will, as we may direct, provide to the Buyer or any third party:
  - (1) copy of this Agreement, and/or;
  - (2) a notice to pay any and all portions of the Debt to and for our benefit.
18. The parties will act with the utmost good faith in the performance of their obligations under this Agreement, and specifically, you must assist and cooperate with us, to the extent we require, in all efforts to collect or recover the Debt and must not take or refuse to take any action which could affect our ability to exercise the rights granted under this Agreement.

### REPAYMENT OF CLAIM

19. You must, immediately upon our demand, repay the amount of the Claim Payment to us as well as pay to us all damages, interest, costs, fees, charges or other expenses we incur in relation to the Claim Payment, the recovery of the Debt and this Agreement if:
  - (1) you breach any provision of this Agreement;
  - (2) any representation or warranty you made in this Agreement is incorrect or false;
  - (3) the Debt is reduced in any way by set-off, counterclaim or otherwise, subject to Section 21 below; or
  - (4) we are not entitled to commence, continue or maintain a legal proceeding in respect of the Debt, or if any such action or award rendered in the legal proceeding is stayed or dismissed as a result of any of your action or omission.
20. Regardless of Section 19(3) of this Agreement, if the Debt is reduced to any amount other than zero, you will be liable to repay to us only the portion of the Claim Payment equal to the difference between the amount of the Claim Payment and the amount that we would have been required to pay under the Policy had such reduction been known to us at the time of the Claim Payment.

### INDEMNITY

21. You must indemnify us from and against any and all claims, actions, liabilities, damages, set-offs, interest, costs, fees, charges or other expenses that may be brought against us or incurred by us in connection with any reasonable action that was taken by us to recover the Debt, or that may have arisen out of a claim or action brought against us by the Buyer or any other party, if such claim or action was brought as a result of any of your action or omission.

### SHARING RECOVERIES AND COSTS

22. Amounts recovered with respect to the Debt and all external costs and expenses incurred to recover the Debt will be shared between you and us in accordance with the terms of the Policy.

23. Any amounts you recover must be immediately reported to and remitted to us as described in the Policy, and any failure to do so will be a breach of both this Agreement and the Policy.

**LEGAL ADVICE**

24. You acknowledge that you have been given the opportunity to retain independent legal advice regarding this Agreement and you understand the nature and effect of this Agreement.

**SURVIVING EFFECT**

25. All terms, representations, warranties and covenants contained in this Agreement will survive the execution and delivery of this Agreement and will be binding upon the parties' respective successors and permitted assigns.

**GOVERNING LAW**

26. This Agreement is made under and will be governed by and be interpreted in accordance with the laws of Alberta and the laws of Canada applicable in Alberta.

**COUNTERPARTS AND ORIGINALS**

27. This Agreement may be executed on one or more copies of the signature page, each of which when executed will be deemed to be an original and all of which, taken together, will constitute the same agreement.
28. Executed copies transmitted by e-mail, facsimile or other electronic transmission service will be considered original executed copies provided that receipt of the copies is confirmed.

**SEVERABILITY**

29. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.


**NON-WAIVER AND CONFLICT**

30. The parties expressly reserve all rights under the Policy and nothing in this Agreement will constitute a waiver by either of the parties' rights under the Policy or prevent the parties from exercising any of those rights. Having said that, if the terms of this Agreement conflict or are inconsistent with the terms of the Policy, the terms of this Agreement will govern and take precedence.

**ENTIRE AGREEMENT**


31. This Agreement and the related provisions of the Policy constitute the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement may only be amended by an instrument in writing, duly signed by both parties.
32. The parties have caused this Agreement to be duly executed by their respective authorized signatories as of the date first above written.

SOLVAQUA INC.

By:   
Name: Chris D. Tesarski  
Title: CEO  
Date: August 18th, 2022

EXPORT DEVELOPMENT CANADA

By:   
Name: Dan Barona  
Title: Sr. Debt Services Manager  
Date: Aug 22, 2022

By:   
Name: Ryan Clark  
Title: Sr. Debt Services Manager  
Date: Aug 22, 2022