

GOLDEN STAR RESOURCES LTD.

FORM 8-K

(Current report filing)

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 4, 2009

GOLDEN STAR RESOURCES LTD.

(Exact name of registrant as specified in its charter)

CANADA
(State or other jurisdiction of
incorporation or organization)

1-12284
(Commission
File Number)

98-0101955
(I.R.S. Employer
Identification Number)

**10901 West Toller Drive,
Suite 300 Littleton, Colorado**
(Address of principal executive offices)

80127-6312
(Zip Code)

Registrant's telephone number, including area code: **303-830-9000**

No Change
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement.

On December 4, 2009, Golden Star Resources Ltd. (“Golden Star”) entered into an Underwriting Agreement and an Agency Agreement in connection with the previously announced offering of 20,000,000 Golden Star common shares.

The Underwriting Agreement is with BMO Nesbitt Burns Inc., Wellington West Capital Markets Inc. and Macquarie Capital Markets Canada Ltd. (the “Canadian Underwriters”), under which the Canadian Underwriters have agreed to purchase 55%, 35% and 10% respectively, of 20,000,000 common shares. Subject to the terms of the Underwriting Agreement, Golden Star has agreed to issue and sell and the Canadian Underwriters have agreed to purchase on or about December 17, 2009, or such other date as may be agreed upon but not later than January 15, 2010, 100% of the common shares offered at a price of \$3.75 per share, for total net proceeds to Golden Star of \$71,625,000 after payment of the underwriters’ fees and before estimated offering expenses. The Underwriting Agreement requires Golden Star to pay the Canadian Underwriters a fee of \$0.16875 per common share sold by them, which will be paid out of the gross proceeds of the offering. The Canadian Underwriters have an option to acquire an additional 3,000,000 common shares, which, if exercised in full, would result in total net proceeds to Golden Star of \$82,368,750.

The Agency Agreement is with BMO Capital Markets Corp., Wellington West Capital Markets (USA) Inc. and Macquarie Capital Markets North America Ltd. (the “U.S. Agents”). Subject to the terms of the Agency Agreement, Golden Star has appointed the U.S. Agents to offer the common shares for sale to the public in the United States on a best efforts basis at a price of \$3.75 per common share. The Agency Agreement requires Golden Star to pay the U.S. Agents a fee of \$0.16875 per common share sold by them, which will be paid out of the gross proceeds of the offering. The U.S. Agents have not committed to purchase a minimum amount of common shares under the Agency Agreement. Any shares sold by the U.S. Agents under the Agency Agreement will reduce the obligation of the Canadian Underwriters to take up and pay for shares in an equal amount.

The description of the terms of each of these agreements is qualified in its entirety by reference to the agreements, copies of which are included under Item 9.01(d) as Exhibit 1.1 and 1.2 to this Current Report and are included in this item by reference.

Item 9.01 Financial Statements and Exhibits.*(d) Exhibits .*

<u>Exhibit No.</u>	<u>Description</u>
1.1	Underwriting Agreement dated December 4, 2009 among Golden Star Resources Ltd., BMO Nesbitt Burns Inc., Wellington West Capital Markets Inc. and Macquarie Capital Markets Canada Ltd.
1.2	Agency Agreement dated December 4, 2009 among Golden Star Resources Ltd., BMO Capital Markets Corp., Wellington West Capital Markets (USA) Inc. and Macquarie Capital Markets North America Ltd.

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
1.1	Underwriting Agreement dated December 4, 2009 among Golden Star Resources Ltd., BMO Nesbitt Burns Inc., Wellington West Capital Markets Inc. and Macquarie Capital Markets Canada Ltd.
1.2	Agency Agreement dated December 4, 2009 among Golden Star Resources Ltd., BMO Capital Markets Corp., Wellington West Capital Markets (USA) Inc. and Macquarie Capital Markets North America Ltd.

UNDERWRITING AGREEMENT

As of December 4, 2009

Golden Star Resources Ltd.
10901 W. Toller Drive
Suite 300
Littleton, Colorado
USA, 80127-6312

Attention: Mr. Tom Mair, President and Chief Executive Officer

Dear Sir:

Based upon and subject to the terms and conditions set out below, BMO Nesbitt Burns Inc. (the “**Lead Underwriter**”), Wellington West Capital Markets Inc. and Macquarie Capital Markets Canada Ltd. (collectively with the Lead Underwriter, the “**Underwriters**”) hereby severally, and not jointly, offer to purchase from Golden Star Resources Ltd. (the “**Corporation**”), in the respective percentage set out opposite each Underwriter’s name in Section 16, and by its acceptance of the offer constituted by this letter, the Corporation agrees to issue and sell to the Underwriters, at the Time of Closing (as hereinafter defined), an aggregate of 20,000,000 common shares of the Corporation (the “**Initial Shares**”) at an offering price of U.S.\$3.75 per Initial Share for aggregate gross proceeds of U.S.\$75,000,000.

The Corporation hereby grants to the Underwriters an over-allotment option (the “**Option**”), to purchase severally, and not jointly, up to an additional 3,000,000 common shares (the “**Additional Shares**” and together with the Initial Shares, the “**Common Shares**”) for U.S.\$3.75 per Additional Share (an aggregate of U.S.\$11,250,000) upon the terms and conditions set forth herein. The Option may be exercised, in whole or in part, by the Underwriters delivering notice to the Corporation at any time up to 30 days following the Closing Date (as hereinafter defined), which notice shall state the number of Additional Shares in respect of which the Option is being exercised. The respective percentage of Additional Shares, if any, to be purchased by the Underwriters is set forth opposite the respective names of the Underwriters in Section 16. The Additional Shares will be delivered by the Corporation and paid for by the Underwriters at the closing of the Option exercise (the “**Option Closing**”). The offering of the Common Shares by the Corporation pursuant to this Agreement is hereinafter referred to as the “**Offering**”.

The Underwriters acknowledge that the Corporation has prepared and filed a preliminary short form prospectus (the “**Preliminary Prospectus**”) with the Ontario Securities Commission and other securities regulatory authorities in the Qualifying Provinces (as defined below) using Multilateral Instrument 11-202 and National Policy 11-202 of the Canadian

Securities Administrators and obtained the Preliminary Receipt therefore dated December 3, 2009.

This offer is conditional upon, among other things: (i) the Corporation filing an amended preliminary short form prospectus (the “**Amended Preliminary Prospectus**”) with the Ontario Securities Commission and other securities regulatory authorities in the Qualifying Provinces using Multilateral Instrument 11-202 and National Policy 11-202 of the Canadian Securities Administrators and obtaining a receipt for the Amended Preliminary Prospectus by no later than 5:00 pm on December 4, 2009; (ii) the Corporation filing a (final) short form prospectus (the “**Final Prospectus**”) with the Ontario Securities Commission and other securities regulatory authorities in the Qualifying Provinces using Multilateral Instrument 11-202 and National Policy 11-202 of the Canadian Securities Administrators and obtaining a receipt for the Final Prospectus by no later than 5:00 pm (Toronto time) on December 10, 2009, or such later date as the Corporation and the Lead Underwriter on behalf of the Underwriters may agree, in respect of the distribution of the Common Shares, with and from the securities regulatory authorities in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the “**Qualifying Provinces**”), pursuant to the Short Form Prospectus System (the “**POP System**”) established under National Instrument 44-101 of the Canadian Securities Administrators (“**NI 44-101**”), qualifying the distribution by the Corporation of the Common Shares to purchasers resident in such provinces; (iii) no stop order suspending the effectiveness of the registration statement on Form S-3 (File No. 333-155767), including a prospectus (the “**U.S. Shelf Prospectus**”), filed with the Securities and Exchange Commission (the “**SEC**”) having been issued and no proceeding for that purpose having been initiated or threatened by the SEC; the filing of a U.S. preliminary prospectus supplement, an amended U.S. preliminary prospectus supplement and a final prospectus supplement (the “**U.S. Prospectus Supplement**”) and, together with the U.S. Shelf Prospectus, the “**U.S. Prospectus**”) relating to the Common Shares pursuant to Rule 424(b) under the U.S. Securities Act (as defined herein); and (iv) no order preventing or suspending the use of the U.S. Prospectus having been issued by the SEC; and the U.S. Prospectus, at the time of filing thereof, conforming in all material respects to the requirements of the U.S. Securities Act and the rules and regulations of the SEC thereunder, and not containing an untrue statement of a material fact or omitting to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

The Corporation shall pay to the Lead Underwriter, on behalf of the Underwriters, a fee (the “**Underwriting Fee**”) at the Time of Closing equal to U.S.\$0.16875 per Common Share sold pursuant to the terms of this Agreement (being 4.5% of the offering price per Common Share) in consideration of the services to be rendered by the Underwriters in connection with the Offering. Such services shall include, without limitation: (i) acting as financial advisors to the Corporation in the preparation of documentation relating to the sale of the Common Shares; (ii) forming and managing banking, selling and other groups for the sale of the Common Shares; (iii) distributing the Common Shares to the public both directly and through other registered dealers and brokers; (iv) assisting the Corporation in connection with the preparation and finalization of the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus and the U.S. Prospectus qualifying the distribution of, or registering, as the case may be, the Common Shares; (v) performing administrative work in connection with these matters;

and (vi) all other services arising out of the agreement resulting from the Corporation's acceptance of this offer.

The schedules attached to this Agreement shall, for all purposes of this Agreement, form an integral part of it.

The Underwriters and the Corporation acknowledge that an offering of the Common Shares is also being concurrently conducted in the United States by the Agents (as defined below), who are affiliates of the Underwriters, under the terms of the Agency Agreement (as defined below) and the terms of the Inter-Dealer Agreement (as defined below), as well as U.S. Securities Laws (as defined below).

The following, in addition to the above preamble, are the terms and conditions of the agreement between the Corporation and the Underwriters:

Section 1 Definitions and Interpretation

(1) In this Agreement:

"Additional Shares" has the meaning ascribed thereto on page 1 hereof;

"Agency Agreement" means the agency agreement, dated the date hereof, between the Agents and the Corporation;

"Agents" means, collectively, BMO Capital Markets Corp., Wellington West Capital Markets (USA) Inc. and Macquarie Capital (USA) Inc.;

"Amended Preliminary Prospectus" means the Canadian preliminary short form prospectus dated December 4, 2009, which includes the pricing information omitted from the Preliminary Prospectus, including any documents or information incorporated therein by reference, prepared by the Corporation and relating to the distribution of the Common Shares and the Offering;

"Amended Preliminary Receipt" means the document issued by the Ontario Securities Commission, in its capacity as principal regulator, in accordance with National Policy 11-202, evidencing that a receipt has been issued in respect of the Amended Preliminary Prospectus by each of the Qualifying Authorities;

"business day" means any day other than a Saturday, Sunday or statutory or civic holiday in the City of Toronto, Ontario, and the City of New York, New York;

"Canadian Securities Laws" means, collectively, all applicable securities laws of each of the Qualifying Provinces and the respective rules and regulations under such laws, together with applicable published policy statements, notices and blanket orders of the securities regulatory authorities in the Qualifying Provinces;

"Closing Date" has the meaning ascribed thereto in Section 10(1) hereof;

"Common Shares" has the meaning ascribed thereto on page 1 hereof;

“Defaulted Securities” has the meaning ascribed thereto in Section 16(2) hereof;

“Exchanges” means the Toronto Stock Exchange (“**TSX**”) and the NYSE Amex Equities (“**NYSE Amex**”);

“Final Prospectus” means the Canadian (final) short form prospectus dated the date hereof including any documents or information incorporated therein by reference, prepared by the Corporation and relating to the distribution of the Common Shares and the Offering;

“Final Receipt” means the document issued by the Ontario Securities Commission in its capacity as principal regulator, in accordance with National Policy 11-202 evidencing that a receipt has been issued in respect of the Final Prospectus by each of the Qualifying Authorities;

“GSE” means the Ghana Stock Exchange;

“Incorporated Documents” means all documents incorporated or deemed to be incorporated in the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment;

“Initial Shares” has the meaning ascribed thereto on page 1 hereof;

“Inter-Dealer Agreement” means that certain inter-dealer agreement, dated the date hereof, between the Underwriters and the Agents;

“Lead Underwriter” has the meaning ascribed thereto on page 1 hereof;

“Material Resource Properties” has the meaning ascribed thereto in Section 6(j);

“Material Subsidiaries” means the entities set out in Schedule A in which the Corporation holds the types and percentages of securities or other ownership interests therein set forth;

“NI 44-101” has the meaning ascribed thereto on page 2 hereof;

“Offering” has the meaning ascribed thereto on page 1 hereof;

“Option” has the meaning ascribed thereto on page 1 hereof;

“Option Closing” has the meaning ascribed thereto on page 1 hereof;

“POP System” has the meaning ascribed thereto on page 2 hereof;

“Preferred Shares” has the meaning ascribed thereto on page 12 hereof;

“Preliminary Prospectus” means the Canadian preliminary short form prospectus dated December 3, 2009, which excludes certain pricing information, including any documents

or information incorporated therein by reference, prepared by the Corporation and relating to the distribution of the Common Shares and the Offering;

“Preliminary Receipt” means the preliminary document issued by the Ontario Securities Commission, in its capacity as principal regulator, in accordance with National Policy 11-202, evidencing that a receipt has been issued in respect of the Preliminary Prospectus by each of the Qualifying Authorities;

“Prospectus” means any of the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment;

“Prospectus Amendment” means any amendment to the Preliminary Prospectus (other than the Amended Preliminary Prospectus) or the Final Prospectus required to be prepared and filed by the Corporation under applicable Canadian Securities Laws in connection with the Offering;

“Qualifying Authorities” means each of the securities regulatory authorities in each of the Qualifying Provinces;

“Qualifying Provinces” has the meaning ascribed thereto on page 2 hereof;

“SEC” has the meaning ascribed thereto on page 2 hereof;

“Stock Option Plans” means the stock option or similar plans of the Corporation as approved by the shareholders of the Corporation, as constituted on the date hereof;

“Supplementary Material” has the meaning ascribed thereto in Section 13(1)(a);

“Time of Closing” has the meaning ascribed thereto in Section 10(1) hereof;

“Underwriters” has the meaning ascribed thereto on page 1 hereof;

“Underwriting Fee” has the meaning ascribed thereto on page 2 hereof;

“United States” means the United States of America, its territories and possessions, any state of the United States, the District of Columbia, and the areas subject to the jurisdiction of the United States of America;

“ U.S. Exchange Act” means the United States *Securities Exchange Act of 1934* , as amended;

“U.S. Preliminary Prospectus” means the U.S. Shelf Prospectus together with a preliminary prospectus supplement dated December 3, 2009 and an amended preliminary prospectus supplement dated December 4, 2009 specifically relating to the Common Shares;

“U.S. Prospectus” has the meaning ascribed thereto on page 2 hereof;

“U.S. Prospectus Supplement” has the meaning ascribed thereto on page 2 hereof;

“U.S. Registration Statement” means the registration statement on Form S-3 (File No. 333-155767), filed with the SEC, with respect to the Common Shares, under the U.S. Securities Act, including the exhibits, financial statements and schedules thereto, which Registration Statement has been declared effective by the SEC and includes the U.S. Prospectus;

“U.S. Securities Act” means the United States *Securities Act of 1933*, as amended;

“U.S. Securities Laws” means the applicable blue sky or securities legislation in the United States, together with the U.S. Exchange Act and the U.S. Securities Act and the rules and regulations of the SEC and the applicable state securities regulators thereunder;

“U.S. Shelf Prospectus” has the meaning ascribed thereto on page 2 hereof;

- (2) Any reference in this Agreement to gender includes all genders and words importing the singular number only shall include the plural and vice versa.
- (3) The division of this Agreement into sections, subsections, paragraphs and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to sections, subsections, paragraphs and other subdivisions are to sections, subsections, paragraphs and other subdivisions of this Agreement.
- (4) Except as otherwise indicated, all amounts expressed herein in terms of money refer to lawful currency of the United States and all payments to be made hereunder shall be made in such currency.

Section 2 Compliance with Securities Laws

- (1) As of the date of this Agreement, the Corporation will have prepared and filed the Preliminary Prospectus with the Qualifying Authorities together with the required supporting documents and any amendment thereto, and shall have received the Preliminary Receipt in respect thereof. The Corporation shall, as soon as possible after the execution of this Agreement and on a basis acceptable to the Underwriters, acting reasonably, prepare and file under and as required by Canadian Securities Laws of the Qualifying Provinces with each of the Qualifying Authorities the Amended Preliminary Prospectus together with the required supporting documents and obtain the Amended Preliminary Receipt by not later than 5:00 p.m. (Toronto time) on December 4, 2009. The Corporation covenants and agrees with the Underwriters that as soon as practicable, it will (i) address the comments made by such Qualifying Authorities in respect of the Preliminary Prospectus and any amendment thereto; and (ii) prepare (subject to review by the Underwriters) and file with the Qualifying Authorities, the Final Prospectus, together with the required supporting documents, and use its reasonable best efforts to obtain the Final Receipt from such Qualifying Authorities in order to qualify the distribution of the Common Shares by no later than 5:00 pm (Toronto time) on December 10, 2009.

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- (2) The representations and warranties made by the Corporation in Section 6 of the Agency Agreement are incorporated herein by reference and shall have the same effect as if made to the Underwriters under this Agreement.

Section 3 Due Diligence

Prior to the Time of Closing, prior to filing the Final Prospectus, and, if applicable, prior to the filing of any Prospectus Amendment and prior to the filing of any Supplementary Material, including on any intervening weekends, the Corporation shall allow the Underwriters to participate fully in the preparation of such documents and shall allow the Underwriters to conduct all due diligence that the Underwriters may reasonably require in order to fulfil their obligations as Underwriters and in order to enable the Underwriters responsibly to execute any certificate required to be executed by them, provided, however, that the conduct of due diligence is not intended to operate as a condition of the Offering.

Section 4 Conditions of the Offering

The Underwriters' obligations under this Agreement are conditional upon and subject to:

- (1) the Underwriters receiving at the Time of Closing favourable legal opinions dated the Closing Date, addressed to the Underwriters and their counsel from:
- (i) Fasken Martineau DuMoulin LLP, Canadian counsel to the Corporation (who may rely on or otherwise provide, to the extent appropriate in the circumstances, the opinions of local counsel acceptable to counsel to the Corporation and counsel to the Underwriters as to the qualification of the Common Shares for sale to the public and as to other matters governed by the laws of the Qualifying Provinces other than the provinces in which they are qualified to practice law and may rely, to the extent appropriate in the circumstances, as to matters of fact on certificates of officers, of public officials and of Exchange officials or of the auditors or transfer agent of the Corporation), to the effect set forth below:
- (a) the Corporation having been amalgamated and existing under the laws of Canada;
- (b) the Corporation having the corporate capacity and power to own and lease its properties and assets and to conduct its business as described in the Final Prospectus and to execute and deliver this Agreement and to carry out the transactions contemplated hereby;
- (c) the authorized and issued share capital of the Corporation being as described in the Final Prospectus;
- (d) all necessary corporate action having been taken by the Corporation to authorize the execution and delivery of this Agreement and the Agency Agreement and the performance of its obligations hereunder and thereunder and this Agreement and the Agency Agreement have been duly executed and delivered by the Corporation and this Agreement constitutes a legal, valid and binding obligation

- of, and is enforceable against, the Corporation in accordance with its terms (subject to bankruptcy, insolvency or other laws affecting the rights of creditors generally, general equitable principles including the availability of equitable remedies and the qualification that no opinion need be expressed as to rights to indemnity, contribution and waiver of contribution) and the execution and delivery by the Corporation of this Agreement and the Agency Agreement, the fulfilment of the terms hereof and thereof by the Corporation, and the issue, sale and delivery on the Closing Date of the Common Shares to the Underwriters and the Agents as contemplated herein and in the Agency Agreement do not constitute or result in a breach of or a default under, and do not create a state of facts which, after notice or lapse of time or both, will constitute or result in a breach of, and will not conflict with, any of the terms, conditions or provisions of the articles or by-laws of the Corporation;
- (e) the Option and the issuance and sale of the Common Shares have been authorized by all necessary action on the part of the Corporation;
 - (f) all documents required to be filed by the Corporation and all proceedings required to be taken by the Corporation under applicable Canadian Securities Laws having been filed and taken in order to qualify the distribution (or distribution to the public, as the case may be) of the Common Shares in each of the Qualifying Provinces through investment dealers or brokers duly registered in the appropriate category under the applicable laws thereof who have complied with the relevant provisions thereof;
 - (g) the Common Shares having been conditionally approved for listing on the TSX subject only to compliance with the documentary filing requirements of the TSX;
 - (h) the attributes and characteristics of the Common Shares being accurately summarized in all material respects under the heading “Description of Share Capital” in the Final Prospectus;
 - (i) the Common Shares, when issued by the Corporation upon receipt of the aggregate purchase price as consideration for the issue thereof, having been validly issued by the Corporation and being fully-paid and non-assessable shares in the capital of the Corporation;
 - (j) as to certain Canadian federal income tax matters, as described in the Final Prospectus under the heading “Eligibility for Investment”; and
 - (k) a “10b-5” opinion to the effect that during the course of the Corporation’s preparation of the Final Prospectus and its participation in conferences with officers and other representatives of the Corporation, the Corporation’s independent public accountants, the Agents and the Underwriters and their counsel, during which the contents of the Final Prospectus were discussed, and while it has not independently verified and is not passing upon the accuracy, completeness or fairness of the statements made in the Final Prospectus except as explicitly set forth in paragraph (k) hereof, no facts have come to its attention

that lead it to believe that the Final Prospectus contained any untrue statement of a material fact (as such term is defined in the *Securities Act* (Ontario)) or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading (other than the financial statements and notes thereto and related schedules therein or other financial data derived from accounting records or incorporated therein and other than statistical, mineral reserve and resource and geological information, as to which such counsel is not expressing an opinion);

and (ii) Davis Graham & Stubbs LLP, the Corporation's U.S. counsel, as to those matters set forth in Schedule B to the Agency Agreement and 4(1)(i)(k) above, in each case addressed to the Underwriters, dated the Closing Date, and in form and substance satisfactory to the Underwriters and their counsel acting reasonably;

- (2) the Underwriters having received the comfort letter referred to in Section 9(1)(a);
- (3) the Underwriters having received a comfort letter, dated the Closing Date, in form and substance satisfactory to the Underwriters, acting reasonably, bringing forward to a date not more than two business days prior to the Closing Date the information contained in the comfort letter referred to in Section 9(1)(a);
- (4) the Underwriters receiving at the Time of Closing a legal opinion (or opinions) dated the Closing Date, in form and substance satisfactory to the Underwriters and their counsel acting reasonably, addressed to the Underwriters and their counsel, from local counsel to the Corporation, as to mining title matters with respect to each of the Material Resource Properties;
- (5) the Underwriters receiving at the Time of Closing a legal opinion (or opinions) dated the Closing Date, in form and substance satisfactory to the Underwriters and their counsel, addressed to the Underwriters and their counsel, from local counsel to the Corporation, stating that each of the Material Subsidiaries has been duly created and is validly existing under the laws of the jurisdiction in which it was incorporated, amalgamated or continued, and that the Corporation or a Material Subsidiary owns all of the issued and outstanding share capital of such corporations, except as set out in Schedule A;
- (6) the Underwriters receiving at the Time of Closing a "10b-5" opinion from each of Stikeman Elliott LLP and Dorsey Whitney LLP in form and substance similar to that provided pursuant to Section 4(1)(i)(k) hereof;
- (7) at the Time of Closing, there having been no material adverse change in the business, affairs, operations, assets, liabilities or financial condition of the Corporation on a consolidated basis since the date hereof;
- (8) at the Time of Closing, CIBC Mellon Trust Company, at its principal office in Vancouver, having been duly appointed as the transfer agent and registrar for the Common Shares;
- (9) the Agency Agreement having been executed by the Corporation and the Agents;

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- (10) the Corporation delivering a certificate signed on behalf of the Corporation by the Chief Executive Officer of the Corporation or the Chief Financial Officer of the Corporation, addressed to the Underwriters and dated the Closing Date, in a form satisfactory to the Underwriters and their counsel acting reasonably, certifying for and on behalf of the Corporation and not in their personal capacities that, to the actual knowledge of the persons signing such certificate, after having made due inquiry:
- (a) the Corporation has complied in all material respects with all covenants and satisfied all terms and conditions of this Agreement on its part to be complied with and satisfied at or prior to the Time of Closing on the Closing Date;
 - (b) no order, ruling or determination having the effect of ceasing or suspending trading in any securities of the Corporation or prohibiting the sale of the Common Shares or any of the Corporation's issued securities has been issued and no proceeding for such purpose is pending or, to the knowledge of such officers, threatened;
 - (c) no order suspending the effectiveness of the U.S. Registration Statement shall be in effect and no proceedings for such purpose shall be pending before or, to the knowledge of such officers, threatened by the SEC and any additional information requested on the part of the SEC shall have been complied with to the reasonable satisfaction of the Underwriters;
 - (d) the Corporation is a "reporting issuer" or its equivalent under the securities laws of each of the Qualifying Provinces and eligible to use the POP System and no material change relating to the Corporation on a consolidated basis has occurred since the date hereof with respect to which the requisite material change report has not been filed and no such disclosure has been made on a confidential basis that remains subject to confidentiality; and
 - (e) all of the representations and warranties made by the Corporation in this Agreement are true and correct as of the Time of Closing with the same force and effect as if made at and as of the Time of Closing after giving effect to the transactions contemplated hereby; and
- (11) the Underwriters receiving at the Time of Closing such further certificates, opinions of counsel and other documentation from the Corporation as are consistent with the transactions contemplated herein and provided that no less than 48 hours notice thereof is given prior to the Time of Closing.

Section 5 Covenants of the Underwriters

- (1) The Underwriters:
- (a) shall offer or arrange the offer of the Common Shares for sale to the public, directly and through other investment dealers and brokers (such other investment dealers and brokers, are referred to herein as the "**Selling Firms**"), only as permitted by and in compliance with all relevant laws and the requirements of Canadian Securities Laws, upon the terms and conditions set

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- forth in the Final Prospectus and in this Agreement and will require each Selling Firm to so agree and provided that the fees (exclusive of expenses) of the Selling Firms will be paid by the Underwriters;
- (b) shall not solicit offers to purchase or sell the Common Shares so as to require registration thereof or the filing of a prospectus or similar document with respect thereto under the laws of any jurisdiction other than the Qualifying Provinces, and will require each Selling Firm to agree with the Underwriters not to so solicit or sell. In this connection, the Underwriters agree that they will not offer or sell any of the Common Shares constituting a part of their allotment within the United States except, if applicable, through the Agents on the terms and conditions set forth in the Agency Agreement and the Inter-Dealer Agreement and in compliance with U.S. Securities Laws. For the purposes of this Section 5(1)(b), the Underwriters shall be entitled to assume that the Common Shares are qualified for distribution in any Qualifying Province where a decision document or receipt or similar document for the Final Prospectus shall have been obtained from the applicable Canadian securities regulatory authority following the filing of the Final Prospectus;
 - (c) agree that if they offer to sell or sell any Common Shares in jurisdictions (which may include Europe) other than the Qualifying Provinces and through the Agents in the United States, such offers and sales shall be effected in accordance and compliance with the applicable laws of such jurisdictions and shall be effected in such manner so as not to: (i) require registration of the Common Shares, or the filing of a prospectus or other document with respect thereto; or (ii) subject the Corporation to any continuous disclosure or similar reporting requirements under the laws of any jurisdiction outside the provinces of Canada or the United States;
 - (d) shall use all reasonable efforts to complete and to cause the other Selling Firms to complete the distribution of the Initial Shares and any Additional Shares as soon as practicable;
 - (e) shall notify the Corporation when, in their opinion, the Underwriters and the other Selling Firms have ceased distribution of the Common Shares and shall promptly provide a breakdown of the number of Common Shares distributed in each of the Qualifying Provinces; and
 - (f) shall comply in all material respects with any applicable laws with respect to the use of “green sheets” and other marketing materials during the “waiting period” (as defined under Canadian Securities Laws).
- (2) Notwithstanding the foregoing, no Underwriter shall be liable to the Corporation with respect to any other Underwriter under this Section 5.

Section 6 Representations and Warranties of the Corporation

The Corporation hereby represents and warrants to the Underwriters, intending that the same may be relied upon by the Underwriters, that:

- (a) each of the Corporation and the Material Subsidiaries has been duly incorporated, continued or amalgamated and organized and is validly existing under the laws of its jurisdiction of incorporation, continuance or amalgamation, has all requisite corporate power and capacity to carry on its business as now conducted and as contemplated by the Prospectus, and to own, lease and operate its properties and assets, and the Corporation has all requisite power and authority to carry out its obligations under this Agreement;
- (b) the only material operating subsidiaries of the Corporation are listed in Schedule A;
- (c) the Corporation or one of its Material Subsidiaries owns the issued and outstanding shares of each of the Material Subsidiaries as set out in Schedule A, in each case free and clear of any pledge, lien, security interest, charge, claim or encumbrance other than as described in Schedule B or in the Prospectus or Incorporated Documents;
- (d) the Corporation is a reporting issuer or the equivalent in each of the Qualifying Provinces and the Corporation is not in default in any material respect of any of the requirements of Canadian Securities Laws;
- (e) the Corporation is eligible to use the POP System and at the respective times of filing, each of the Preliminary Prospectus, the Amended Preliminary Prospectus and the Final Prospectus together with any Prospectus Amendment and any Supplementary Material, have complied and will comply with the requirements of the Canadian Securities Laws pursuant to which they have been or will be filed, have and will provide full, true and plain disclosure of all material facts (as defined in the *Securities Act* (Ontario)) relating to the Corporation on a consolidated basis and do not and will not contain any misrepresentation (as defined in the *Securities Act* (Ontario)) as of the date of filing, provided that the foregoing shall not apply with respect to statements contained in such documents relating solely to the Underwriters or Agents or provided by the Underwriters or Agents;
- (f) no order, ruling or determination having the effect of ceasing, suspending or restricting trading in any securities of the Corporation or the sale of the Common Shares has been issued and no proceedings, investigations or inquiries for such purpose are pending or, to the Corporation's knowledge, threatened;
- (g) the Corporation's common shares are posted and listed for trading on the Exchanges and the GSE and the Corporation is not in default in any material respect of any of the listing requirements of the Exchanges;

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- (h) other than as set forth in the Corporation's Stock Option Plans or as set out in the Prospectus or Incorporated Documents, the Corporation is not a party to and has not entered into any agreement, warrant, option, right or privilege reasonably capable of becoming an agreement, for the purchase, subscription or issuance of any Common Shares or securities convertible into or exchangeable for Common Shares;
- (i) as at December 2, 2009, the authorized share capital of the Corporation consisted of an unlimited number of Common Shares and an unlimited number of first preferred shares (the "**Preferred Shares**"), of which 237,131,261 Common Shares and no Preferred Shares are issued and outstanding;
- (j) the Corporation and each of the Material Subsidiaries have conducted and are conducting their respective businesses in material compliance with all applicable laws, rules, regulations, tariffs, orders and directives, including without limitation, all laws, regulations and statutes relating to mining and to mining claims, concessions or leases, and environmental, health and safety laws, rules, regulations, or policies or other lawful requirements of any governmental or regulatory bodies having jurisdiction over the Corporation and the Material Subsidiaries in each jurisdiction in which the Corporation or the Material Subsidiaries carries on their respective businesses, other than those in respect of which the failure to comply would not individually or in the aggregate be material and adverse to the Corporation and the Material Subsidiaries (taken as a whole). Each of the Corporation and the Material Subsidiaries, hold all certificates, authorities, permits, licenses, registrations and qualifications (collectively, the "**Authorities**") in all jurisdictions in which each carries on its business and which are material for and necessary or desirable to carry on their respective businesses as now conducted. To the best of the Corporation's knowledge, information and belief, all of the Authorities are valid and existing and in good standing and none of the Authorities contain any burdensome term, provision, condition or limitation which has or is likely to have any material adverse effect on the business of the Corporation and the Material Subsidiaries (taken as a whole) as now conducted or as currently contemplated to be conducted during the next six months. None of the Corporation, nor any of the Material Subsidiaries, has received any notice of proceedings relating to the revocation or modification of any of the Authorities which, singly or in the aggregate, if the subject of an unfavourable decision, ruling or finding, would materially adversely affect the business, operations, financial condition, or income of the Corporation and the Material Subsidiaries (taken as a whole) or any notice of the revocation or cancellation of, or any intention to revoke or cancel, any of the mining claims, concessions or leases comprising:
- (i) the Bogoso/Prestea property;
 - (ii) the Prestea Underground property;
 - (iii) the Prestea South property;

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- (iv) the Wassa property; and
 - (v) the Hwini-Butre and Benso property.

The above-noted properties are referred to, collectively, as the “ **Material Resource Properties** ” and each such property is as described in the Amended Preliminary Prospectus and Incorporated Documents;

- (k) the Corporation, and each of its Material Subsidiaries have good and marketable title to all assets owned by them free and clear of all liens, charges and encumbrances, other than as described in Schedule B or in the Prospectus or Incorporated Documents and other than such liens, charges and encumbrances that are not individually or in the aggregate material to the Corporation and the Material Subsidiaries taken as a whole;
- (l) except as set forth in the Prospectus or the Incorporated Documents or as are not individually or in the aggregate material to the Corporation and Material Subsidiaries (taken as a whole), or other than as would not have a material effect on the value of such interests, all interests in the Material Resource Properties are owned, leased or held by the Corporation, or its Material Subsidiaries as owner or lessee thereof, are so owned with good and marketable title or are so leased with good and valid title, are in good standing, are valid and enforceable, are free and clear of any liens, charges or encumbrances and no royalty is payable in respect of any of them; no other material property rights are necessary for the conduct or currently intended conduct of the Corporation’s, or the Material Subsidiaries’ business and there are no restrictions on the ability of the Corporation or the Material Subsidiaries to use, transfer or otherwise exploit or explore (as the case may be) any such property rights, except as set forth in the Prospectus or the Incorporated Documents;
- (m) (A) the Corporation and its Material Subsidiaries are in material compliance with all material terms and provisions of all contracts, agreements, indentures, leases, instruments and licences material to the conduct of their businesses taken as a whole and (B) all such contracts, agreements, indentures, leases, policies, instruments and licences are valid and binding in accordance with their terms and are in full force and effect;
- (n) except in each case as publicly disclosed or as would not otherwise have a material adverse effect on the Corporation and the Material Subsidiaries (taken as a whole): (i) to the best of the Corporation’s knowledge, information and belief none of the real property (and the buildings constructed thereon) in which the Corporation or any of the Material Subsidiaries has a direct or indirect interest, whether leasehold, fee simple or otherwise (the “ **Real Property** ”), or upon or within which it has operations, is currently subject to any judicial or administrative proceeding alleging the violation of any federal, provincial, state or municipal environmental, health or safety statute or regulation, domestic or foreign, or is subject to any investigation concerning whether any remedial action is needed to respond to a release of any Hazardous Material (as defined

below) into the environment; (ii) except in material compliance with applicable environmental laws, neither the Corporation nor any Material Subsidiary or any occupier of the Real Property, has filed any notice under any federal, provincial, state or municipal law, domestic or foreign, indicating past or present treatment, storage or disposal of a Hazardous Material; (iii) except in material compliance with applicable environmental laws, none of the Real Property has at any time been used by the Corporation, or a Material Subsidiary or, to the best of the Corporation's knowledge, information and belief by any other occupier, as a waste storage or waste disposal site; (iv) the Corporation, on a consolidated basis, has no contingent liability of which it has knowledge in connection with any release of any Hazardous Material on or into the environment from any of the Real Property or operations thereon; (v) none of the Corporation, or any Material Subsidiary or, to the best of the Corporation's knowledge, any occupier of the Real Property, generates, transports, treats, processes, stores or disposes of any waste on any of the Real Property in material contravention of applicable federal, provincial, state or municipal laws or regulations enacted for the protection of the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or human health or wildlife; (vi) to the Corporation's knowledge, no underground storage tanks or surface impoundments containing a petroleum product or Hazardous Material are located on any of the Real Property in contravention of applicable federal, provincial, state or municipal laws or regulations, domestic or foreign, enacted for the protection of the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), human health or wildlife. For the purposes of this Section 6(n), "**Hazardous Material**" means any contaminant, chemical, pollutant, subject waste, hazardous waste, deleterious substance, industrial waste, toxic matter or any other substance that when released into the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) is likely to cause, at some immediate or future time, harm or degradation to the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or risk to human health and, without restricting the generality of the foregoing, includes any contaminant, chemical, pollutant, subject waste, deleterious substance, industrial waste, toxic matter or hazardous waste as defined by applicable federal, provincial, state or municipal laws or regulations enacted for the protection of the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), or human health or wildlife;

- (o) except as disclosed in the Prospectus or the Incorporated Documents, the Corporation and each of its Material Subsidiaries maintain appropriate insurance against loss of, or damage to, their assets for all insurable risks on a repair, reinstatement or replacement cost basis, and all of the policies in respect of such insurance coverage are in good standing in all respects and not in default;

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- (p) the audited consolidated financial statements of the Corporation for its fiscal year ended December 31, 2008 and the unaudited consolidated interim financial statements of the Corporation for the quarters ended March 31, 2009, June 30, 2009 and September 30, 2009 collectively, as amended (collectively the “**Corporation’s Financial Statements**”), copies of which are or will be included or incorporated by reference in the Preliminary Prospectus, the Amended Preliminary Prospectus and in the Final Prospectus, together with management’s discussion and analysis of the financial condition and results of operations on such annual and interim financial statements and any reconciliation of such financial statements prepared in accordance with generally accepted accounting principles in Canada and with generally accepted accounting principles in the United States, are true and correct in every material respect and present fairly and accurately the financial position and results of the operations of the Corporation on a consolidated basis for the periods then ended and the Corporation’s Financial Statements have been prepared in accordance with generally accepted accounting principles in Canada applied on a consistent basis, and comply as to form in all material respects with the applicable accounting requirements of the U.S. Securities Act and the U.S. Exchange Act, as applicable, and the related published rules and regulations thereunder;
- (q) the execution and delivery of and the performance by the Corporation of this Agreement and the Agency Agreement and the consummation of the transactions contemplated hereby and thereby, including the issuance and sale of the Common Shares, have been authorized by all necessary corporate action on the part of the Corporation;
- (r) this Agreement and the Agency Agreement have been duly executed and delivered by the Corporation and each such agreement is a legal, valid and binding obligation of, and is enforceable against, the Corporation in accordance with its terms (subject to bankruptcy, insolvency or other laws affecting the rights of creditors generally, the availability of equitable remedies and the qualification that rights to indemnity and waiver of contribution may be contrary to public policy or limited by applicable law);
- (s) the Amended Prospectus complies and the Final Prospectus will comply fully, in all material respects, with the requirements of Canadian Securities Laws; for greater certainty, the documents incorporated by reference therein, at the time they were filed, complied in all material respects with Canadian Securities Laws;
- (t) except as included or incorporated by reference therein, there are no financial statements or other documents required to be included in the Preliminary Prospectus or Final Prospectus as a result of a “significant acquisition”, or “significant probable acquisition”, each as described in NI 44-101;
- (u) except as disclosed in the Preliminary Prospectus, the Amended Preliminary Prospectus and the Final Prospectus or the Incorporated Documents, since September 30, 2009: (A) there has been no material change in the business, affairs, operations, assets, liabilities, or financial condition of the Corporation and

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- the Material Subsidiaries on a consolidated basis; (B) no material change reports or other documents have been filed on a confidential basis with the Qualifying Authorities; (C) there has been no transaction entered into by the Corporation and not disclosed in the Incorporated Documents which is material to the Corporation; (D) the Corporation and its Material Subsidiaries on a consolidated basis, have not incurred any material liability or obligation, indirect, direct or contingent, not in the ordinary course of business, nor entered into any material transaction or agreement not in the ordinary course of business; and (E) there has been no dividend or distribution of any kind declared, paid or made by the Corporation or, except for dividends paid to the Corporation or its Material Subsidiaries, any of its Material Subsidiaries, on any class of capital stock or repurchase or redemption by the Corporation or any of its Material Subsidiaries of any class of capital stock;
- (v) the directors and officers of the Corporation and their compensation arrangements with the Corporation, whether as directors, officers or employees of the Corporation, are as disclosed in the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectuses and the U.S. Prospectus or in the Incorporated Documents if and to the extent and for the periods required to be so disclosed;
 - (w) since December 31, 2008, all of the material contracts and agreements of the Corporation and its Material Subsidiaries not made in the ordinary course of business (collectively the “ **Material Contracts** ”) which are required to be filed under applicable Canadian Securities Laws have been so filed;
 - (x) all tax returns, reports, elections, remittances and payments of the Corporation and its Material Subsidiaries required by law to have been filed (or which are in the process of being prepared for filing, which delayed filing will not have a material adverse effect on the Corporation and its Material Subsidiaries taken as a whole) or made in any applicable jurisdiction, have been filed or made (as the case may be), other than for taxes being contested in good faith, or with respect to which the failure to file or make would not have a material adverse effect, either individually or in the aggregate, on the Corporation and the Material Subsidiaries taken as a whole and, to the best of the knowledge of the Corporation, are substantially true, complete and correct and all taxes of the Corporation and of its Material Subsidiaries, in respect of which payment or accrual is required under applicable law, other than taxes being contested in good faith, have been so paid or accrued in the Corporation’s Financial Statements;
 - (y) (i) each employee benefit plan (each, a “ **Plan** ”), within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (the “ **ERISA** ”), for which the Corporation or any member of its “ **Controlled Group** ” (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended (the “ **Code** ”)) would have any liability has been maintained in

- material compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including but not limited to the ERISA and the Code; (ii) no prohibited transaction, within the meaning of Section 406 of the ERISA or Section 4975 of the Code, has occurred with respect to any Plan excluding transactions effected pursuant to a statutory or administrative exemption; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of the ERISA, no “accumulated funding deficiency” as defined in Section 412 of the Code, whether or not waived, has occurred or is reasonably expected to occur; (iv) the fair market value of the assets of each Plan exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan); (v) no “reportable event” (within the meaning of Section 4043(c) of the ERISA) has occurred or is reasonably expected to occur; and (vi) neither the Corporation nor any member of the Controlled Group has incurred, nor reasonably expects to incur, any liability under Title IV of the ERISA (other than contributions to the Plan or premiums, in the ordinary course and without default) in respect of a Plan (including a “multiemployer plan”, within the meaning of Section 4001(a)(3) of the ERISA);
- (z) except as set out in the Prospectus or the Incorporated Documents, there is no material action, suit, proceeding, investigation or judgment pending, or to the best of the Corporation’s knowledge threatened or outstanding against or affecting the Corporation or any Material Subsidiary (or their respective officers and directors in such capacity) at law or in equity or before or by any federal, provincial, state, municipal or other governmental department, commission, board or agency, domestic or foreign, which in any way materially adversely affects or may reasonably be expected to materially adversely affect the business, operations or condition of the Corporation and any Material Subsidiary taken as a whole, (financial or otherwise) or the property or assets thereof or which questions or may question the validity of the creation, issuance or sale of the Common Shares or any action taken or to be taken by the Corporation or any Material Subsidiary pursuant to or in connection with this Agreement or any other material contract to which the Corporation or any Material Subsidiary is a party, as the case may be;
- (aa) except as have been made or will be obtained prior to the Time of Closing, under the laws of the Qualifying Provinces and the United States, no consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental agency or body or regulatory authority is required for the creation, issue, sale and delivery (as the case may be) of the Common Shares or the consummation by the Corporation of the transactions contemplated in this Agreement and the Agency Agreement;
- (bb) all necessary corporate action has been taken or will have been taken prior to the Time of Closing by the Corporation so as to validly issue and sell the Common Shares to the Underwriters and upon receipt by the Corporation of the purchase price as consideration for the issue thereof the Common Shares will be validly

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- issued and outstanding as fully paid and non-assessable shares of the Corporation;
- (cc) the attributes of the Common Shares conform in all material respects with the description thereof contained in the Preliminary Prospectus, the Amended Preliminary Prospectus and the Final Prospectus;
 - (dd) there are no material business relationships or related party transactions within the meaning of Multilateral Instrument 61-101 involving the Corporation or any of its Material Subsidiaries or any other person except as described in the Prospectus or the Incorporated Documents;
 - (ee) none of the Corporation, any of its Material Subsidiaries, any employee or agent of the Corporation or any Material Subsidiary, has (i) made any unlawful contribution or other payment to any official of, or candidate for, any federal, state, provincial or foreign office, or failed to disclose fully any contribution, in violation of any law, or (ii) made any payment to any foreign, United States or state governmental officer or official, or other person charged with similar public or quasi-public duties, other than payments required or permitted by the laws of the United States;
 - (ff) each of the Corporation and each of its Material Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles in Canada and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.
 - (gg) neither the Corporation, nor to the knowledge of the Corporation after due inquiry, any of the Corporation's officers, directors or affiliates has taken, and at the Closing Date will have taken, directly or indirectly, any action which has constituted, or might reasonably be expected to constitute, the stabilization or manipulation of the price of sale or resale of the Common Shares;
 - (hh) since December 31, 2007, the Corporation has properly filed on a timely basis (i) with the SEC all reports and other documents required to have been filed by it with the SEC pursuant to the U.S. Securities Act and the rules and regulations, (ii) with the NYSE Amex all reports and documents required to have been filed by it pursuant to the rules and regulations of the NYSE Amex, and (iii) all reports or other documents required to have been filed by it with the securities commission or similar regulatory body of each province in Canada, the TSX or any other applicable Canadian governmental authorities. True and complete copies of all such reports and other documents have been delivered or made available to the Underwriters;

- (ii) neither the Corporation nor any Material Subsidiary (i) was a personal holding company within the meaning of Section 542 of the Internal Revenue Code of 1986, as amended (the “ **Code** ”) (a “ **PHC** ”) or a controlled foreign corporation within the meaning of Section 957 of the Code (a “ **CFC** ”) for its taxable year ended December 31, 2008, or (ii) based on information known at the date hereof, expects that it will constitute a PHC or a CFC for its taxable year ending December 31, 2009;
- (jj) based on information known as of the date hereof and expectations regarding its future results and operations as of the date of this Agreement, the Corporation was not a passive foreign investment company (a “ **PFIC** ”) within the meaning of section 1297 of the Code for its taxable year ended December 31, 2008 and (ii) expects that it will not constitute a PFIC for its taxable year ending December 31, 2009;
- (kk) CIBC Mellon Trust Company, at its principal office in Vancouver, has been duly appointed as the transfer agent and registrar for the Common Shares; and
- (ll) the Preliminary Prospectus, the Amended Preliminary Prospectus and the Final Prospectus, including any and all amendments thereto, contain and will contain no untrue statement of a material fact and do not and will not omit to state a material fact that is required to be stated or that is necessary to make the statements therein not misleading in light of the circumstances in which they are made.

Section 7 Representations and Warranties of the Underwriters

- (1) Each Underwriter hereby severally, and not jointly, represents and warrants that:
 - (a) it is, and will remain so, until the completion of the Offering, appropriately registered under Canadian Securities Laws so as to permit it to lawfully fulfil its obligations hereunder;
 - (b) it has good and sufficient right and authority to enter into this Agreement and complete the transactions contemplated under this Agreement on the terms and conditions set forth herein; and
 - (c) this Agreement and the Agency Agreement have been duly executed and delivered by the Underwriters and the Agents, respectively, and each such agreement is a legal, valid and binding obligation of, and is enforceable against the Underwriters and Agents, respectively, in accordance with its terms (subject to bankruptcy, insolvency and other laws affecting the rights of creditors generally, the availability of equitable remedies and the qualification that rights to indemnity and waiver of contribution may be contrary to public policy).

Section 8 Covenants of the Corporation

- (1) The Corporation covenants with the Underwriters that:

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- (a) the Corporation will comply with Section 57 of the *Securities Act* (Ontario) and with the comparable provisions of the other relevant Canadian Securities Laws, and, after the date hereof and prior to the completion of the distribution of the Common Shares, the Corporation will promptly advise the Underwriters in writing of the full particulars of any material change, (as defined in the *Securities Act* (Ontario)), in the business, affairs, operations, assets, liabilities or financial condition of the Corporation, on a consolidated basis, or of any change in any material fact (as defined in the *Securities Act* (Ontario)) contained or referred to in the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus, the U.S. Prospectus, or any Prospectus Amendment or Supplementary Material (collectively, the “**Filings**”) which is, or may be, of such a nature as to render any statement contained in the Filings untrue, false or misleading, result in a misrepresentation (as defined in the *Securities Act* (Ontario)), or result in any of such documents not complying with the laws of any Qualifying Province or the United States. The Corporation will promptly prepare and file with the securities authorities in the Qualifying Provinces or the United States any amendment or supplement to the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus or the U.S. Prospectus, which in the opinion of the Underwriters and the Corporation, each acting reasonably, may be necessary or advisable to correct such untrue or misleading statement or omission. The Corporation shall in good faith discuss with the Underwriters any change in circumstances (actual, anticipated, contemplated or threatened) which is of such a nature that there may be a reasonable doubt as to whether written notice need be given to the Underwriters under the provisions of this Section 8(1)(a);
- (b) the Corporation will deliver without charge to the Underwriters, as soon as practicable, and in any event no later than 9:00 a.m., December 7, 2009, and thereafter from time to time during the distribution of the Common Shares, in such cities as the Underwriters shall notify the Corporation, as many commercial copies of each of the Amended Preliminary Prospectus, the Final Prospectus and the U.S. Prospectus, respectively (and in the event of any Prospectus Amendment, such Prospectus Amendment) as the Underwriters may reasonably request for the purposes contemplated by Canadian Securities Laws and U.S. Securities Laws and such delivery shall constitute consent by the Corporation to the use by the Underwriters, the Agents and the Selling Firms of such documents in connection with the Offering in all Qualifying Provinces and the United States, subject to the provisions of Canadian Securities Laws and U.S. Securities Laws. The Corporation shall similarly cause to be delivered commercial copies of the Supplementary Material in such quantities as the Underwriters may reasonably request;
- (c) the Corporation shall use its best efforts to arrange that the Common Shares are listed and posted for trading on the TSX and the NYSE Amex on the Closing Date, subject only to the documentary filing requirements of each such Exchange;

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- (d) the Corporation shall not issue or announce the issuance of any Common Shares of the Corporation or any securities convertible into or exchangeable for or exercisable to acquire Common Shares of the Corporation without the prior consent of the Lead Underwriter on behalf of the Underwriters, which consent will not be unreasonably withheld or delayed, during a period commencing on the date of execution of this Agreement and ending 90 days after the Closing Date (the “**Restricted Period**”), other than:
 - (i) issuance of shares upon exercise of currently outstanding rights, or agreements, including options, warrants, debt and other convertible securities and any rights which have been granted or issued, subject to any necessary regulatory approval;
 - (ii) the issuance of shares upon the exercise of currently outstanding options granted to officers, directors, employees or consultants of the Corporation or any subsidiary thereof pursuant to the Corporation’s stock option and purchase plans (collectively, the “**Option Plans**”); or
 - (iii) the issuance of options pursuant to and in accordance with the Option Plans; and
 - (e) it will apply the net proceeds from the sale of the Common Shares as set forth under “Use of Proceeds” in the Final Prospectus subject to reallocation as contemplated thereby.

Section 9 Additional Documents upon Filing of Final Prospectus

- (1) The Underwriters’ obligations under this Agreement are conditional upon the receipt by the Underwriters, concurrently with the filing of the Final Prospectus, of:
 - (a) a “long-form” comfort letter dated the date of the Final Prospectus from the auditors of the Corporation, addressed to the Underwriters, in form and substance reasonably satisfactory to the Underwriters, relating to the verification of the financial information and accounting data and other numerical data of a financial nature contained in the Final Prospectus and matters involving changes or developments since the respective dates as of which specified financial information is given in the Final Prospectus to a date not more than two business days prior to the date of such letter. Such letter shall further state that such auditors are independent with respect to the Corporation within the meaning of Canadian Securities Laws, and that in their opinion the audited financial statements of the Corporation included in the Final Prospectus comply as to form in all material respects with the applicable accounting requirements of Canadian Securities Laws;
 - (b) a copy of the Final Prospectus signed and certified as required by Canadian Securities Laws; and

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- (c) a copy of any other document required to be filed by the Corporation with the Qualifying Authorities under Canadian Securities Laws of each of the Qualifying Provinces.
 - (2) The comfort letter referred to in Section 9(1)(a) shall be in addition to any comfort letters required by the terms of the Agency Agreement to be delivered to the Agents.
 - (3) Similar documents and comfort letters shall be delivered to the Underwriters with respect to any Prospectus Amendment (provided, in the case of comfort letters, that the Prospectus Amendment contains financial, accounting or other numerical data of a financial nature), or as required by the terms of the Agency Agreement to be delivered to the Agents.

Section 10 Closing

- (1) The Offering will be completed at the offices of Fasken Martineau DuMoulin LLP in Toronto at 8:00 a.m. (Toronto time) on December 17, 2009 (the “**Time of Closing**” and the “**Closing Date**”, respectively) or at such other time and/or on such other date as the Underwriters and the Corporation may agree upon, but in any event no later than January 15, 2010.
- (2) At the Time of Closing, subject to the terms and conditions contained in this Agreement, the Corporation shall deliver to the Underwriters a certificate or certificates representing the Common Shares against payment of the purchase price payable to the Corporation, net of the Underwriting Fee, by wire transfer. Upon the receipt of the wire transfer, the Corporation shall deliver to the Underwriters written confirmation of the receipt thereof.
- (3) At the Time of Closing, subject to the terms and conditions contained in this Agreement, the Corporation shall have obtained approval to list for trading the Common shares on the Exchanges.

Section 11 Option Closing

- (1) In the event the Option is exercised, at the Option Closing, subject to the terms and conditions contained in this Agreement, the Corporation shall deliver to the Underwriters a certificate or certificates representing the Additional Shares against payment of the purchase price, net of the Underwriting Fee in respect of the Additional Shares, by wire transfer, dated the Option Closing, payable to the Corporation. Upon the receipt of the wire transfer, the Corporation shall deliver to the Underwriters written confirmation of the receipt thereof.
- (2) At the Option Closing, subject to the terms and conditions contained in this Agreement, the Corporation shall have obtained approval to list for trading the Additional Shares on the Exchanges.

Section 12 Termination Rights

- (1) Except as otherwise provided herein, all terms and conditions set out herein shall be construed as conditions and any breach or failure by the Corporation to comply with any such conditions in favour of the Underwriters shall entitle the Underwriters to

terminate their obligation to purchase the Common Shares by written notice to that effect given to the Corporation prior to the Time of Closing on the Closing Date. The Corporation shall use its reasonable best efforts to cause all conditions in this Agreement to be satisfied. It is understood that the Underwriters may waive in whole or in part, or extend the time for compliance with, any of such terms and conditions without prejudice to their rights in respect of any subsequent breach or non-compliance, provided that to be binding on the Underwriters, any such waiver or extension must be in writing.

- (2) In addition to any other remedies that may be available to the Underwriters, the Underwriters shall each be entitled, at their option, to terminate and cancel, without any liability on the Underwriters' part, their obligations under this Agreement to purchase the Common Shares, by giving written notice to the Corporation at any time at or prior to the Time of Closing on the Closing Date:
- (a) if, after the date hereof and prior to the Time of Closing, the state of financial markets in Canada or the United States is such that, in the reasonable opinion of the Underwriters (or any of them), the Common Shares cannot be marketed profitably;
 - (b) if there should occur any suspension or limitation of trading in securities generally on the TSX or NYSE Amex, or if a general moratorium on commercial banking activities in Toronto or New York should be declared by the relevant authorities, or if, in relation to the Corporation, any inquiry, investigation or other proceeding (whether formal or informal) is commenced, threatened or announced or any order or ruling is issued by any officer of such Exchange or market, or by the SEC, or any other regulatory authority in Canada or the United States, or if any law or regulation under or pursuant to any statute of Canada or of any province thereof (other than Quebec) or of the United States is promulgated or changed which, in the reasonable opinion of the Underwriters (or any of them) operates to prevent or materially restrict trading of the Common Shares or the distribution of the Common Shares;
 - (c) if any inquiry, investigation or other proceeding is commenced or any other order is issued against the Corporation under or pursuant to any statute of Canada or any province thereof (other than Quebec) or the United States (other than an inquiry, investigation or other proceeding based solely upon the activities or alleged activities of any Underwriter, Agent or Selling Firm) or there is any change of law or the interpretation or administration thereof by a securities regulator or other public authority, which in the reasonable opinion of the Underwriters, operates to prevent or materially restrict the trading of the Common Shares or the distribution of the Common Shares;
 - (d) if there shall occur any actual material adverse change in the business, affairs, operations, assets, liabilities or financial condition of the Corporation and its subsidiaries considered as one enterprise, and which in the Underwriters' opinion would reasonably be expected to have a material adverse effect on the

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- market price or value of any of the Common Shares or the Corporation's common shares generally;
- (e) if the Underwriters determine that any material adverse fact or information with respect to the Corporation or the Common Shares that existed on or prior to December 3, 2009 had not been publicly disclosed in accordance with applicable securities laws by the date of the receipt for the Final Prospectus; or
 - (f) if there should develop, occur or come into effect or existence any event, action, state, condition or major financial occurrence of national or international consequence, including without limiting the generality of the foregoing, any military conflict, civil insurrection, or any terrorist action (whether or not in connection with such conflict or insurrection) which, in the Underwriters' opinion, materially adversely affects or involves, or will materially adversely affect or involve, the Canadian or United States financial markets and/or prevents or materially restricts the trading of the Common Shares or the distribution of the Common Shares.
- (3) The Underwriters shall make reasonable best efforts to give notice to the Corporation (in writing or by other means) of the occurrence of any of the events referred to in Section 12(2) provided that neither the giving nor the failure to give such notice shall in any way affect the entitlement of the Underwriters to exercise this right at any time prior to or at the Time of Closing.
 - (4) The rights of termination contained in this Section 12 as may be exercised by the Underwriters are in addition to any other rights or remedies the Underwriters may have in respect of any default, act or failure to act or non-compliance by the Corporation in respect of any of the matters contemplated by this Agreement.
 - (5) If the obligations of the Underwriters are terminated under this Agreement pursuant to these termination rights, the Corporation's liabilities to the Underwriters shall be limited to the Corporation's obligations under Section 13 and Section 14.

Section 13 Indemnity.

- (1) The Corporation covenants and agrees to protect, indemnify, and save harmless, each of the Underwriters, and their respective directors, officers, employees and agents (individually, an **"Indemnified Party"** and collectively, the **"Indemnified Parties"**), from and against all losses, claims, damages, liabilities, reasonable costs or expenses (but not including loss of profit related to the sale of the Common Shares in the Offering) caused or incurred by reason of:
 - (a) any information or statement (except any information or statement relating solely to or provided by the Underwriters or Agents), contained in the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus, or in any Prospectus Amendment, or in any supplemental or additional or ancillary material, information, evidence, return, report, application, statement or document (collectively, the **"Supplementary Material"**)

- that has been filed by or on behalf of the Corporation in connection with the Offering under the relevant securities laws of any of the Qualifying Provinces, which at the time and in light of the circumstances under which it was made contains or is alleged to contain a misrepresentation (as such term is defined in the *Securities Act* (Ontario)) or any omission or any alleged omission to state therein any fact or information (except for facts or information relating solely to the Underwriters or Agents) required to be stated therein or necessary to make any of the statements therein not misleading in light of the circumstances under which they were made;
- (b) any order made or inquiry, investigation or proceeding commenced or threatened by any securities regulatory authority, stock exchange or by any other competent authority, based upon any untrue statement, omission or misrepresentation (as such term is defined in the *Securities Act* (Ontario)) or alleged untrue statement, omission or misrepresentation (except a statement, omission or misrepresentation or alleged untrue statement, omission or misrepresentation relating solely to the Underwriters or Agents or Selling Firms) in the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus, or Prospectus Amendment, or any Supplementary Material based upon any failure or alleged failure to comply with Canadian Securities Laws (other than any failure or alleged failure to comply by the Underwriters or Agents or Selling Firms) preventing and restricting the trading in or the sale of the Common Shares or any of them or the distribution or distribution to the public, as the case may be, of any of the Common Shares in any of the Qualifying Provinces;
 - (c) the non-compliance or alleged non-compliance by the Corporation with any requirement of Canadian Securities Laws, including the Corporation's non-compliance with any statutory requirement to make any document available for inspection; or
 - (d) any breach of a representation or warranty of the Corporation contained herein or the failure of the Corporation to comply with any of its obligations hereunder.
- (2) To the extent that any Indemnified Party is not a party to this Agreement, the Underwriters shall obtain and hold the right and benefit of the above-noted indemnity in trust for and on behalf of such Indemnified Party.
 - (3) If any matter or thing contemplated by this Section 13 shall be asserted against any Indemnified Party in respect of which indemnification is or might reasonably be considered to be provided, such Indemnified Party will notify the Corporation as soon as possible of the nature of such claim (provided that omission to so notify the Corporation will not relieve the Corporation of any liability which it may otherwise have to the Indemnified Party hereunder, except to the extent the Corporation is prejudiced by such omission) and the Corporation shall be entitled (but not required) to assume the defence of any suit brought to enforce such claim; provided, however, that the defence shall be through legal counsel reasonably acceptable to such Indemnified Party and that no settlement may be made by the Corporation or such Indemnified Party

without the prior written consent of the other, such consent not to be unreasonably withheld.

- (4) In any such claim, such Indemnified Party shall have the right to retain other legal counsel to act on such Indemnified Party's behalf, provided that the fees and disbursements of such other legal counsel shall be paid by such Indemnified Party, unless: (i) the Corporation and such Indemnified Party mutually agree to retain other legal counsel; (ii) the representation of the Corporation and such Indemnified Party by the same legal counsel would be inappropriate due to actual or potential differing interests, as advised by counsel in writing, in which event such fees and disbursements shall be paid by the Corporation to the extent that they have been reasonably incurred; (iii) the Corporation has not assumed the defence of the claim within a reasonable period of time after receiving notice of the claim; or (iv) there are one or more defences available to the Indemnified Party, as advised by counsel in writing, which are different from or in addition to those available to the Corporation, provided that in no circumstances will the Corporation be required to pay the fees and expenses of more than one set of legal counsel for all Indemnified Parties
- (5) The rights of indemnity contained in this Section 13 shall not enure to the benefit of any Indemnified Party if the Underwriters were provided with a copy of any amendment or supplement to the Final Prospectus which corrects any untrue statement, omission or misrepresentation or alleged untrue statement, omission or misrepresentation which is the basis of a claim by a party against such Indemnified Party and which is required, under Canadian Securities Laws, to be delivered to such party by the Underwriters or the Selling Firms.
- (6) Notwithstanding the provisions of this Section 13, a person guilty of fraud, fraudulent misrepresentation or gross negligence shall not be entitled to be indemnified hereunder.

Section 14 Contribution

In the event that the indemnity provided for in Section 13 hereof is declared by a court of competent jurisdiction to be illegal or unenforceable as being contrary to public policy or for any other reason, the Underwriters and the Corporation shall contribute to the aggregate of all losses, claims, costs, damages, expenses or liabilities of the nature provided for above such that each Underwriter shall be responsible for that portion represented by the percentage that the portion of the Underwriting Fee payable by the Corporation to such Underwriter bears to the gross proceeds realized by the Corporation from the Offering, whether or not the Underwriters have been sued together or separately, and the Corporation shall be responsible for the balance, provided that, in no event, shall an Underwriter be responsible for any amount in excess of the portion of the Underwriting Fee actually received by such Underwriter. In the event that the Corporation may be held to be entitled to contribution from the Underwriters under the provisions of any statute or law, the Corporation shall be limited to contribution in an amount not exceeding the lesser of: (a) the portion of the full amount of losses, claims, costs, damages, expenses, liabilities, giving rise to such contribution for which such Underwriter is responsible; and (b) the amount of the Underwriting Fee actually received by any Underwriter. Notwithstanding the foregoing, a person guilty of fraud, fraudulent misrepresentation or gross negligence shall not be entitled to contribution from any other party. Any party entitled to

contribution will, promptly after receiving notice of commencement of any claim, action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this section, notify such party or parties from whom contribution may be sought, but the omission to so notify such party shall not relieve the party from whom contribution may be sought from any obligation it may have otherwise under this section, except to the extent that the party from whom contribution may be sought is prejudiced by such omission. The right to contribution provided herein shall be in addition and not in derogation of any other right to contribution which the Underwriters may have by statute or otherwise by law.

Section 15 Expenses

Whether or not the transactions provided for herein (including the Offering) are completed, the Corporation shall pay all costs, fees and expenses of or incidental to the performance of its obligations under this Agreement including, without limitation: (i) the costs of the Corporation's professional advisors (including, without limitation, the Corporation's auditors, counsel and local counsel, including U.S. counsel) and (ii) the cost of printing the Preliminary Prospectus, the Amended Preliminary Prospectus, the Final Prospectus, any Prospectus Amendment, the U.S. Prospectus and any amendments thereto, Supplementary Material and certificates for the Common Shares. The reasonable and documented fees and disbursements of any counsel (whether Canadian or U.S.) to the Underwriters and the Agents (up to a maximum of U.S.\$250,000 inclusive of taxes and disbursements) and out-of-pocket expenses of the Underwriters shall be borne by the Corporation; provided that, notwithstanding the foregoing, in the event that the sale and purchase of the Common Shares is not completed in accordance with the terms hereof (other than as a result of a breach by the Underwriters of any of their obligations hereunder), the Corporation shall assume and pay, in addition to the out-of-pocket expenses of the Underwriters and any other expenses required to be paid by it hereunder, all fees and disbursements of counsel (whether Canadian or U.S.) to the Underwriters or the Agents.

Section 16 Liability of Underwriters

- (1) The obligation of the Underwriters to purchase the Common Shares in connection with the Offering at the Time of Closing on the Closing Date shall be several and not joint or joint and several and shall be as to the following percentages of the Common Shares to be purchased at that time:

BMO Nesbitt Burns Inc.	55%
Wellington West Capital Markets Inc.	35%
Macquarie Capital Markets Canada Ltd.	<u>10%</u>
	100%

- (2) In the event that one or more Underwriters shall fail to purchase the applicable percentage of Common Shares (the “**Defaulted Securities**”) at the Time of Closing, and such failure shall constitute a default by such one or more of them of the performance of its or their obligations hereunder, the non-defaulting Underwriters shall have the right, within 36 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities, in such amounts as may be agreed upon by the non-defaulting

Underwriters and upon the terms set forth herein. If, however, the Underwriters shall have not completed such arrangements with such 36 hour period, then:

- (a) if the number of Defaulted Securities does not exceed 10% of the number of Common Shares to be purchased hereunder, the non-defaulting Underwriters shall be obligated, each severally, and not jointly, nor jointly and severally, to purchase all of the Defaulted Securities in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligation of all non-defaulting Underwriters, or
 - (b) if the number of Defaulted Securities exceeds 10% of the number of Common Shares to be purchased on such date, any non-defaulting Underwriter shall be entitled to terminate its obligation to purchase the Common Shares agreed to be purchased by it as set forth in Section 16(1) and shall be relieved of its obligations under this Agreement. No action taken pursuant to this Section 16 shall relieve any defaulting Underwriter from liability in respect of its default to the Corporation or to any non-defaulting Underwriter.
- (3) In the event of any such default which does not result in a termination of this Agreement, either the Underwriters or the Corporation shall have the right to postpone the Closing Date for a period not exceeding seven (7) calendar days in order to effect any required changes to the Final Prospectus or any other offering document.
 - (4) Subject to the foregoing, the Underwriters shall have the right, but not the obligation, to sell to the Agents, any Common Shares pursuant to the Inter-Dealer Agreement, and subject to the terms and conditions set out therein.
 - (5) Any Common Shares that are sold by the Agents pursuant to the Agency Agreement will reduce the obligation of the Underwriters to purchase the Common Shares hereunder by an equal amount.

Section 17 Action by Underwriters

All steps which must or may be taken by the Underwriters in connection with this Agreement, with the exception of the matters relating to termination contemplated by Section 11 hereof, may be taken by the Lead Underwriter on behalf of itself and the other Underwriters and the acceptance of this offer by the Corporation shall constitute the Corporation's authority for accepting notification of any such steps from, and for delivering the definitive certificates constituting the Common Shares to or to the order of the Lead Underwriter.

Section 18 Compliance with U.S. Securities Laws; Concurrent Offering

- (1) The Corporation and the Underwriters agree that each will comply with U.S. Securities Laws in connection with this Agreement and the Offering. Each acknowledges that the Common Shares will be registered under the U.S. Securities Act and that the Preliminary Prospectus and the Final Prospectus must be, or have been, filed with SEC.

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- (2) It is understood and agreed to by all parties that the Corporation is concurrently entering into the Agency Agreement providing for the sale by the Corporation of the Common Shares in the United States, through arrangements with the Agents. Two forms of prospectus are to be used in connection with the offering and sale of the Common Shares contemplated by the foregoing, one relating to the Common Shares hereunder and the other related to the Common Shares sold through the Agents. The latter form of prospectus will be the same in all material respects to the Preliminary Prospectus, Amended Preliminary Prospectus and the Final Prospectus, and amendments thereto except for differences that relate to Canadian Securities Laws or local market conventions.

Section 19 Governing Law; Time of Essence

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and time shall be of the essence hereof.

Section 20 Survival of Warranties, Representations, Covenants and Agreements

All warranties, representations, covenants and agreements of the Corporation and the Underwriters herein contained or contained in documents submitted or required to be submitted pursuant to this Agreement shall survive the purchase by the Underwriters of the Common Shares and shall continue in full force and effect, regardless of the closing of the sale of the Common Shares and regardless of any investigation which may be carried on by the Underwriters, or on their behalf, for a period of two years following the Closing Date. Without limitation of the foregoing, the provisions contained in this Agreement in any way related to the indemnification or the contribution obligations herein shall survive and continue in full force and effect for the maximum period permitted under the *Limitations Act 2002* (Ontario).

Section 21 Press Releases

The Corporation shall provide the Underwriters and their counsel with a copy of all press releases to be issued by the Corporation concerning the Offering contemplated hereby prior to the issuance thereof, and shall give the Underwriters and their counsel a reasonable opportunity to provide comments on any press release.

Section 22 Notices

All notices or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing by personal delivery or by facsimile delivered or facsimile to such other party as follows:

(a) to the Corporation at:

Golden Star Resources Ltd.
10901 W. Toller Drive
Suite 300
Littleton, Colorado
USA, 80127-6312

Attention: Tom Mair and John Labate
Facsimile No.: (303) 830-9094

with a copy (which shall not constitute notice) to:

Fasken Martineau DuMoulin LLP
Toronto Dominion Bank Tower
Toronto-Dominion Centre, Box 20, Suite 4200
66 Wellington Street, West
Toronto, Ontario M5K 1N6

Attention: John M. Sabetti
Facsimile No.: (416) 364-7813

(b) to the Underwriters at:

BMO Nesbitt Burns Inc.
1 First Canadian Place
4th Floor, P.O. Box 150
Toronto, Ontario
M5X 1H3

Attention: Peter Collibee
Facsimile No.: (416) 359-4459

and

Wellington West Capital Markets Inc.
145 King Street West
Suite 700
Toronto, Ontario M5H 1J8

Attention: William Washington
Facsimile No.: (416) 642-1910

and

Macquarie Capital Markets Canada Ltd.
181 Bay Street
Suite 3100
Toronto, Ontario
M5J 2T33

Attention: Kenneth Gillis
Facsimile No.: (416) 848-3699

with a copy (which shall not constitute notice) to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Attention: Maurice Swan
Facsimile No.: (416) 947-0866

or at such other address or facsimile number as may be given by either of them to the other in writing from time to time and such notices or other communications shall be deemed to have been received when delivered or, if facsimile, on the next business day after such notice or other communication has been sent by facsimile (with receipt confirmed).

Section 23 Counterpart Signature

This Agreement may be executed in one or more counterparts (including counterparts by facsimile) which, together, shall constitute an original copy hereof as of the date first noted above.

Section 24 Entire Agreement

This Agreement constitutes the entire agreement between the Underwriters and the Corporation relating to the subject matter hereof and supersedes all prior agreements between the Underwriters and the Corporation.

[Remainder of page intentionally left blank]

Section 25 Acceptance

If this offer accurately reflects the terms of the transaction which we are to enter into and if such terms are agreed to by the Corporation, please communicate your acceptance by executing where indicated below and returning by facsimile one copy and returning by courier one originally executed copy to BMO Nesbitt Burns Inc. (Attention: Peter Collibee).

Yours very truly,

BMO NESBITT BURNS INC.

By: (signed) Peter Collibee
Authorized Signing Officer

WELLINGTON WEST CAPITAL MARKETS INC.

By: (signed) William Washington
Authorized Signing Officer

MACQUARIE CAPITAL MARKETS CANADA LTD.

By: (signed) Kenneth Gillis
Authorized Signing Officer

The foregoing accurately reflects the terms of the transaction that we are to enter into and such terms are agreed to.

ACCEPTED at Littleton, Colorado as of this 4th day of December, 2009.

GOLDEN STAR RESOURCES LTD.

By: (signed) Thomas G. Mair
Authorized Signing Officer

SCHEDULE A

MATERIAL SUBSIDIARIES

<u>Name</u>	<u>Type of Ownership</u>	<u>Percentage</u>
Caystar Holdings (Cayman Islands)	Shares	100%
Bogoso Holdings (Cayman Islands)	Shares	100%
Golden Star (Bogoso/Prestea) Limited (Ghana)	Shares	90%
Wasford Holdings (Cayman Islands)	Shares	100%
Golden Star (Wassa) Limited (Ghana)	Shares	90%

SCHEDULE B
ENCUMBRANCES

1) Certain equipment purchased with equipment financing provided by Caterpillar Financial Services Corporation or its affiliates (“Caterpillar”) is pledged to Caterpillar to secure payment of the loans. At September 30, 2009, outstanding Caterpillar equipment financing borrowings were \$22,500,000.

2) Pursuant to the \$30 million revolving loan facility agreement dated May 1, 2009, as amended on November 26, 2009, between the Corporation and Standard Chartered Bank, the following assets or shares of Material Subsidiaries have been pledged to Standard Chartered Bank as security:

- (a) all present and future inventory owned by, and all present and future receivables enuring to the benefit of, Golden Star (Bogoso/Pretea) Limited and Golden Star (Wassa) Limited;
 - (b) all of the shares of Golden Star (Bogoso/Pretea) Limited held by Bogoso Holdings, being 90% of the outstanding shares of Golden Star (Bogoso/Pretea) Limited;
 - (c) all of the shares of Golden Star (Wassa) Limited held by Wasford Holdings, being 90% of the outstanding shares of Golden Star (Wassa) Limited;
 - (d) all of the shares of Bogoso Holdings and Wasford Holdings held by Caystar Holdings, being 100% of the outstanding shares of Bogoso Holdings and Wasford Holdings;
 - (e) all of the shares of Caystar Holdings held by the Corporation, being 100% of the outstanding shares of Caystar Holdings;
 - (f) certain accounts denominated in U.S. dollars in the name of Golden Star (Bogoso/Pretea) Limited established at (i) Barclays Bank PLC in London and all proceeds thereof and (ii) Ghana International Bank in London with and all proceeds thereof; and
 - (g) certain accounts denominated in U.S. dollars in the name of Golden Star (Wassa) Limited established at Barclays Bank PLC in London and all proceeds thereof,
- all as more fully set out in the above-mentioned loan facility agreement (as amended).

AGENCY AGREEMENT

As of December 4, 2009

Golden Star Resources Ltd.
10901 W. Toller Drive
Suite 300
Littleton, Colorado
80127-6312

Attention: Mr. Tom Mair, President and Chief Executive Officer

Dear Sir:

Golden Star Resources Ltd. (the “**Corporation**”), proposes to issue, at the Time of Closing (as hereinafter defined), 20,000,000 common shares (collectively, the “**Common Shares**” and individually, a “**Common Share**”) of the Corporation at an offering price of U.S. \$3.75 per Common Share for aggregate gross proceeds of U.S. \$75,000,000, and an over-allotment option to purchase up to 3,000,000 Common Shares at a price of U.S. \$3.75 per Common Share for a period of 30 days following the closing of the Offering (defined below) (the “**Option**”). Based upon and subject to the terms and conditions set out below, BMO Capital Markets Corp., as lead manager (the “**Lead Manager**”) and Wellington West Capital Markets (USA) Inc. and Macquarie Capital Markets North America Ltd. (collectively the “**Agents**” and, individually, an “**Agent**”) hereby propose to offer the Common Shares for sale, as agents of the Corporation, on a best efforts basis with no minimum or dollar amount requirement, in the manner contemplated in this Agreement. The offering of the Common Shares by the Corporation pursuant to this Agreement is hereinafter referred to as the “**Offering**”.

It is understood and agreed to by all parties that the Corporation is concurrently entering into an agreement (the “**Underwriting Agreement**”) providing for the sale by the Corporation of 20,000,000 Common Shares in Canada, including the Option, through arrangements with BMO Nesbitt Burns Inc., Wellington West Capital Markets and Macquarie Capital Markets Canada Ltd. (together, the “**Underwriters**”). Anything herein or therein to the contrary notwithstanding, the closing under this Agreement is expressly conditional on the closing under the Underwriting Agreement. Two forms of prospectus are to be used in connection with the offering and sale of the Common Shares contemplated by the foregoing, one relating to the Common Shares offered hereunder and the other related to the Common Shares offered by the Underwriters. Both forms of prospectus will be filed with the United States Securities and Exchange Commission (the “**SEC**”) pursuant to Rule 424 of the Securities Act (as defined herein).

The Corporation shall pay to the Lead Manager, on behalf of the Agents, a fee (the “**Agents’ Fee**”) at the Time of Closing equal to U.S. \$0.16875 per Common Share sold pursuant

to the terms of this Agreement (being 4.5% of the offering price per Common Share) in consideration of the services to be rendered by the Agents in connection with the Offering. Such services shall include, without limitation: (i) acting as financial advisors to the Corporation in the preparation of documentation relating to the sale of the Common Shares; (ii) forming and managing banking, selling and other groups for the sale of the Common Shares; (iii) distributing the Common Shares to the public both directly and through other registered dealers and brokers; (iv) assisting the Corporation in connection with the preparation and finalization of the U.S. Preliminary Prospectus, the U.S. Amended Preliminary Prospectus, the U.S. Prospectus, the Canadian Preliminary Prospectus, the Canadian Amended Preliminary Prospectus and Canadian Prospectus, (each as hereinafter defined), qualifying the distribution of, or with respect to, as the case may be, the Common Shares; (v) performing administrative work in connection with these matters; and (vi) all other services arising out of the agreement resulting from the Corporation's acceptance of this offer.

The schedules attached to this Agreement, shall for the purposes of this Agreement, form an integral part of it.

The following in addition to the above preamble are the terms and conditions of the agreement between the Corporation and the Agents:

Section 1 Definitions and Interpretation

(1) In this Agreement:

“**Agents**” has the meaning ascribed thereto on page 1 hereof;

“**Agents' Fee**” has the meaning ascribed thereto on page 1 hereof;

“**Applicable Time**” means the time identified by the Agents as the time of the first confirmed sale of Common Shares pursuant to this Agreement;

“**Amended Preliminary Prospectus Supplements**” has the meaning ascribed thereto in Section 2(2) hereof;

“**Authorities**” has the meaning ascribed thereto in Section 6(1)(h) hereof;

“**business day**” means any day other than a Saturday, Sunday or statutory or civic holiday in the City of Toronto, Ontario and the City of New York, New York;

“**Canadian Amended Preliminary Prospectus**” has the meaning ascribed thereto in Section 2(2) hereof;

“**Canadian Preliminary Prospectus**” has the meaning ascribed thereto in Section 2(2) hereof;

“**Canadian Prospectus**” has the meaning ascribed thereto in Section 2(2) hereof;

“**Canadian Securities Laws**” means, collectively, all applicable securities laws of each of the Qualifying Provinces and the respective rules and regulations under such laws,

together with applicable published policy statements, notices and blanket orders of the securities regulatory authorities in the Qualifying Provinces;

“ **Closing Date** ” has the meaning ascribed thereto in Section 10(1) hereof;

“ **Common Shares** ” has the meaning ascribed thereto on page 1 hereof;

“ **Disclosure Package** ” means: (i) the U.S. Shelf Prospectus, as amended or supplemented; (ii) any Prospectus Supplement delivered to the Agents prior to the Applicable Time; and (iii) the issuer free writing prospectuses, as defined in Section 433 of the Securities Act, listed on Schedule D hereto;

“ **Exchange Act** ” means the United States Securities Exchange Act of 1934, as amended;

“ **Exchanges** ” means the Toronto Stock Exchange (“ **TSX** ”) and the NYSE Amex Equities (“ **NYSE Amex** ”);

“ **free writing prospectus** ” has the meaning set forth in Rule 405 under the Securities Act;

“ **GSE** ” means the Ghana Stock Exchange;

“ **Incorporated Documents** ” has the meaning ascribed thereto in Section 2(2) hereof;

“ **Inter-Dealer Agreement** ” means that certain inter-dealer agreement, dated the date hereof, between the Underwriters and the Agents;

“ **Lead Manager** ” has the meaning ascribed thereto on page 1 hereof;

“ **Material Resource Properties** ” has the meaning ascribed thereto in Section 6(1)(h) hereof;

“ **Material Subsidiaries** ” means the entities set out in Schedule A in which the Corporation holds the types and percentages of securities or other ownership interests therein set forth;

“ **Offering** ” has the meaning ascribed thereto on page 1 hereof;

“ **Option:** ” has the meaning ascribed thereto on page 1 hereof;

“ **Preferred Shares** ” has the meaning ascribed thereto on page 10 hereof;

“ **Preliminary Prospectus Supplements** ” has the meaning ascribed thereto in Section 2(2) hereof;

“ **Prospectus Supplements** ” has the meaning ascribed thereto in Section 2(2) hereof;

“ **Prospectuses** ” has the meaning ascribed thereto in Section 2(2) hereof;

“Qualifying Provinces” means the provinces of Canada in which the Corporation has filed a Canadian preliminary short form prospectus and a (final) short form prospectus in respect to the Common Shares to be sold by the Underwriters in Canada;

“Registration Statement” has the meaning ascribed thereto in Section 2(2) hereof;

“SEC” means the United States Common Securities and Exchange Commission;

“Securities Act” means the United States Securities Act of 1933, as amended;

“Selling Firms” has the meaning ascribed thereto in Section 5(1)(a) hereof;

“ Stock Option Plans ” means the stock option or similar plans of the Corporation as approved by the shareholders of the Corporation, as constituted on the date hereof;

“ Time of Closing ” has the meaning ascribed thereto in Section 10(1) hereof;

“Underwriters” has the meaning ascribed thereto on page 1 hereof;

“Underwriting Agreement” has the meaning ascribed thereto on page 1 hereof;

“ United States” means the United States of America, its territories and possessions, any state of the United States, the District of Columbia, and the areas subject to the jurisdiction of the United States of America;

“ U.S. Amended Preliminary Prospectus ” has the meaning ascribed thereto in Section 2(2) hereof;

“U.S. Preliminary Prospectus” has the meaning ascribed thereto in Section 2(2) hereof;

“U.S. Prospectus” has the meaning ascribed thereto in Section 2(2) hereof;

“U.S. Securities Laws” has the meaning ascribed thereto in Section 2(2) hereof; and

“U.S. Shelf Prospectus” has the meaning ascribed thereto in Section 2(2) hereof.

- (2) Any references in this Agreement to gender include all genders and words importing the singular number shall include the plural and vice versa.
- (3) The division of this Agreement into sections, subsections, paragraphs and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to sections, subsections, paragraphs and other subdivisions are to sections, subsections, paragraphs and other subdivisions of this Agreement.
- (4) Except as otherwise indicated, all amounts expressed herein in terms of money refer to lawful currency of the United States and all payments to be made hereunder shall be made in such currency.

Section 2 Compliance with Securities Laws

The Corporation represents and warrants to each Agent that:

- (1) The Corporation meets the requirements for the use of Form S-3 under the Securities Act.
- (2) The Corporation has filed with the SEC, pursuant to the Securities Act and the rules and regulations adopted by the SEC thereunder (the “**U.S. Securities Laws**”), a registration statement on Form S-3 (File No. 333-155767), including a prospectus, and such registration statement has become effective (including financial statements, exhibits and Incorporated Documents (as defined below) as amended to the date of this Agreement, the “**Registration Statement**”). The Corporation has filed with the SEC, Canadian and United States versions of preliminary and amended preliminary prospectus supplements and will file the Canadian and U.S. versions of the final prospectus supplements specifically relating to the Common Shares pursuant to Rule 424(b) under the Securities Act (the “**Preliminary Prospectus Supplements**”, “**Amended Preliminary Prospectus Supplements**” and “**Prospectus Supplements**”, respectively). Such Preliminary Prospectus Supplements, Amended Preliminary Prospectus Supplements and Prospectus Supplements are or will be in a form approved by the Lead Manager. The Preliminary Prospectus Supplements were filed with the SEC on December 3, 2009, the Amended Preliminary Prospectus Supplements were filed with the SEC on December 4, 2009, and the Prospectus Supplements will be filed with the SEC on or before December 10, 2009. The term “**U.S. Shelf Prospectus**” means the form of prospectus included in the Registration Statement. The term “**U.S. Prospectus**” means the U.S. Shelf Prospectus together with the U.S. Prospectus Supplement. The term “**U.S. Preliminary Prospectus**” means the U.S. Shelf Prospectus together with a preliminary prospectus supplement specifically relating to the Common Shares. The term “**U.S. Amended Preliminary Prospectus**” means the U.S. Shelf Prospectus together with an amended preliminary prospectus supplement specifically relating to the Common Shares. The term “**Canadian Preliminary Prospectus**” means the Canadian preliminary short form prospectus filed with the Qualifying Provinces together with the U.S. Shelf Prospectus (annexed thereto as Appendix A). The term “**Canadian Amended Preliminary Prospectus**” means the Canadian amended preliminary short form prospectus filed with the Qualifying Provinces together with the U.S. Shelf Prospectus (annexed thereto as Appendix A). The term “**Canadian Prospectus**” means the Canadian (final) short form prospectus filed with the Qualifying Provinces together with the U.S. Shelf Prospectus (annexed thereto as Appendix A). The term “**Prospectuses**” means collectively, the U.S. Prospectus and the Canadian Prospectus. As used herein, the terms “Registration Statement”, “U.S. Shelf Prospectus”, “U.S. Preliminary Prospectus”, “U.S. Prospectus”, “U.S. Amended Preliminary Prospectus”, “Canadian Preliminary Prospectus”, “Canadian Amended Preliminary Prospectus”, and “Canadian Prospectus” shall include, in each case, all documents incorporated, or deemed incorporated, therein by reference pursuant to the requirements of Item 12 of Form S-3 (the “**Incorporated Documents**”), and

any reference herein to the terms “amend”, “amendment” or “supplement” with respect to any of the foregoing documents shall be deemed to refer to and include the Incorporated Documents.

- (3) Any free writing prospectus that the Corporation is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the SEC in accordance with the requirements of the Securities Act and the applicable rules and regulations of the SEC thereunder. Each free writing prospectus that the Corporation has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or behalf of or used or referred to by the Corporation complies or will comply in all material respects with the requirements of the Securities Act and the applicable rules and regulations of the SEC thereunder. Except for the free writing prospectuses, if any, identified in Schedule D hereto, and electronic road shows, if any, furnished to the Agents before first use, the Corporation has not prepared, used or referred to, and will not, without the Agents' prior consent, prepare, use or refer to, any free writing prospectus.
- (4) At the time the Registration Statement became effective, the Registration Statement and the U.S. Shelf Prospectus contained therein, complied, and on the date of the Prospectuses, and at the Closing Date, the Registration Statement and the Prospectuses will comply, fully in all material respects with the requirements of the Securities Act and the U.S. Securities Laws; the Incorporated Documents, as of the date each was filed, comply and will comply fully in all material respects with the requirements of the Exchange Act and the rules and regulations adopted by the SEC thereunder; and at the date of the Prospectuses, and at the Closing Date, the Registration Statement and the Prospectuses will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that this representation and warranty does not apply to statements or omissions in the Registration Statement, U.S. Prospectus or the Canadian Prospectus made in reliance upon information furnished in writing to the Corporation by any Agent or Underwriter concerning the Agents or Underwriters expressly for use therein.
- (5) The representations and warranties made by the Corporation in Section 2 of the Underwriting Agreement are incorporated herein by reference and shall have the same effect as if made to the Agents under this Agreement.

Section 3 Due Diligence

Prior to the Time of Closing including on any intervening weekends, the Corporation shall allow the Agents to participate fully in the preparation of the Prospectuses and shall allow the Agents to conduct all due diligence that the Agents may reasonably require in order to fulfil their obligations as agents and in order to enable the Agents responsibly to execute any certificate required to be executed by them, provided, however, that the conduct of due diligence is not intended to operate as a condition of the Offering.

Section 4 Conditions of the Offering

The Agents' obligations under this Agreement are conditional upon and subject to:

- (1) the Agents receiving at the Time of Closing favourable legal opinions to be delivered to the Agents by Fasken Martineau DuMoulin LLP, Canadian counsel to the Corporation, and Davis Graham & Stubbs LLP, the Corporation's U.S. counsel (who may rely, to the extent appropriate in the circumstances, on the opinions of local counsel acceptable to counsel to the Corporation as to the qualification or the registration of the Common Shares for sale to the public in Canada and the United States and as to other matters governed by the laws of the Qualifying Provinces other than the provinces in which they are qualified to practice law and may rely on or otherwise provide, to the extent appropriate in the circumstances, as to matters of fact on certificates of officers, of public officials and Exchange officials or of the auditors or transfer agent of the Corporation), dated the Closing Date, addressed to the Agents, as to those matters set forth in Schedule B hereto, and in form and substance satisfactory to the Agents and their counsel, acting reasonably;
- (2) the Agents having received the comfort letter referred to in Section 9(1);
- (3) the Agents having received a comfort letter, dated the Closing Date, in form and substance satisfactory to the Agents, acting reasonably, bringing forward to a date not more than two business days prior to the Closing Date, the information contained in the comfort letter referred to in Section 9(1);
- (4) the Agents receiving at the Time of Closing a legal opinion (or opinions), dated the Closing Date in form and substance satisfactory to the Agents and their counsel, acting reasonably, addressed to the Agents, from local counsel to the Corporation, as to mining title matters with respect to each of the Material Resource Properties;
- (5) the Agents receiving at the Time of Closing a legal opinion (or opinions) dated the Closing Date, in form and substance satisfactory to the Agents and their counsel, addressed to the Agents, from local counsel to the Corporation, stating that the Material Subsidiaries have been duly created and that each is validly existing under the laws of the jurisdiction in which it was incorporated, amalgamated or continued, and that the Corporation or a Material Subsidiary owns the issued and outstanding share capital of each such corporation as set out in Schedule A;
- (6) at the Time of Closing, there having been no material adverse change in the business, affairs, operations, assets, liabilities or financial condition of the Corporation on a consolidated basis since the date hereof;
- (7) at the Time of Closing, CIBC Mellon Trust Company, at its principal office in Vancouver, having been duly appointed as the transfer agent and registrar for the Common Shares;
- (8) the Underwriting Agreement having been executed by the Corporation and the Underwriters, and none of the Underwriters shall have relied upon any rights of termination in the Underwriting Agreement to terminate the offering of the Common

Shares in Canada and all conditions to the Underwriters obligations thereunder having been waived or satisfied;

- (9) the Corporation delivering a certificate signed on behalf of the Corporation by the Chief Executive Officer of the Corporation or the Chief Financial Officer of the Corporation, addressed to the Agents and dated the Closing Date, in a form satisfactory to the Agents and their counsel acting reasonably, certifying for and on behalf of the Corporation and not in their personal capacities that, to the actual knowledge of the persons signing such certificate, after having made due inquiry:
- (a) the Corporation has complied in all material respects with all covenants and satisfied all terms and conditions of this Agreement on its part to be complied with and satisfied at or prior to the Time of Closing on the Closing Date;
 - (b) no order, ruling or determination having the effect of ceasing or suspending trading in any Common Shares of the Corporation or prohibiting the sale of the Common Shares or any of the Corporation's issued securities has been issued and no proceeding for such purpose is pending or, to the knowledge of such officers, threatened;
 - (c) no order suspending the effectiveness of the Registration Statement shall be in effect and no proceedings for such purpose shall be pending before or, to the knowledge of such officers, threatened by the SEC and any additional information requested on the part of the SEC shall have been complied with to the reasonable satisfaction of the Agents; and
 - (d) all of the representations and warranties made by the Corporation in this Agreement are true and correct as of the Time of Closing with the same force and effect as if made at and as of the Time of Closing after giving effect to the transactions contemplated hereby; and
- (10) the Agents having received at the Time of Closing such further certificates, opinions of counsel and other documentation from the Corporation as are consistent with the transactions contemplated herein and provided that no less than 48 hours notice thereof is given prior to the Time of Closing.

Section 5 Covenants of the Agents

The Agents:

- (a) shall offer or arrange the offer of the Common Shares for sale to the public, directly and through other investment dealers and brokers (such other investment dealers and brokers, are referred to herein as the "**Selling Firms**"), only as permitted by and in compliance with all relevant laws and regulatory requirements (including under the Securities Act), upon the terms and conditions set forth in the U.S. Prospectus and in this Agreement and will require each Selling Firm to so agree and provided that the fees (exclusive of expenses) of the Selling Firms will be paid by the Agents;

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- (b) shall not solicit offers to purchase or sell the Common Shares so as to require registration thereof or the filing of a prospectus or similar document with respect thereto under the laws of any jurisdiction other than the United States, and will require each Selling Firm to agree with the Agents not to so solicit or sell. In this connection, the Agents agree that they will not offer or sell any of the Common Shares constituting a part of their allotment within Canada except, if applicable, through the Underwriters on the terms and conditions set forth in the Underwriting Agreement and the Inter-Dealer Agreement and in compliance with the Canadian Securities Laws;
 - (c) agree that if they offer to sell or sell any Common Shares in jurisdictions (which may include Europe) other than the United States and through the Underwriters in the Qualifying Provinces, such offers and sales shall be effected in accordance and compliance with the applicable laws of such jurisdictions and shall be effected in such manner so as not to: (i) require registration of the Common Shares, or the filing of a prospectus or other document with respect thereto; or (ii) subject the Corporation to any continuous disclosure or similar reporting requirements under the laws of any jurisdiction outside the provinces of Canada or the United States;
 - (d) shall use all reasonable efforts to complete and to cause the other Selling Firms to complete the distribution of the Common Shares as soon as practicable;
 - (e) shall notify the Corporation when, in their opinion, the Agents and the other Selling Firms have ceased distribution of the Common Shares; and
 - (f) shall comply in all material respects with all U.S. Securities Laws with respect to the use of “green sheets,” free writing prospectuses and other marketing materials.
- (2) Notwithstanding the foregoing, no Agent shall be liable to the Corporation with respect to any other Agent under this Section 5.

Section 6 Representations and Warranties of the Corporation

- (1) The Corporation hereby represents and warrants to the Agents, intending that the same may be relied upon by the Agents, that:
- (a) each of the Corporation and the Material Subsidiaries has been duly incorporated, continued or amalgamated and organized and is validly existing under the laws of its jurisdiction of incorporation, continuance or amalgamation, has all requisite corporate power and capacity to carry on its business as now conducted and as contemplated by the Prospectuses, and to own, lease and operate its properties and assets, and the Corporation has all requisite power and authority to carry out its obligations under this Agreement;
 - (b) the only material operating subsidiaries of the Corporation are listed in Schedule A;

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- (c) the Corporation or one of its Material Subsidiaries owns the issued and outstanding shares of each of the Material Subsidiaries as set out in Schedule A, in each case free and clear of any pledge, lien, security interest, charge, claim or encumbrance, other than as is described Schedule C or in the Prospectuses or documents incorporated by reference therein;
 - (d) no order, ruling or determination having the effect of ceasing, suspending or restricting trading in any Common Shares of the Corporation or the sale of the Common Shares has been issued and no proceedings, investigations or inquiries for such purpose are pending or, to the Corporation's knowledge, threatened;
 - (e) the Corporation's common shares are posted and listed for trading on the Exchanges and the GSE and the Corporation is not in default in any material respect of any of the listing requirements of the Exchanges;
 - (f) other than options under the Corporation's Stock Option Plans or as set out in the Prospectuses, the Corporation is not a party to and has not entered into any agreement, warrant, option, right or privilege reasonably capable of becoming an agreement, for the purchase, subscription or issuance of any Common Shares or securities convertible into or exchangeable for common shares;
 - (g) as at December 2, 2009, the authorized share capital of the Corporation consisted of an unlimited number of Common Shares and an unlimited number of first preferred shares (the "**Preferred Shares**"), of which 237,131,261 Common Shares and no first Preferred shares are issued and outstanding;
 - (h) the Corporation and each of the Material Subsidiaries have conducted and are conducting their respective businesses in material compliance with all applicable laws, rules, regulations, tariffs, orders and directives, including without limitation, all laws, regulations and statutes relating to mining and to mining claims, concessions or leases, and environmental, health and safety laws, rules, regulations, or policies or other lawful requirements of any governmental or regulatory bodies having jurisdiction over the Corporation and the Material Subsidiaries in each jurisdiction in which the Corporation or the Material Subsidiaries carries on their respective businesses, other than those in respect of which the failure to comply would not individually or in the aggregate be material and adverse to the Corporation and the Material Subsidiaries (taken as a whole). Each of the Corporation and the Material Subsidiaries hold all certificates, authorities, permits, licenses, registrations and qualifications (collectively, the "**Authorities**") in all jurisdictions in which each carries on its business and which are material for and necessary or desirable to carry on their respective businesses as now conducted. To the best of the Corporation's knowledge, information and belief all of the Authorities are valid and existing and in good standing and none of the Authorities contain any burdensome term, provision, condition or limitation which has or is likely to have any material adverse effect on the business of the Corporation and the Material Subsidiaries (taken as a whole) as now conducted or as currently contemplated to be conducted during the next six months. None of the Corporation nor any of the

Material Subsidiaries has received any notice of proceedings relating to the revocation or modification of any of the Authorities which, singly or in the aggregate, if the subject of an unfavourable decision, ruling or finding, would materially adversely affect the business, operations, financial condition, or income of the Corporation and the Material Subsidiaries (taken as a whole) or any notice of the revocation or cancellation of, or any intention to revoke or cancel, any of the mining claims, concessions or leases comprising:

- (i) the Bogoso/Prestea property;
- (ii) the Prestea Underground property;
- (iii) the Prestea South property;
- (iv) the Wassa property; and
- (v) the Hwini-Butre and Benso properties.

The above-noted properties are referred to, collectively, as the “Material Resource Properties” and each such property is as described in the Prospectuses and Incorporated Documents;

- (i) the Corporation and each of its Material Subsidiaries have good and marketable title to all assets owned by them free and clear of all liens, charges and encumbrances, other than as described in Schedule C and in the Prospectuses and other than such liens, charges and encumbrances that are not individually or in the aggregate material to the Corporation and the Material Subsidiaries taken as a whole;
- (j) except as set out in the Prospectuses or as are not individually or in the aggregate material to the Corporation and the Material Subsidiaries (taken as a whole), or other than as would not have a material effect on the value of such interests, all interests in the Material Resource Properties are owned, leased or held by the Corporation or its Material Subsidiaries as owner or lessee thereof, are so owned with good and marketable title or are so leased with good and valid title, are in good standing, are valid and enforceable, are free and clear of any liens, charges or encumbrances, and no royalty is payable in respect of any of them; no other material property rights are necessary for the conduct or currently intended conduct of the Corporation’s or the Material Subsidiaries’ business and there are no restrictions on the ability of the Corporation or the Material Subsidiaries to use, transfer or otherwise exploit or explore (as the case may be) any such property rights, except as set out in the Prospectuses;
- (k) (A) the Corporation and its Material Subsidiaries are in material compliance with all material terms and provisions of all contracts, agreements, indentures, leases, instruments and licences material to the conduct of their businesses taken as a whole and (B) all such contracts, agreements, indentures, leases, policies,

instruments and licences are valid and binding in accordance with their terms and are in full force and effect;

- (1) except in each case as publicly disclosed or as would not otherwise have a material adverse effect on the Corporation and the Material Subsidiaries (taken as a whole): (i) to the best of the Corporation's knowledge, information and belief none of the real property (and the buildings constructed thereon) in which the Corporation or any of the Material Subsidiaries has a direct or indirect interest, whether leasehold, fee simple or otherwise (the "**Real Property**"), or upon or within which it has operations, is currently subject to any judicial or administrative proceeding alleging the violation of any federal, provincial, state or municipal environmental, health or safety statute or regulation, domestic or foreign, or is subject to any investigation concerning whether any remedial action is needed to respond to a release of any Hazardous Material (as defined below) into the environment; (ii) except in material compliance with applicable environmental laws, neither the Corporation nor any Material Subsidiary or any occupier of the Real Property, has filed any notice under any federal, provincial, state or municipal law, domestic or foreign, indicating past or present treatment, storage or disposal of a Hazardous Material; (iii) except in material compliance with applicable environmental laws, none of the Real Property has at any time been used by the Corporation or a Material Subsidiary or, to the best of the Corporation's knowledge, information and belief by any other occupier, as a waste storage or waste disposal site; (iv) the Corporation, on a consolidated basis, has no contingent liability of which it has knowledge in connection with any release of any Hazardous Material on or into the environment from any of the Real Property or operations thereon; (v) none of the Corporation or any Material Subsidiary or, to the best of the Corporation's knowledge, any occupier of the Real Property, generates, transports, treats, processes, stores or disposes of any waste on any of the Real Property in material contravention of applicable federal, provincial, state or municipal laws or regulations enacted for the protection of the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or human health or wildlife (vi) to the Corporation's knowledge, no underground storage tanks or surface impoundments containing a petroleum product or Hazardous Material are located on any of the Real Property in contravention of applicable federal, provincial, state or municipal laws or regulations, domestic or foreign, enacted for the protection of the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), human health or wildlife. For the purposes of this Section 6(1)(I), "**Hazardous Material**" means any contaminant, chemical, pollutant, subject waste, hazardous waste, deleterious substance, industrial waste, toxic matter or any other substance that when released into the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) is likely to cause, at some immediate or future time, harm or degradation to the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or risk to human health and, without restricting the generality of the foregoing, includes any

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- contaminant, chemical, pollutant, subject waste, deleterious substance, industrial waste, toxic matter or hazardous waste as defined by applicable federal, provincial, state or municipal laws or regulations enacted for the protection of the natural environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), or human health or wildlife;
- (m) except as disclosed in the Prospectuses, the Corporation and each of its Material Subsidiaries maintain appropriate insurance against loss of, or damage to, their assets for all insurable risks on a repair, reinstatement or replacement cost basis, and all of the policies in respect of such insurance coverage are in good standing in all respects and not in default;
 - (n) the consolidated audited financial statements of the Corporation for its fiscal year ended December 31, 2008 and the unaudited interim financial statements of the Corporation for the quarters ended March 31, 2009, June 30, 2009 and September 30, 2009 collectively, as amended (collectively the “ **Corporation’s Financial Statements** ”), copies of which are or will be included or incorporated by reference in the Preliminary Prospectus Supplements, Amended Preliminary Prospectus Supplements and in the Prospectuses, together with management’s discussion and analysis of financial condition and results of operations on such annual and interim financial statements and including any reconciliation of such financial statements prepared in accordance with generally accepted accounting principles in Canada and with generally accepted accounting principles in the United States, are true and correct in every material respects and present fairly and accurately the financial position and results of the operations of the Corporation on a consolidated basis for the periods then ended and the Corporation’s Financial Statements have been prepared in accordance with generally accepted accounting principles in Canada applied on a consistent basis, and comply as to form in all material respects with the applicable accounting requirements of the Securities Act and the Exchange Act, as applicable, and the related published rules and regulations thereunder;
 - (o) the execution and delivery of and the performance by the Corporation of this Agreement and the Underwriting Agreement and the consummation of the transactions contemplated hereby and thereby, including the issuance and sale of the Common Shares, have been authorized by all necessary corporate action on the part of the Corporation;
 - (p) this Agreement and the Underwriting Agreement have been duly executed and delivered by the Corporation and each such agreement is a legal, valid and binding obligation of, and is enforceable against, the Corporation in accordance with its terms (subject to bankruptcy, insolvency or other laws affecting the rights of creditors generally, the availability of equitable remedies and the qualification that rights to indemnity and waiver of contribution may be contrary to public policy or limited by applicable law);

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- (q) except as disclosed in the Preliminary Prospectus Supplement, the Amended Preliminary Prospectus Supplement and the Prospectuses, since September 30, 2009: (A) there has been no material change in the business, affairs, operations, assets, liabilities or financial condition of the Corporation and the Material Subsidiaries on a consolidated basis; (B) no current reports or other documents have been filed on a confidential basis with the SEC; (C) there has been no transaction entered into by the Corporation and not disclosed which is material to the Corporation; (D) the Corporation and its Material Subsidiaries, on a consolidated basis, have not incurred any material liability or obligation, indirect, direct or contingent, not in the ordinary course of business, nor entered into any material transaction or agreement not in the ordinary course of business; and (E) there has been no dividend or distribution of any kind declared, paid or made by the Corporation or, except for dividends paid to the Corporation or its Material Subsidiaries, any of its Material Subsidiaries, on any class of capital stock or repurchase or redemption by the Corporation or any of its Material Subsidiaries of any class of capital stock;
- (r) the directors and officers of the Corporation and their compensation arrangements with the Corporation, whether as directors, officers or employees of the Corporation, are as disclosed in the Preliminary Prospectus Supplement, the Amended Preliminary Prospectus Supplement and the Prospectuses if and to the extent and for the periods required to be so disclosed by the U.S. Securities laws;
- (s) since December 31, 2008, all of the material contracts and agreements of the Corporation and its Material Subsidiaries not made in the ordinary course of business (collectively the “**Material Contracts**”) which are required to be filed under applicable securities laws have been so filed;
- (t) all tax returns, reports, elections, remittances and payments of the Corporation and its Material Subsidiaries, required by law to have been filed (or are in the process of being prepared for filing, which delayed filing will not have a material adverse effect on the Corporation and its Material Subsidiaries taken as a whole) or made in any applicable jurisdiction, have been filed or made (as the case may be), other than for taxes being contested in good faith, or with respect to which the failure to file or make would not have a material adverse effect, either individually or in the aggregate, on the Corporation and the Material Subsidiaries taken as a whole, and, to the best of the knowledge of the Corporation, are substantially true, complete and correct and all taxes of the Corporation and of its Material Subsidiaries, in respect of which payment or accrual is required under applicable law, other than taxes being contested in good faith, have been so paid or accrued in the Corporation’s Financial Statements;
- (u) (i) each employee benefit plan (each, a “**Plan**”), within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (the “**ERISA**”), for which the Corporation or any member of its “**Controlled Group**”

- (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended (the “ **Code** ”)) would have any liability has been maintained in material compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including but not limited to the ERISA and the Code; (ii) no prohibited transaction, within the meaning of Section 406 of the ERISA or Section 4975 of the Code, has occurred with respect to any Plan excluding transactions effected pursuant to a statutory or administrative exemption; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of the ERISA, no “accumulated funding deficiency” as defined in Section 412 of the Code, whether or not waived, has occurred or is reasonably expected to occur; (iv) the fair market value of the assets of each Plan exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan); (v) no “reportable event” (within the meaning of Section 4043(c) of the ERISA) has occurred or is reasonably expected to occur; and (vi) neither the Corporation nor any member of the Controlled Group has incurred, nor reasonably expects to incur, any liability under Title IV of the ERISA (other than contributions to the Plan or premiums, in the ordinary course and without default) in respect of a Plan (including a “multiemployer plan”, within the meaning of Section 4001(a) (3) of the ERISA);
- (v) the Corporation is not and, after giving effect to the offering and sale of the Common Shares, will not be an “investment company” or an entity “controlled” by an “investment company” within the meaning of the *United States Investment Company Act of 1940* , as amended;
 - (w) except as set out in the Prospectuses, there is no material action, suit, proceeding, investigation or judgment pending, or to the Corporation’s knowledge, threatened or outstanding against or affecting the Corporation or any Material Subsidiary (or their respective officers and directors in such capacity) at law or in equity or before or by any federal, provincial, state, municipal or other governmental department, commission, board or agency, domestic or foreign, which in any way materially adversely affects or may reasonably be expected to materially adversely affect the business, operations or condition of the Corporation and any Material Subsidiary taken as a whole, (financial or otherwise) or its property or assets thereof or which questions or may question the validity of the creation, issuance or sale, of the Common Shares or any action taken or to be taken by the Corporation or any Material Subsidiary pursuant to or in connection with this Agreement or any other material contract to which the Corporation or any Material Subsidiary is a party, as the case may be;
 - (x) except as have been made or will be obtained prior to the Time of Closing, under the laws of the Qualifying Provinces and the United States, no consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental agency or body or regulatory authority is required for the creation, issue, sale and delivery (as the case may be) of the Common Shares or the

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- consummation by the Corporation of the transactions contemplated in this Agreement and the Underwriting Agreement;
- (y) all necessary corporate action has been taken or will have been taken prior to the Time of Closing by the Corporation so as to validly issue and sell the Common Shares to the Underwriters and, upon receipt by the Corporation of the purchase price as consideration for the issue thereof, the Common Shares will be validly issued and outstanding as fully paid and non-assessable shares of the Corporation;
 - (z) the attributes of the Common Shares conform in all material respects with the description thereof contained in the Registration Statement, the Preliminary Prospectus Supplements, the Amended Preliminary Prospectus Supplements and the Prospectuses;
 - (aa) none of the Corporation, any of its Material Subsidiaries or any employee or agent of the Corporation or any Material Subsidiary, has (i) made any unlawful contribution or other payment to any official of, or candidate for, any federal, state, provincial or foreign office, or failed to disclose fully any contribution, in violation of any law, or (ii) made any payment to any foreign, United States or state governmental officer or official, or other person charged with similar public or quasi-public duties, other than payments required or permitted by the laws of the United States;
 - (bb) each of the Corporation and each of its Material Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles in Canada and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences;
 - (cc) neither the Corporation nor to the knowledge of the Corporation after due inquiry any of the Corporation's officers, directors or affiliates has taken, and at the Closing Date will have taken, directly or indirectly, any action which has constituted, or might reasonably be expected to constitute, the stabilization or manipulation of the price of sale or resale of the Common Shares;
 - (dd) since December 31, 2007, the Corporation has timely and properly filed on a timely basis (i) with the SEC all reports and other documents required to have been filed by it with the SEC pursuant to the Securities Act and the rules and regulations, (ii) with the NYSE Amex all reports and documents required to have been filed by it pursuant to the rules and regulations of the NYSE Amex, and (iii) all reports or other documents required to have been filed by it with the securities commission or similar regulatory body of each province in Canada, the

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- TSX or any other applicable Canadian governmental authorities. True and complete copies of all such reports and other documents have been delivered or made available to the Agents;
- (ee) neither the Corporation nor any Material Subsidiary (i) was a personal holding company within the meaning of Section 542 of the Internal Revenue Code of 1986, as amended (the “**Code**”) (a “**PHC**”) or a controlled foreign corporation within the meaning of Section 957 of the Code (a “**CFC**”) for its taxable year ended December 31, 2008, or (ii) based on information known at the date hereof, expects that it will constitute a PHC or a CFC for its taxable year ending December 31, 2009;
 - (ff) the Corporation (i) was not a passive foreign investment company (a “**PFIC**”) within the meaning of section 1297 of the Code for its taxable year ended December 31, 2008 and (ii) expects that it will not constitute a PFIC for its taxable year ending December 31, 2009;
 - (gg) CIBC Mellon Trust Company, at its principal office in Vancouver, has been duly appointed as the transfer agent and registrar for the Common Shares;
 - (hh) the Corporation has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the Exchange Act), which (i) are designed to ensure that material information relating to the Corporation, including its consolidated subsidiaries, is made known to the Corporation’s principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the Exchange Act are being prepared; (ii) have been evaluated for effectiveness as of the end of the period covered by the filing of the Corporation’s most recent annual or quarterly report filed with the SEC; and (iii) are effective in all material respects to perform the functions for which they were established;
 - (ii) based on the evaluation of its disclosure controls and procedures, the Corporation is not aware of (i) any significant deficiency in the design or operation of internal controls which could adversely affect the Corporation’s ability to record, process, summarize and report financial data or any material weaknesses in internal controls; or (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Corporation’s internal controls;
 - (jj) since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses;
 - (kk) except as described in the Prospectuses, there are no material off-balance sheet transactions, arrangements, obligations (including contingent obligations), or any

other relationships with unconsolidated entities or other persons, that may have a material current or future effect on the Corporation's financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenue or expenses; and

- (II) the Corporation's Board of Directors has validly appointed an audit committee whose composition satisfies the requirements of the NYSE Amex Listed Company Manual and the Board of Directors and/or the audit committee has adopted a charter that satisfies the requirements of the Exchange Act and the NYSE Amex Listed Company Manual and the audit committee has reviewed the adequacy of its charter within the past twelve months. Neither the Board of Directors nor the audit committee has been informed, nor is any director of the Corporation aware, of (1) any significant deficiencies in the design or operation of the Corporation's internal controls which could adversely affect the Corporation's ability to record, process, summarize and report financial data or any material weakness in the Corporation's internal controls, or (2) any fraud, whether or not material, that involves management or other employees of the Corporation who have a significant role in the Corporation's internal controls.

The representations and warranties made by the Corporation to the Underwriters in the Underwriting Agreement are hereby incorporated by reference, and shall have the same effect as though they were made to the Agents under this Agreement.

Section 7 Representations and Warranties of the Agents

Each Agent hereby severally, and not jointly, represents and warrants that:

- (a) it is, and will remain so, until the completion of the Offering, appropriately registered under U.S. Securities Laws so as to permit it to lawfully fulfil its obligations hereunder and it is, and will remain so, until the completion of the Offering, a member in good standing of the National Association of Securities Dealers, Inc.;
- (b) it has good and sufficient right and authority to enter into this Agreement and complete its transactions contemplated under this Agreement on the terms and conditions set forth herein; and
- (c) this Agreement and the Underwriting Agreement have been duly executed and delivered by the Agents and the Underwriters, respectively, and each such agreement is a legal, valid and binding obligation of, and is enforceable against, the Agents and Underwriters, respectively, in accordance with its terms (subject to bankruptcy, insolvency and other laws affecting the rights of creditors generally, the availability of equitable remedies and the qualification that rights to indemnity and waiver of contribution may be contrary to public policy).

Section 8 Covenants of the Corporation

- (1) The Corporation covenants with the Agents that:

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- (a) during the period from the date hereof to the completion of the distribution of the Common Shares, the Corporation will promptly advise the Agents in writing of the full particulars of any material change in the business, affairs, operations, assets, liabilities or financial condition of the Corporation, on a consolidated basis, or any material change in any statement contained in the U.S. Prospectus or the Canadian Prospectus, as such documents exist immediately prior to such change, which change is, or may be, of such nature as would result in any of such documents, as they exist immediately prior to such change, containing an untrue statement of a material fact or an omission to state therein a material fact that is required to be stated or that is necessary to make the statements therein not misleading in light of the circumstances in which they were made or which would result in any of such documents, as they exist immediately prior to such change not complying with the Securities Act. The Corporation will promptly prepare and file with the SEC an amendment to the Registration Statement or supplement to the Prospectus and/or the Canadian Prospectus which in the opinion of the Agents, acting reasonably, may be necessary or advisable to correct such untrue or misleading statement or omission. The Corporation shall in good faith discuss with the Agents any change in circumstances (actual, anticipated, contemplated or threatened) which is of such a nature that there may be a reasonable doubt as to whether written notice need be given to the Agents under the provisions of this Section 8(1)(a);
- (b) the Corporation will deliver without charge to the Agents, as soon as practicable, and in any event no later than 9:00 a.m., December 7, 2009, and thereafter from time to time during the distribution of the Common Shares, in such cities as the Agents shall notify the Corporation, as many commercial copies of each of the U.S. Prospectus and the Canadian Prospectus, respectively (and in the case of an amendment or supplement, such amendment or supplement), as the Agents may reasonably request for the purposes contemplated by the U.S. Securities Laws and the Canadian Securities Laws and such delivery shall constitute consent by the Corporation to the use by the Agents, the Underwriters and the Selling Firms of such documents in connection with the Offering in the United States and Canada, subject to the provisions of U.S. Securities Laws and Canadian Securities Laws. The Corporation further covenants with the Agents (i) to furnish to them a copy of each proposed free writing prospectus prepared by or on behalf of, used by, or referred to by the Corporation and not to use or refer to any proposed free writing prospectus to which the Agents reasonably object; and (ii) not to take any action that would result in the Agents or the Corporation being required to file with the SEC pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Agents that the Agents otherwise would not have been required to file thereunder.
- (c) the Corporation shall use its best efforts to arrange that the Common Shares are listed and posted for trading on the TSX and the NYSE Amex on the Closing Date, subject only to the documentary filing requirements of each such Exchange;

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- (d) the Corporation shall not issue or announce the issuance of any Common Shares of the Corporation or any securities convertible into or exchangeable for or exercisable to acquire Common Shares of the Corporation without the prior consent of the Lead Manager on behalf of the Agents, which consent will not be unreasonably withheld or delayed, during a period commencing on the date of execution of this Agreement and ending 90 days after the Closing Date (the “**Restricted Period**”), other than:
 - (i) the issuance of shares upon exercise of currently outstanding rights, or agreements, including options, warrants, debt and other convertible securities and any rights which have been granted or issued, subject to any necessary regulatory approval;
 - (ii) the issuance of shares upon the exercise of currently outstanding options granted to officers, directors, employees or consultants of the Corporation or any subsidiary thereof pursuant to the Corporation’s Stock Option Plans; or
 - (iii) the issuance of options pursuant to and in accordance with the Stock Option Plans;
 - (e) it will apply the net proceeds from the sale of the Common Shares as set forth under the caption “Use of Proceeds” in the Prospectuses subject to reallocation as contemplated thereby; and
 - (f) to make generally available to its securityholders as soon as practicable, but in any event, not later than eighteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Securities Act), an earnings statement of the Corporation and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act and the rules and regulations of the SEC thereunder (including at the option of the Corporation, Rule 158).

Section 9 Additional Documents upon Filing of U.S. Prospectus

- (1) The Agents’ obligations under this Agreement are conditional upon the receipt by the Agents concurrently with the filing of the U.S. Prospectus, of a “long form” comfort letter dated the date of Prospectus Supplements from the auditors of the Corporation, addressed to the Agents, in form and substance reasonably satisfactory to the Agents, relating to the verification of the financial information and accounting data and other numerical data of a financial nature contained in the U.S. Prospectus and Canadian Prospectus or Disclosure Package and matters involving changes or developments since the respective dates as of which specified financial information is given in the U.S. Prospectus and the Canadian Prospectus or Disclosure Package to a date not more than two business days prior to the date of such letter. Such letter shall further state that such auditors are independent public accountants within the meaning of the Securities Act and the appropriate rules and regulations thereof, and that:

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- (i) in their opinion the Corporation's Financial Statements examined by them and included in the U.S. Prospectus and the Canadian Prospectus comply in all material respects with the applicable accounting requirements of the Securities Act and the related published rules and regulations;
 - (ii) in their opinion any unaudited pro forma financial statements included or incorporated by reference in the Registration Statement, U.S. Prospectus or Canadian Prospectus comply as to form in all material respects with the requirements of the Securities Act and the Exchange Act and the related published rules and regulations, and all pro forma adjustments have been properly applied to the historical amounts in the compilation of those statements;
 - (iii) they have performed the procedures specified by the American Institute of Certified Accountants for a review of interim financial information described in Statement of Auditing Standards No. 71, on the unaudited financial statements included or incorporated by reference in the Registration Statement;
 - (iv) on the basis of the review referred to above nothing came to their attention that caused them to believe that the unaudited financial statements included or incorporated by reference in the Registration Statement, U.S. Prospectus or Canadian Prospectus, including any reconciliation of financial statements prepared in accordance with generally accepted accounting principles in Canada with generally accepted accounting principles in the United States, do not comply as to form in all material respects with the requirements of the Securities Act and the Exchange Act and the related published rules and regulations, or that any material modification should be made to such unaudited financial statements for them to be in conformity with generally accepted accounting principles;
 - (v) they have compared specified United States and Canadian dollar amounts (or percentages derived from such United States and Canadian dollar amounts) and other financial information contained in the Prospectuses (in each case to the extent that such dollar amounts, percentages and other financial information are derived from the general accounting records of the Corporation and its subsidiaries subject to the internal controls of the Corporation's accounting system or are derived from such records by analysis or computation) with the results obtained from inquiries, a reading of such general accounting records and other procedures specified in such letter and have found such United States and Canadian dollar amounts, percentages and other financial information to be in agreement with such results, except as otherwise specified in such letter;

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- (vi) they compared for the period from the date of the latest balance sheet included in the Prospectuses to the date of the latest available balance sheet read by such auditors, or at a subsequent specified date not more than two business days prior to the date of the Prospectuses, there was any material change in the capital or any increase in short term indebtedness or long-term debt of the Corporation and its Material Subsidiaries consolidated or, at the date of the latest available balance sheet read by such auditors, there was any material decrease in consolidated net current assets or net assets as compared with amounts shown on the latest balance sheet included or incorporated by reference in the Prospectuses; and
 - (vii) they compared for the period from the date of the latest income statement included in the Prospectuses to the date of the latest available income statement read by such auditors or at a subsequent specified date not more than two business days prior to the date of the Prospectuses, there were any material decreases as compared with the corresponding period of the previous year and with the period of corresponding length ended the date of the latest income statement included in the Prospectuses, in the consolidated revenue, net operating income, or total or per share amounts of net income.
- (2) The comfort letter referred to in Section 9(1) shall be in addition to any comfort letters required by the terms of the Underwriting Agreement to be addressed to the Underwriters.
 - (3) Similar documents and comfort letters shall be delivered to the Agents with respect to any amendment to the Prospectuses (provided, in the case of comfort letters, that the amendment to the Prospectuses contains financial, accounting or other numerical data of a financial nature), or as required by the terms of the Underwriting Agreement to be delivered to Underwriters.

Section 10 Closing

- (1) The Offering will be completed at the offices of Fasken Martineau DuMoulin LLP in Toronto at 8:00 a.m. (Toronto time) on December 17, 2009 (the “**Time of Closing**” and the “**Closing Date**”, respectively) or at such other time and/or on such other date as the Agents and the Corporation may agree upon, but in any event no later than January 15, 2010.
- (2) At the Time of Closing, subject to the terms and conditions contained in this Agreement, the Corporation shall deliver to the Agents a certificate or certificates representing the Common Shares against payment of the purchase price, net of the Agents’ Fee, by wire transfer, dated the Closing Date, payable to the Corporation. Upon the receipt of the wire transfer the Corporation shall deliver to the Agents written confirmation of the receipt thereof.

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- (3) At the Time of Closing, subject to the terms and conditions contained in this Agreement, the Corporation shall have obtained approval to list for trading the Common Shares on the Exchanges.

Section 11

[Reserved.]

Section 12 Termination Rights

- (1) Except as otherwise provided herein, all terms and conditions set out herein shall be construed as conditions and any breach or failure by the Corporation to comply with any such conditions in favour of the Agents shall entitle the Agents to terminate their obligations under this Agreement by written notice to that effect given to the Corporation prior to the Time of Closing on the Closing Date. The Corporation shall use its reasonable best efforts to cause all conditions in this Agreement to be satisfied. It is understood that the Agents may waive in whole or in part, or extend the time for compliance with, any of such terms and conditions without prejudice to their rights in respect of any subsequent breach or non-compliance, provided that to be binding on the Agents, any such waiver or extension must be in writing.
- (2) In addition to any other remedies that may be available to the Agents, the Agents shall each be entitled, at their option, to terminate and cancel, without any liability on the Agents' part, their obligations under this Agreement, by giving written notice to the Corporation at any time at or prior to the Time of Closing on the Closing Date:
- (a) if, after the date hereof and prior to the Time of Closing, the state of financial markets in Canada or the United States is such that, in the reasonable opinion of the Agents (or any of them), the Common Shares cannot be marketed profitably;
 - (b) if there should occur any suspension or limitation of trading in Common Shares generally on the TSX or NYSE Amex, or if a general moratorium on commercial banking activities in Toronto or New York should be declared by the relevant authorities, or if, in relation to the Corporation, any inquiry, investigation or other proceeding (whether formal or informal) is commenced, threatened or announced or any order or ruling is issued by any officer of such Exchange or market, or by the SEC, or any other regulatory authority in Canada or the United States, or if any law or regulation under or pursuant to any statute of Canada or of any province thereof (other than Quebec) or of the United States is promulgated or changed which, in the reasonable opinion of the Agents (or any of them) operates to prevent or materially restrict trading the Common Shares or the distribution of the Common Shares;
 - (c) if any inquiry, investigation or other proceeding is commenced or any other order is issued against the Corporation under or pursuant to any statute of the United States or any state thereof or Canada or any province thereof (other than Quebec) (other than an inquiry, investigation or other proceeding order based solely upon the activities or alleged activities of any Agent, Canadian Underwriter or Selling Firm) or there is any change of law or the interpretation

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- or administration thereof by a securities regulator or other public authority, which in the reasonable opinion of the Agents, operates to prevent or materially restrict the trading of the Common Shares or the distribution of the Common Shares;
- (d) if there shall occur any actual material adverse change in the business, affairs, operations, assets, liabilities or financial condition of the Corporation and its subsidiaries considered as one enterprise, and which in the Agents' opinion would reasonably be expected to have a material adverse effect on the market price or value of any of the Common Shares or the Corporation's common shares generally;
 - (e) if the Agents determine that any material adverse fact or information with respect to the Corporation or the Common Shares that existed on or prior to December 3, 2009 had not been publicly disclosed in accordance with applicable securities laws by the date of the filing of the Prospectuses; or
 - (f) if there should develop, occur or come into effect or existence any event, action, state, condition or major financial occurrence of national or international consequence, including without limiting the generality of the foregoing, any military conflict, civil insurrection, or any terrorist action (whether or not in connection with such conflict or insurrection), which, in the Agents' opinion, materially adversely affects or involves, or will materially adversely affect or involve, the Canadian or United States financial markets and/or prevents or materially restricts the trading of the Common Shares or the distribution of the Common Shares.
- (3) The Agents shall make reasonable best efforts to give notice to the Corporation (in writing or by other means) of the occurrence of any of the events referred to in Section 12(2), provided that neither the giving nor the failure to give such notice shall in any way affect the entitlement of the Agents to exercise this right at any time prior to or at the Time of Closing.
 - (4) The rights of termination contained in this Section 12 as may be exercised by the Agents are in addition to any other rights or remedies the Agents may have in respect of any default, act or failure to act or non-compliance by the Corporation in respect of any of the matters contemplated by this Agreement.
 - (5) If the obligations of the Agents are terminated under this Agreement pursuant to these termination rights, the Corporation's liabilities to the Agents shall be limited to the Corporation's obligations under Section 13, Section 14 and Section 15.

Section 13 Indemnity

- (1) The Corporation agrees to indemnify and hold harmless each Agent, and their respective directors, officers, employees and agents, and each person, if any, who controls any Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act against any and all losses, claims, damages and liabilities, joint or

several (including any investigation, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted), to which they, or any of them, may become subject under the Securities Act, at common law or otherwise, insofar as such losses, claims, damages or liabilities arise out of or are based upon (i) any breach of a representation or warranty of the Corporation contained herein or the failure of the Corporation to comply with any of its obligations hereunder, or (ii) any untrue statement or alleged untrue statement of a material fact contained in the U.S. Preliminary Prospectus, the Canadian Preliminary Prospectus, the U.S. Amended Preliminary Prospectus, the Canadian Amended Preliminary Prospectus, the U.S. Prospectus, the Canadian Prospectus, or the Registration Statement, or any amendment or supplement thereto, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as any such untrue statement or omission or alleged untrue statement or omission was made in such U.S. Preliminary Prospectus, the Canadian Preliminary Prospectus, the U.S. Amended Preliminary Prospectus, the Canadian Amended Preliminary Prospectus, the U.S. Prospectus, the Canadian Prospectus or the Registration Statement, or such amendment or supplement, in reliance upon and in conformity, with information furnished in writing to the Corporation by or on behalf of any Agent or Underwriter expressly for use in the preparation thereof; provided, however, that the foregoing indemnity against losses, claims, damages or liabilities is subject to the condition that, insofar as it relates to any untrue statement or alleged untrue statement, omission or alleged omission made in the Registration Statement, the U.S. Preliminary Prospectus and the Canadian Preliminary Prospectus or the U.S. Amended Preliminary Prospectus and the Canadian Amended Preliminary Prospectus, but eliminated or remedied in the U.S. Prospectus and the Canadian Prospectus, such indemnity shall not inure to the benefit of any Agent from whom the person asserting any loss, claim, damage or liability purchased the Common Shares which are the subject thereof (or to the benefit of any person who controls such Agent) if such Agent failed to send or give a copy of the U.S. Prospectus or Canadian Prospectus (or any amendment or supplement thereto) to such person at or prior to the time such action is required by the Securities Act.

- (2) Each Agent agrees to indemnify and hold harmless the Corporation, each person, if any, who controls the Corporation within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, each director of the Corporation and each officer of the Corporation, against any and all losses, claims, damages and liabilities, joint or several (including any investigation, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted), to which they, or any of them, may become subject under the Securities Act, at common law or otherwise, insofar as such losses, claims, damages or liabilities arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the U.S. Preliminary Prospectus, the Canadian Preliminary Prospectus, the U.S. Prospectus, the Canadian Prospectus or the Registration Statement, or any amendment or supplement thereto, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, but only insofar

as such losses, claims, damages or liabilities arise out of or are based upon any untrue statement or omission or alleged untrue statement or omission which was made in the U.S. Preliminary Prospectus, the Canadian Preliminary Prospectus, the U.S. Amended Preliminary Prospectus, the Canadian Amended Preliminary Prospectus, the U.S. Prospectus, or the Canadian Prospectus, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Corporation by such Agent with respect to the Agents expressly for use in the preparation thereof.

- (3) Any party which proposes to assert the right to be indemnified under this Section 13 will, promptly after receipt of notice of commencement of any action, suit or proceeding against such party in respect of which a claim is to be made against an indemnified party under this Section 13, notify each such indemnifying party of the commencement of such action, suit or proceeding, enclosing a copy of all papers served, but the omission so to notify such indemnifying party of any such action, suit or proceeding shall not relieve it from any liability which it may have to any indemnified party otherwise than under this Section 13, except to the extent that it was prejudiced by such failure. In case any such action, suit or proceeding shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate in, and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defence thereof, with counsel reasonably satisfactory to such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defence thereof, the indemnifying party shall not be liable to such indemnified party for any legal or other expenses, other than reasonable costs of investigation subsequently incurred by such indemnified party in connection with the defence thereof. The indemnified party shall have the right to employ its counsel in any such action, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the employment of counsel by such indemnified party has been authorized by the indemnifying parties, (ii) the indemnified party shall have reasonably concluded that there may be a conflict of interest between the indemnifying parties and the indemnified party in the conduct of the defence of such action (in which case the indemnifying parties shall not have the right to direct the defence of such action on behalf of the indemnified party) or (iii) the indemnifying parties shall not in fact have employed counsel to assume the defence of such action. An indemnifying party shall not be liable for any settlement of any action or claim effected without its consent. For the purposes of clause (ii) of the preceding sentence only, all indemnified parties shall be represented by one counsel whom they may select with the approval, which shall not be unreasonably withheld, of the indemnifying parties.

Section 14 Contribution

In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in Section 13 hereof is applicable but for any reason, other than as specified in Section 13, is held to be unavailable from the indemnifying party, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the aggregate losses, claims, damages and liabilities (including any investigation, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any

action, suit or proceeding or any claims asserted), in such proportion as is appropriate to reflect the relative benefits received by the Corporation on the one hand and the Agents on the other from the offering of the Common Shares. If however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Corporation on the one hand and the Agents on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Corporation on the one hand and the Agents on the other shall be deemed to be in the same proportion as the total net proceeds from the offering of the Common Shares (before deducting expenses) received by the Corporation bear to the total Agents' Fee received by the Agents, in each case as set forth in the U.S. Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Corporation on the one hand or the Agents on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Corporation and the Agents agree that it would not be just and equitable if contributions pursuant to this Section 14 were determined by pro rata allocation (even if the Agents were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 14. Notwithstanding the provisions of this Section 14, (i) in no case shall any Agent be responsible for any amount in excess of the sum of the Agents' Fee paid in respect of the Common Shares sold by such Agent hereunder, and (ii) no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 14, each person, if any, who controls an Agent within the meaning of the Securities Act and the Exchange Act, and each director, officer, employee and agent of a Agent shall have the same rights to contribution as such Agent, and each person, if any, who controls the Corporation within the meaning of the Securities Act and the Exchange Act, and each director and executive officer of the Corporation shall have the same rights to contribution as the Corporation, subject in each case to clauses (i) and (ii) of this Section 14. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this Section 14, notify such party or parties from whom contribution may be sought, but the omission so to notify such party or parties from whom contribution may be sought shall not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have hereunder or otherwise than under this Section 14, except the extent it has been prejudiced by such failure. No party shall be liable for contribution with respect to any action or claim settled without its written consent. The Agents' obligations in this section to contribute are several in proportion to their respective obligations and not joint.

Section 15 Expenses

Whether or not the transactions provided for herein (including the Offering) are completed, the Corporation shall pay all costs, fees and expenses of or incidental to the performance of its obligations under this Agreement including, without limitation: (i) the costs

of the Corporation's professional advisors (including, without limitation, the Corporation's auditors, counsel and any local counsel), (ii) the cost of printing the U.S. Preliminary Prospectus, the U.S. Prospectus, the U.S. Amended Preliminary Prospectus, the Canadian Preliminary Prospectus, the Canadian Amended Preliminary Prospectus, and the Canadian Prospectus, and any amendments and supplements thereto, and certificates for the Common Shares, (iii) the preparation of a Blue Sky and Legal Investment Memorandum survey with respect to the sale of the Common Shares, and (iv) any Goods and Services Tax relating to the foregoing. The reasonable and documented fees and disbursements of any counsel (whether Canadian or U.S.) to the Agents and the Underwriters (up to a maximum of U.S.\$250,000 inclusive of taxes and disbursements) and out-of-pocket expenses of the Agents shall be borne by the Corporation whether or not the sale and purchase of the Common Shares is completed in accordance with the terms hereof (other than as a result of a breach by the Agents of any of its obligations hereunder).

Section 16 Action by Agents

All steps which must or may be taken by the Agents in connection with this Agreement, with the exception of the matters relating to termination contemplated by Section 12 hereof, may be taken by the Lead Manager on behalf of itself and the other Agents and the acceptance of this offer by the Corporation shall constitute the Corporation's authority for accepting notification of any such steps from, and for delivering the definitive certificates constituting the Common Shares to or to the order of, the Lead Manager.

Section 17 Governing Law; Time of Essence

This Agreement shall be governed by and construed in accordance with the laws of the State of New York and the federal laws of the United States of America applicable therein and time shall be of the essence hereof.

Section 18 Survival of Warranties, Representations, Covenants and Agreements

All warranties, representations, covenants and agreements of the Corporation and the Agents herein contained or contained in documents submitted or required to be submitted pursuant to this Agreement shall survive the purchase by the Agents of the Common Shares and shall continue in full force and effect, regardless of the closing of the sale of the Common Shares and regardless of any investigation which may be carried on by the Agents, or on their behalf.

Section 19 Press Releases

The Corporation shall provide the Agents and their counsel with a copy of all press releases to be issued by the Corporation concerning the Offering contemplated hereby prior to the issuance thereof, and shall give the Agents and their counsel a reasonable opportunity to provide comments on any press release.

Section 20 Notices

All notices or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing by personal delivery or by facsimile delivered or facsimile to such other party as follows:

(a) to the Corporation at:

Golden Star Resources Ltd.
10901 W. Toller Drive
Suite 300
Littleton, Colorado
U.S.A. 80127-6312

Attention: Tom Mair and John Labate
Facsimile No.: (303) 830-9094

with a copy to:

Fasken Martineau DuMoulin LLP
Toronto Dominion Bank Tower
Toronto-Dominion Centre, Box 20, Suite 4200
66 Wellington Street West
Toronto, Ontario
M5K 1N6

Attention: John M. Sabetti
Facsimile No.: (416) 364-7813

and to:

Davis Graham & Stubbs LLP
1550 Seventeenth Street, Suite 500
Denver, Colorado
U.S.A. 80202

Attention: Michelle Shepston
Facsimile No.: (303) 893-1379

to the Agents at:

BMO Capital Markets Corp.
c/o BMO Nesbitt Burns Inc.
1 First Canadian Place
4th Floor, P.O. Box 150
Toronto, Ontario
M5X 1H3

Attention: Peter Collibee
Facsimile No.: (416) 359-4459

Wellington West Capital Markets (USA) Inc.
145 King Street West
Suite 700
Toronto, Ontario
M5H 1J8

Attention: William Washington
Facsimile No.: (416) 642-1910

Macquarie Capital Markets North America Ltd.
181 Bay Street
Suite 3100
Toronto, Ontario
M5L 1B9

Attention: Kenneth Gillis
Facsimile No.: (416) 848-3699

with a copy to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Attention: Maurice Swan
Facsimile No.: (416) 947-0866

and to:

Dorsey & Whitney LLP
Brookfield Place
161 Bay Street, Suite 4310
Toronto, Ontario
Canada M5J 2S1

Attention: Kenneth G. Sam
Facsimile No.: (416) 367-7373

or at such other address or facsimile number as may be given by either of them to the other in writing from time to time and such notices or other communications shall be deemed to have been received when delivered or, if facsimile, on the next business day after such notice or other communication has been facsimile (with receipt confirmed).

Section 21 Counterpart Signature

This Agreement may be executed in one or more counterparts (including counterparts by facsimile) which, together, shall constitute an original copy hereof as of the date first noted above.

Section 22 Entire Agreement

This Agreement constitutes the entire agreement between the Agents and the Corporation relating to the subject matter hereof and supersedes all prior agreements between the Agents and the Corporation.

Section 23 Acceptance

If this offer accurately reflects the terms of the transaction which we are to enter into and if such terms are agreed to by the Corporation, please communicate your acceptance by executing where indicated below and returning by facsimile one copy and returning by courier one originally executed copy to BMO Capital Markets Corp. (Attention: Peter Collibee).

Yours very truly,

BMO CAPITAL MARKETS CORP.

By: /s/ Charles Vitton
Authorized Signing Officer

**WELLINGTON WEST CAPITAL MARKETS
(USA) INC.**

By: /s/ Thomas K. Wu
Authorized Signing Officer

**MACQUARIE CAPITAL MARKETS NORTH
AMERICA LTD.**

By: /s/ Chris Salapoutis
Authorized Signing Officer

The foregoing accurately reflects the terms of the transaction that we are to enter into and such terms are agreed to.

ACCEPTED at Littleton, Colorado as of this 4th day of December, 2009.

GOLDEN STAR RESOURCES LTD.

By: /s/ Thomas G. Mair

Authorized Signing Officer

SCHEDULE A

MATERIAL SUBSIDIARIES

MATERIAL SUBSIDIARIES

<u>Name</u>	<u>Type of Ownership</u>	<u>Percentage</u>
Caystar Holdings (Cayman Islands)	Shares	100%
Bogoso Holdings (Cayman Islands)	Shares	100%
Golden Star (Bogoso/Prestea) Limited (Ghana)	Shares	90%
Wasford Holdings (Cayman Islands)	Shares	100%
Golden Star (Wassa) Limited (Ghana)	Shares	90%

SCHEDULE B

Unless the context otherwise dictates, all capitalized terms herein have the meaning ascribed to thereto in the Agency Agreement to which this Schedule B is attached

Canadian counsel's opinions :

As set out in Section 4(1) of the Underwriting Agreement.

U.S. counsel's opinions :

1. No authorization, approval or other action by, and no notice to, consent of, order of, or filing with, any United States Federal or Colorado state governmental authority or Colorado regulatory body is required for the consummation of the transactions contemplated by the Agency Agreement and the Underwriting Agreement, except such as have been obtained under the Securities Act and such as may be required under the blue sky laws of any jurisdiction.

2. Assuming that all necessary corporate action has been taken by the Corporation to authorize the execution and delivery of the Agency Agreement and the performance of its obligations thereunder, the Agency Agreement has been duly executed and delivered by the Corporation and the Corporation has all requisite corporate power and authority to execute, deliver and perform its obligations under the Agency Agreement and to own and operate its assets and conduct its business, the Agency Agreement constitutes a legal, valid and binding obligation of, and is enforceable against, the Corporation in accordance with its terms (subject to bankruptcy, insolvency, reorganization, fraudulent conveyance or other laws affecting the rights of creditors generally, and general equitable principles including the availability of equitable remedies) .

3. To such counsel's knowledge and other than as set forth in the Prospectuses, there are no legal or governmental proceedings pending to which the Corporation or any of its subsidiaries is a party or of which any property of the Corporation or any of its subsidiaries is subject that would, individually or in the aggregate, have a material adverse effect on the current consolidated financial position, shareholders' equity or results of operation of the Corporation and its subsidiaries; and to such counsel's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

4. Neither the issue and sale of the Common Shares as described in the Prospectuses, nor the consummation of the transactions contemplated by the Agency Agreement and the Underwriting Agreement and the performance of the terms of the Agency Agreement and the Underwriting Agreement, (i) will result in a breach of or constitute a default under any agreement or instrument that is listed as an exhibit to the Registration Statement or to any document incorporated by reference to the Prospectuses and to which the Corporation or any of its Material Subsidiaries is a party or bound, (ii) will contravene any law, rule or regulation of the United States of America or the State of Colorado or any law, rule or regulation of any other state of the United States known by

such counsel to be applicable to the Corporation, or (iii) will contravene any order or decree of any court or government agency or instrumentality or any state or the Federal government of the United States of America known to such counsel.

5. The statements made in the Prospectuses under the caption “Plan of Distribution,” insofar as they purport to summarize the material terms of the Agency Agreement and the Underwriting Agreement, and statements made in the U.S. Prospectus under the caption “U.S. Federal Income Tax Considerations”, insofar as they purport to describe the material tax consequences under U.S. Federal Income Tax laws of an investment in the Common Shares, fairly summarize the matters therein described.

6. The Corporation is not an “investment company” or an entity “controlled” by an “investment company”, as such terms are defined in the *Investment Company Act of 1940*, as amended.

7. The Registration Statement has become effective under the Securities Act and the filings of the Preliminary Prospectuses and the Prospectuses have been made in the manner and within the time required by Rule 424 of the Securities Act. To such counsel’s knowledge, no stop order suspending the effectiveness of the Registration Statement has been issued and no proceeding for that purpose has been instituted or threatened or is contemplated by the SEC.

8. The Registration Statement as of its effective date and the Prospectuses at the date of each such prospectus and any further amendments thereto made by the Corporation prior to the date hereof comply as to form in all material respects with the requirements of the Securities Act and the rules and regulations thereunder (provided, however, we express no opinion with respect to the financial statements and notes thereto and related schedules therein or other financial data derived from accounting records and other statistical, ore reserve and resource and geological information).

9. During the course of the Corporation’s preparation of the Prospectuses, such counsel participated in conferences with officers and other representatives of the Corporation and the Corporation’s independent public accountants, the Agents and the Underwriters and their counsel, at which the contents of the Registration Statement and the Prospectuses were discussed, and while such counsel has not independently verified and is not passing upon the accuracy, completeness or fairness of the statements made in the Registration Statement or the Prospectuses except as explicitly set forth in paragraphs 5 and 12 hereof, such counsel has no reason to believe that the Registration Statement, as of its effective date or as of the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading (other than the financial statements and notes thereto and related schedules therein or other financial data derived from accounting records and other statistical, ore reserve and resource and geological information and projections included therein, as to which such counsel is not expressing an opinion); or that the Prospectuses, as of their dates or as of the date hereof, contained or contain any untrue statement of a material fact or omitted or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (other than the financial statements and notes thereto and

related schedules therein or other financial data derived from accounting records and other statistical, ore reserve and resource and geological information and projections included therein, as to which such counsel is not expressing an opinion).

10. Such counsel does not know of any amendment to the Registration Statement required to be filed at or prior to the date hereof which has not been filed as required.

11. Such counsel does not know of any legal or governmental proceeding or any franchise, contract or other document required, as of the date of the Prospectuses, to be described in, or filed as an exhibit to, the Registration Statement or required to be described or incorporated by reference in the U.S. Prospectus or the Canadian Prospectus, which has not been described, filed or incorporated by reference as required.

12. As of the date of the Prospectuses, the statements included or incorporated by reference in the Registration Statement and the Prospectuses describing contracts or other agreements to which the Corporation or any of its Material Subsidiaries is a party or is bound or any United States federal statutes or legal or other governmental proceedings under United States federal law or Colorado state law are accurate in all material respects and fairly summarize such matters.

13. Any material required to be filed pursuant to Rule 433 under the Securities Act as an Issuer Free Writing Prospectus has been filed as required.

SCHEDULE C
ENCUMBRANCES

1) Certain equipment purchased with equipment financing provided by Caterpillar Financial Services Corporation or its affiliates (“Caterpillar”) is pledged to Caterpillar to secure payment of the loans. At September 30, 2009, outstanding Caterpillar equipment financing borrowings were \$22,500,000.

2) Pursuant to the \$30 million revolving loan facility agreement dated May 1, 2009, as amended on November 26, 2009, between the Corporation and Standard Chartered Bank, the following assets or shares of Material Subsidiaries have been pledged to Standard Chartered Bank as security:

(a) all present and future inventory owned by, and all present and future receivables enuring to the benefit of, Golden Star (Bogoso/Prestea) Limited and Golden Star (Wassa) Limited;

(b) all of the shares of Golden Star (Bogoso/Prestea) Limited held by Bogoso Holdings, being 90% of the outstanding shares of Golden Star (Bogoso/Prestea) Limited;

(c) all of the shares of Golden Star (Wassa) Limited held by Wasford Holdings, being 90% of the outstanding shares of Golden Star (Wassa) Limited;

(d) all of the shares of Bogoso Holdings and Wasford Holdings held by Caystar Holdings, being 100% of the outstanding shares of Bogoso Holdings and Wasford Holdings;

(e) all of the shares of Caystar Holdings held by the Corporation, being 100% of the outstanding shares of Caystar Holdings;

(f) certain accounts denominated in U.S. dollars in the name of Golden Star (Bogoso/Prestea) Limited established at (i) Barclays Bank PLC in London and all proceeds thereof and (ii) Ghana International Bank in London with and all proceeds thereof; and

(g) certain accounts denominated in U.S. dollars in the name of Golden Star (Wassa) Limited established at Barclays Bank PLC in London and all proceeds thereof,

all as more fully set out in the above-mentioned loan facility agreement (as amended).

SCHEDULE D

Issuer free writing prospectuses

None.