

**AMENDED AND RESTATED  
SHAREHOLDER RIGHTS PLAN AGREEMENT  
DATED OCTOBER 13, 2016**

**BETWEEN**

**CRITICAL OUTCOME TECHNOLOGIES INC.**

**- AND -**

**COMPUTERSHARE INVESTOR SERVICES INC.  
as RIGHTS AGENT**

## TABLE OF CONTENTS

<b>ARTICLE 1 INTERPRETATION.....</b>	<b>5</b>
1.1 CERTAIN DEFINITIONS .....	5
1.2 CURRENCY .....	16
1.3 HEADINGS .....	17
1.4 CALCULATION OF BENEFICIAL OWNERSHIP OF OUTSTANDING VOTING SHARES .....	17
1.5 ACTING JOINTLY OR IN CONCERT .....	17
<b>ARTICLE 2 THE RIGHTS .....</b>	<b>17</b>
2.1 ISSUANCE AND EVIDENCE OF HOLDINGS OF RIGHTS .....	17
2.2 EXERCISE OF RIGHTS; DETACHMENT OF RIGHTS .....	18
2.3 ADJUSTMENTS TO EXERCISE PRICE; NUMBER OF RIGHTS .....	21
2.4 DATE ON WHICH EXERCISE IS EFFECTIVE.....	25
2.5 EXECUTION, AUTHENTICATION, DELIVERY AND DATING OF RIGHTS CERTIFICATES .....	26
2.6 REGISTRATION, TRANSFER AND EXCHANGE .....	26
2.7 MUTILATED, DESTROYED, LOST AND STOLEN RIGHTS CERTIFICATES .....	27
2.8 PERSONS DEEMED OWNERS OF RIGHTS .....	27
2.9 DELIVERY AND CANCELLATION OF RIGHTS CERTIFICATES .....	27
2.10 AGREEMENT OF RIGHTS HOLDERS .....	28
2.11 RIGHTS CERTIFICATE HOLDER NOT DEEMED A SHAREHOLDER .....	29
<b>ARTICLE 3 ADJUSTMENTS TO THE RIGHTS IN THE EVENT OF CERTAIN TRANSACTIONS .....</b>	<b>29</b>
3.1 FLIP-IN EVENT .....	29
<b>ARTICLE 4 THE RIGHTS AGENT .....</b>	<b>30</b>
4.1 GENERAL .....	30
4.2 MERGER, AMALGAMATION OR CONSOLIDATION OR CHANGE OF NAME OF RIGHTS AGENT .....	31
4.3 DUTIES OF RIGHTS AGENT .....	32
4.4 CHANGE OF RIGHTS AGENT .....	33
4.5 COMPLIANCE WITH ANTI-MONEY LAUNDERING LEGISLATION.....	33
<b>ARTICLE 5 MISCELLANEOUS .....</b>	<b>34</b>
5.1 REDEMPTION OF RIGHTS .....	34
5.2 WAIVER OF FLIP-IN EVENTS .....	34
5.3 EXPIRATION .....	35
5.4 ISSUANCE OF NEW RIGHTS CERTIFICATES .....	35
5.5 SUPPLEMENTS AND AMENDMENTS.....	35
5.6 FRACTIONAL RIGHTS AND FRACTIONAL SHARES .....	36
5.7 RIGHTS OF ACTION .....	37
5.8 REGULATORY APPROVALS.....	37
5.9 FIDUCIARY DUTIES OF THE BOARD OF DIRECTORS .....	37
5.10 DECLARATION AS TO NON-CANADIAN HOLDERS .....	37
5.11 PRIVACY LEGISLATION .....	38
5.12 NOTICES .....	38
5.13 COSTS OF ENFORCEMENT .....	39
5.14 SUCCESSORS.....	39
5.15 BENEFITS OF THIS AGREEMENT .....	39
5.16 GOVERNING LAW .....	39
5.17 SEVERABILITY .....	39
5.18 EFFECTIVE DATE.....	39
5.19 DETERMINATIONS AND ACTIONS BY THE BOARD OF DIRECTORS .....	40
5.20 TIME OF THE ESSENCE.....	40
5.21 EXECUTION IN COUNTERPARTS .....	40

5.22	LANGUAGE.....	40
	<b>SCHEDULE I - SHAREHOLDER RIGHTS PLAN AGREEMENT .....</b>	<b>1</b>

## AMENDED AND RESTATED SHAREHOLDER RIGHTS PLAN AGREEMENT

**SHAREHOLDER RIGHTS PLAN AGREEMENT** dated as of September 25, 2014, as amended and restated as of October [13], 2016, between CRITICAL OUTCOME TECHNOLOGIES INC., a corporation existing under laws of the Province of Ontario (the “**Corporation**”), and COMPUTERSHARE INVESTOR SERVICES INC., a corporation existing under the federal laws of Canada (the “**Rights Agent**”).

**WHEREAS** in order to maximize shareholder value the Board of Directors (as hereinafter defined) has determined that it is advisable for the Corporation to adopt a shareholder rights plan;

**AND WHEREAS** in order to implement the adoption of a shareholder rights plan as established by this Agreement, the Board of Directors has: (a) authorized the issuance, effective at the close of business (Toronto Time) on the Effective Date (as hereinafter defined), of one Right (as hereinafter defined) in respect of each Common Share (as hereinafter defined) outstanding at the Record Time (as hereinafter defined); (b) authorized the issuance of one Right in respect of each Common Share of the Corporation issued after the Record Time and prior to the earlier of the Separation Time (as hereinafter defined) and the Expiration Time (as hereinafter defined); and (c) authorized the issuance of Rights Certificates (as hereinafter defined) to holders of Rights pursuant to the terms and subject to the conditions set forth herein;

**AND WHEREAS** each Right entitles the holder thereof, after the Separation Time, to purchase securities of the Corporation pursuant to the terms and subject to the conditions set forth herein;

**AND WHEREAS** the Corporation desires to appoint the Rights Agent to act on behalf of the Corporation and the holders of Rights, and the Rights Agent is willing to so act, in connection with the issuance, transfer, exchange and replacement of Rights Certificates (as hereinafter defined), the exercise of Rights and other matters referred to herein;

**NOW THEREFORE**, in consideration of the premises and the respective covenants and agreements set forth herein, and subject to such covenants and agreements, the parties hereby agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Certain Definitions

For purposes of this Agreement, the following terms have the meanings indicated:

- (a) **“Acquiring Person”** means any Person who is the Beneficial Owner of 20% or more of the outstanding Voting Shares; provided, however, that the term “Acquiring Person” shall not include:
- (i) the Corporation or any Subsidiary of the Corporation;
  - (ii) any Person who becomes the Beneficial Owner of 20% or more of the outstanding Voting Shares as a result of one or any combination of:
    - (A) a Voting Share Reduction;
    - (B) a Permitted Bid Acquisition;
    - (C) an Exempt Acquisition;
    - (D) a Convertible Security Acquisition; or
    - (E) a Pro Rata Acquisition;provided, however, that if a Person becomes the Beneficial Owner of 20% or more of the outstanding Voting Shares by reason of one or any combination of (A), (B), (C), (D) or (E) above and thereafter becomes the Beneficial Owner of additional Voting Shares in an amount greater than 1% of the outstanding Voting Shares (other than pursuant to one or any combination of (A), (B), (C), (D) or (E) above), then as of the date such Person becomes the Beneficial Owner of such additional Voting Shares, such Person shall become an “Acquiring Person”;
  - (iii) for a period of ten days after the Disqualification Date, any Person who becomes the Beneficial Owner of 20% or more of the outstanding Voting Shares as a result of such Person becoming disqualified from relying on Subsection 1.1(e)(iii)(B) solely because such Person is making or has announced a current intention to make a Take-over Bid, either alone or by acting jointly or in concert with any other Person. For the purposes of this definition, **“Disqualification Date”** means the first date of public announcement that any Person is making or has announced an intention to make a Take-over Bid, either alone, through such Person’s Affiliates or Associates or by acting jointly or in concert with any other Person, and includes, without limitation, a report filed pursuant to the Securities Act;
  - (iv) an underwriter or member of a banking or selling group that becomes the Beneficial Owner of 20% or more of the Voting Shares in connection with a distribution to the public of securities of the Corporation, which includes, without limitation, a distribution of securities pursuant to a prospectus or by way of private placement; or

- (v) a Person who is the Beneficial Owner of 20% or more of the outstanding Voting Shares determined as at the Record Time (a “**Grandfathered Person**”), provided, however, that this exception shall not be, and shall cease to be, applicable to a Grandfathered Person in the event that such Grandfathered Person shall, after the Record Time: (A) cease to own 20% or more of the outstanding Voting Shares; or (B) become the Beneficial Owner of any additional Voting Shares that increases its Beneficial Ownership of Voting Shares by more than 1% of the number of Voting Shares outstanding, other than through one or any combination of a Voting Share Reduction, a Permitted Bid Acquisition, an Exempt Acquisition, a Convertible Security Acquisition or a Pro Rata Acquisition).
- (b) “**Affiliate**”, when used to indicate a relationship with a specified corporation, means a Person that directly, or indirectly through one or more controlled intermediaries, controls, or is controlled by, or is under common control with, such specified Person.
- (c) “**Agreement**” means this shareholder rights plan agreement, as the same may be amended or supplemented from time to time, and the terms “hereof”, “herein”, “hereto” and similar expressions mean and refer to this Agreement as a whole and not to any particular part of this Agreement.
- (d) “**Associate**”, when used to indicate a relationship with a specified Person, means (i) a spouse of that Person, (ii) any Person of the same or opposite sex with whom that Person is living in a conjugal relationship outside marriage, (iii) a child of that Person, or (iv) a relative of that Person or of a Person mentioned in items (i), (ii) or (iii) of this definition if that relative has the same residence as that Person.
- (e) A Person shall be deemed the “**Beneficial Owner**” of, to have “**Beneficial Ownership**” of, and to “**Beneficially Own**”:
  - (i) any securities as to which such Person or any of such Person’s Affiliates or Associates is the owner at law or in equity;
  - (ii) any securities as to which such Person or any of such Person’s Affiliates or Associates has the right to become the owner at law or in equity (where such right is exercisable within a period of 60 days, whether or not on condition or on the happening of any contingency upon the exercise of any conversion right, exchange right or purchase right attaching to Convertible Securities or pursuant to any agreement, arrangement, pledge or understanding, whether or not in writing (other than (A) customary agreements with and between underwriters and/or banking group members and/or selling group members with respect to a public offering or distribution of securities or pursuant to a private placement of securities and (B) pledges of securities in the ordinary course of business); and
  - (iii) any securities which are Beneficially Owned within the meaning of Subsections 1.1(e)(i) or 1.1(e)(ii) by any other Person with whom such Person is acting jointly or in concert; provided, however, that a Person shall not be deemed the “Beneficial Owner” of, or to have “Beneficial Ownership” of, or to “Beneficially Own”, any security because:
    - (A) the holder of such security has agreed pursuant to a Permitted Lock-up Agreement to deposit or tender such security pursuant to a Take-over Bid, in each case made by such Person, made by any of such Person’s Affiliates or Associates or made by any other Person acting jointly or in concert with such Person, or such security has been deposited or tendered pursuant to any Take-over Bid made by such Person, made by any of such Person’s Affiliates or Associates or made by any other Person acting

jointly or in concert with such Person, until such deposited or tendered security is accepted unconditionally for payment or exchange or is taken up or paid for, whichever shall first occur;

- (B) such Person, any of such Person's Affiliates or Associates or any other Person acting jointly or in concert with such Person holds such security provided that:
- (1) the ordinary business of any such Person includes the management of mutual funds or other investment funds for others (the "**Investment Manager**") (which others, for greater certainty, may include or be limited to one or more employee benefit plans or pension plans) and the Investment Manager holds such security in the ordinary course of such business in the performance of such Investment Manager's duties for the account of any other Person (a "**Client**"), including the acquisition or holding of securities for non-discretionary accounts held on behalf of a Client by a broker or dealer registered under applicable law,
  - (2) such Person is licensed to carry on the business of a trust company under applicable laws (the "**Trust Company**") and, as such, acts as trustee or administrator or in a similar capacity in relation to the estates of deceased or incompetent Persons (each, an "**Estate Account**") or in relation to other accounts (each, an "**Other Account**") and holds such security in the ordinary course of such duties for the estate of any such deceased or incompetent Person or for such other accounts,
  - (3) such Person is established by statute (the "**Statutory Body**") for purposes that include, and the ordinary business or activity of such Statutory Body includes, the management of investment funds for employee benefit plans, pension plans, insurance plans (other than plans administered by insurance companies) or various public bodies and the Statutory Body holds such security in the ordinary course of and for the purposes of the management of such investment funds,
  - (4) such Person is a Crown agent or agency (a "**Crown Agent**"), or
  - (5) such Person is the administrator or trustee (the "**Administrator**") of one or more pension funds or plans registered under the laws of Canada or the United States of America or any province or state thereof (each, a "**Plan**") or is a Plan and such security is Beneficially Owned or held by the Person in the ordinary course of and for the purposes of its activities as such;

provided, in any of the above cases, that the Investment Manager, the Trust Company, the Statutory Body, the Crown Agent, the Administrator or the Plan, as the case may be, is not then making a Take-over Bid or has not then announced an intention to make a Take-over Bid, other than an Offer to Acquire Voting Shares or other securities by means of a distribution by the Corporation, a Permitted Bid or by means of ordinary market transactions (including prearranged trades entered into in the ordinary course of business of such person) executed through the facilities of a stock exchange, securities quotation system or organized over-the-counter market, in each case, alone, through its Affiliates or Associates or by acting jointly or in concert with any other Person;

- (C) such Person is (1) a Client of the same Investment Manager as another Person on whose account the Investment Manager holds such security, (2) an Estate Account or an Other Account of the same Trust Company as another Person on whose account the Trust Company holds such security, or (3) a Plan with the same Administrator as another Plan on whose account the Administrator holds such security;
  - (D) such Person is the registered holder of securities solely as the result of carrying on the business of or acting as a nominee of a securities depository; or
  - (E) such Person is (1) a Client of an Investment Manager and such security is owned at law or in equity by the Investment Manager, (2) an Estate Account or an Other Account of a Trust Company and such security is owned at law or in equity by the Trust Company, or (3) a Plan and such security is owned at law or in equity by the Administrator of the Plan.
- (f) “**Board of Directors**” means the board of directors of the Corporation, as duly constituted from time to time.
- (g) “**Business Corporations Act**” means the *Business Corporations Act* (Ontario), as amended from time to time, and the regulations thereunder, and any comparable or successor laws or regulations thereto.
- (h) “**Business Day**” means a day other than a Saturday, Sunday or any statutory holiday in the Province of Ontario.
- (i) “**Canadian Dollar Equivalent**” of any amount, which is expressed in United States dollars means, on any date, the Canadian dollar equivalent of such amount determined by reference to the U.S. – Canadian Exchange Rate in effect on such date.
- (j) “**Canadian – U.S. Exchange Rate**” means, on any date, the inverse of the U.S. – Canadian Exchange Rate in effect on such date.
- (k) “**Close of Business**” on any given date means the time on such date (or, if such date is not a Business Day, the time on the next succeeding Business Day) at which the principal transfer office in the City of Toronto of the transfer agent for the Common Shares (or, after the Separation Time, the principal transfer office of the Rights Agent in the City of Toronto) is closed to the public.
- (l) “**Common Shares**” means the common shares in the capital of the Corporation and any other shares of the Corporation into which such common shares may be subdivided, consolidated, reclassified or changed from time to time.
- (m) A Person is “**controlled**” by another Person if:
- (i) in the case of a body corporate:
    - (A) securities entitled to vote in the election of directors carrying more than 50% of the votes for the election of directors are held, directly or indirectly, by or for the benefit of the other Person; and
    - (B) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of such corporation;



- (ii) in the case of a limited partnership, the other Person is the general partner of the limited partnership;
- (iii) in the case of a Person that is not a body corporate or a limited partnership, more than 50% of the voting interests of such entity are held, directly or indirectly, by or on behalf of the Person or Persons;

and “**controls**”, “**controlling**” and “**under common control with**” shall be interpreted accordingly.

- (n) “**Convertible Securities**” means, at any time, any securities issued by the Corporation from time to time (other than the Rights) carrying any purchase, exercise, conversion or exchange right pursuant to which the holder thereof may acquire Voting Shares or other securities which are convertible into, exercisable into or exchangeable for Voting Shares (in each case, whether such right is exercisable immediately or after a specified period and whether or not on condition or the happening of any contingency).
- (o) “**Convertible Security Acquisition**” means the acquisition by a Person of Voting Shares upon the exercise, conversion or exchange of Convertible Securities received by such Person pursuant to a Permitted Bid Acquisition, Exempt Acquisition or a Pro Rata Acquisition.
- (p) “**Co-Rights Agents**” has the meaning ascribed thereto in Subsection 4.1(a).
- (q) “**Disposition Date**” has the meaning ascribed thereto in Subsection 5.2(b).
- (r) “**Dividend Reinvestment Acquisition**” means an acquisition of Voting Shares pursuant to a Dividend Reinvestment Plan.
- (s) “**Dividend Reinvestment Plan**” means any regular dividend reinvestment or other plan of the Corporation made available by the Corporation to holders of its securities where such plan permits the holder to direct that some or all of:
  - (i) dividends paid in respect of shares of any class of the Corporation;
  - (ii) proceeds of redemption of shares of the Corporation;
  - (iii) interest paid on evidences of indebtedness of the Corporation; or
  - (iv) optional cash payments;be applied to the purchase of Voting Shares from the Corporation.
- (t) “**Effective Date**” has the meaning ascribed thereto in Section 5.18.
- (u) “**Election to Exercise**” has the meaning ascribed thereto in Subsection 2.2(d)(ii).
- (v) “**Exempt Acquisition**” means an acquisition of Common Shares:
  - (i) in respect of which the Board of Directors has waived the application of Section 3.1 pursuant to the provisions of Section 5.2;

- (ii) which was made pursuant to a Dividend Reinvestment Plan of the Corporation;
- (iii) pursuant to the receipt or exercise of rights issued by the Corporation to all holders of the Common Shares (other than holders resident in a jurisdiction where such distribution is restricted or impracticable as a result of applicable law) to subscribe for or purchase Common Shares or Convertible Securities, provided that such rights are acquired directly from the Corporation and not from any other Person and provided that the Person does not thereby acquire a greater percentage of Common Shares or Convertible Securities so offered than the Person's percentage of Common Shares or Convertible Securities Beneficially Owned immediately prior to such acquisition;
- (iv) made as an intermediate step in a series of related transactions in connection with an acquisition by the Corporation or its Subsidiaries of a Person or assets, provided that the Person who acquires such securities distributes or is deemed to distribute such securities to its securityholders within 10 Business Days of the completion of such acquisition, and following such distribution no Person has become the Beneficial Owner of 20% or more of the Corporation's then outstanding Voting Shares;
- (v) pursuant to a distribution by the Corporation or an Affiliate of the Corporation of Common Shares or Convertible Securities made pursuant to a prospectus, provided that the Person does not thereby acquire a greater percentage of Common Shares or Convertible Securities so offered than the Person's percentage of Common Shares or Convertible Securities Beneficially Owned immediately prior to such acquisition;
- (vi) pursuant to a distribution by the Corporation or an Affiliate of the Corporation of Common Shares or Convertible Securities by way of a private placement or a securities exchange take-over bid circular or upon the exercise by an individual of options to purchase Common Shares granted under an option plan of the Corporation or an Affiliate of the Corporation or rights to purchase securities under a share purchase plan of the Corporation or an Affiliate of the Corporation, provided that:
  - (A) all necessary stock exchange approvals for such private placement, acquisition, option plan or purchase plan have been obtained and such private placement, acquisition, option plan or purchase plan complies with the terms and conditions of such approvals; and
  - (B) such Person does not thereby acquire a greater percentage of Common Shares or Convertible Securities than the Person's percentage of Common Shares or Convertible Securities Beneficially Owned immediately prior to such acquisition; or
- (vii) pursuant to an amalgamation, arrangement, merger or other procedure requiring shareholder approval.
- (w) **"Exercise Price"** means, as of any date from and after the Separation Time, the price at which a holder may purchase the securities issuable upon exercise of one whole Right which, subject to adjustment in accordance with the terms hereof, shall be an amount equal to four times the Market Price per Common Share determined as at the Separation Time.
- (x) **"Expansion Factor"** has the meaning ascribed thereto in Subsection 2.3(a)(iv)(x).

- (y) “**Expiration Time**” means the termination of the annual meeting of shareholders of the Corporation following the third anniversary of the Effective Date.
- (z) “**Fiduciary**” means a trust company registered under the trust company legislation of Canada or any province thereof, a trust company organized under the laws of any state of the United States, a portfolio manager registered under the securities legislation of one or more provinces of Canada or an investment dealer registered under the *United States Investment Advisers Act of 1940* or any other securities legislation of the United States or any state of the United States.
- (aa) “**Flip-in Event**” means a transaction in or pursuant to which any Person becomes an Acquiring Person.
- (bb) “**holder**” has the meaning ascribed thereto in Section 2.8.
- (cc) “**Independent Shareholders**” means holders of Voting Shares, other than:
  - (i) any Acquiring Person;
  - (ii) any Offeror, other than any Person who by virtue of Subsection 1.1(e)(iii)(B) of the definition of “Beneficial Owner” at the relevant time is not deemed to Beneficially Own the Voting Shares held by such Person;
  - (iii) any Affiliate or Associate of such Acquiring Person or Offeror;
  - (iv) any Person acting jointly or in concert with such Acquiring Person or Offeror; and
  - (v) any person who is a trustee of any employee benefit plan, share purchase plan, deferred profit sharing plan, stock participation plan and any other similar plan or trust for the benefit of employees of the Corporation unless the beneficiaries of the plan or trust direct the manner in which the Voting Shares are to be voted or direct whether the Voting Shares are to be tendered to a Take-over Bid.
- (dd) “**Market Price**” per security of any securities on any date of determination shall mean the average of the daily closing prices per share of such securities (determined as described below) on each of the 20 consecutive Trading Days through and including the Trading Day immediately preceding such date; provided, however, that if an event of a type analogous to any of the events described in Section 2.3 shall have caused the closing prices used to determine the Market Price on any Trading Day not to be fully comparable with the closing price on such date of determination or, if the date of determination is not a Trading Day, on the immediately preceding Trading Day, each such closing price so used shall be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 or as the Board of Directors shall otherwise determine in order to make it fully comparable with the closing price on such date of determination or, if the date of determination is not a Trading Day, on the immediately preceding Trading Day. The closing price per security of any securities on any date shall be:
  - (i) the closing board lot sale price or, in case no such sale takes place on such date, the average of the closing bid and asked prices for each of such securities as reported by the principal Canadian stock exchange (as determined by the Board of Directors) on which such securities are listed or admitted to trading;

- (ii) if for any reason none of such prices is available on such day or the securities are not listed or posted for trading on a Canadian stock exchange, the last sale price or, in case no such sale takes place on such date, the average of the closing bid and asked prices for each of such securities as reported by the principal national United States securities exchange (as determined by the Board of Directors) on which such securities are listed or admitted to trading;
- (iii) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a Canadian stock exchange or a national United States securities exchange, the last sale price or, in case no sale takes place on such date, the average of the high bid and low asked prices for each of such securities in the over-the-counter market, as quoted by any reporting system then in use (as determined by the Board of Directors); or
- (iv) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a Canadian stock exchange or a national United States securities exchange or quoted by any such reporting system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the securities selected by the Board of Directors,

provided, however, that if for any reason none of such prices is available on such day, the closing price per share of such securities on such date means the fair value per share of such securities on such date as determined by a nationally recognized investment dealer or investment banker. The Market Price shall be expressed in Canadian dollars and, if initially determined in respect of any day forming part of the 20 consecutive Trading Day period in question in United States dollars, such amount shall be translated into Canadian dollars on such date at the Canadian Dollar Equivalent thereof.

- (ee) “**NI 62-104**” means National Instrument 62-104 – *Take-Over Bids and Issuer Bids* adopted by the Canadian Securities Administrators as now in effect or as the same may from time to time be amended, re-enacted or replaced.
- (ff) “**Nominee**” has the meaning ascribed thereto in Subsection 2.2(c).
- (gg) “**Offer to Acquire**” includes:
  - (i) an offer to purchase or a solicitation of an offer to sell Voting Shares or Convertible Securities; and
  - (ii) an acceptance of an offer to sell Voting Shares or Convertible Securities, whether or not such offer to sell has been solicited, or any combination thereof, and the Person accepting an offer to sell shall be deemed to be making an Offer to Acquire to the Person that made the offer to sell.
- (hh) “**Offeror**” means a Person who has announced a current intention to make or who is making a Take-over Bid (including a Permitted Bid).
- (ii) “**Offeror’s Securities**” means Voting Shares Beneficially Owned by an Offeror on the date of the Offer to Acquire.
- (jj) “**Permitted Bid**” means a Take-over Bid made by an Offeror by way of a take-over bid circular pursuant to and in compliance with NI 62-104 and is made to all holders of Voting Shares, other than

the Offeror, provided, however, that a Permitted Bid will cease to be a Permitted Bid at any time when such bid ceases to meet any of the provisions of this definition and provided that, at such time, any acquisition of Voting Shares made pursuant to such Permitted Bid, including any acquisition of Voting Shares theretofore made, will cease to be a Permitted Bid Acquisition.

(kk) **“Permitted Bid Acquisition”** means an acquisition of Voting Shares made pursuant to a Permitted Bid.

(ll) **“Permitted Lock-up Agreement”** means an agreement between a Person and one or more holders of Voting Shares or Convertible Securities (each, a **“Locked-up Person”**) (the terms of which are publicly disclosed and a copy of which is made available to the public (including the Corporation) not later than the date the Lock-up Bid is publicly announced or, if the Lock-up Bid has been made prior to the date on which such agreement is entered into, forthwith, and in any event not later than the date of such agreement), pursuant to which each such Locked-up Person agrees to deposit or tender Voting Shares or Convertible Securities (or both) to a Take-over Bid (the **“Lock-up Bid”**) made or to be made by the Person or any of such Person’s Affiliates or Associates or any other Person referred to in Subsection 1.1(e)(iii); provided that:

(i) the agreement:

(A) permits the Locked-up Person to terminate its obligation to deposit or tender, and permits the Locked-up Person to withdraw if already deposited or tendered, the Voting Shares or Convertible Securities (or both) from the Lock-up Bid in order to tender or deposit such securities to another Take-over Bid or to support another transaction that represents an offering price for each Voting Share or Convertible Security that exceeds, or provides a value that is greater than, the offering price or value represented or proposed to be represented by the Lock-up Bid; or

(B) (1) permits the Locked-up Person to terminate its obligation to deposit or tender, and permits the Locked-up Person to withdraw if already deposited or tendered, the Voting Shares or Convertible Securities from the agreement in order to tender or deposit the Voting Shares or Convertible Securities to another Take-over Bid, or to support another transaction that provides for a consideration for each Voting Share or Convertible Security that exceeds by as much as or more than a specified amount (the **“Specified Amount”**) the consideration for each Voting Share or Convertible Security contained in or proposed to be contained in, and is made for at least the same number of Voting Shares or Convertible Securities as, the Lock-up Bid; and

(2) does not by its terms provide for a Specified Amount that is greater than 7% over the consideration for each Voting Share or Convertible Security contained in or proposed to be contained in the Lock-up Bid;

and, for greater clarity, the agreement may contain a right of first refusal or permit a period of delay to give such Person an opportunity to at least match a higher consideration in another Take-over Bid and may provide for any other similar limitation on a Locked-up Person’s right to withdraw Voting Shares or Convertible Securities (or both) from the agreement, as long as the Locked-up Person can accept another bid or tender to another transaction; and

(ii) no “break-up” fees, “top-up” fees, penalties, expenses or other amounts that exceed in the aggregate the greater of:

- (A) the cash equivalent of 2.5% of the price or value payable under the Lock-up Bid to a Locked-up Person; and
- (B) 50% of the amount by which the price or value payable under another Take-over Bid or transaction to a Locked-up Person exceeds the price or value of the consideration that such Locked-up Person would have received under the Lock-up Bid,

is payable by a Locked-up Person pursuant to the agreement in the event a Locked-up Person fails to deposit or tender Voting Shares or Convertible Securities (or both) to the Lock-up Bid, withdraws Voting Shares or Convertible Securities (or both) previously tendered thereto or supports another transaction.

- (mm) **“Person”** includes an individual, body corporate, firm, partnership, syndicate or other form of unincorporated association, trust, trustee, executor, administrator, legal personal representative, group, unincorporated organization, a government and its agencies or instrumentalities, or other entity whether or not having legal personality.
- (nn) **“Pro Rata Acquisition”** means an acquisition by a Person of Voting Shares or Convertible Securities pursuant to:
  - (i) a Dividend Reinvestment Acquisition;
  - (ii) a stock dividend, stock split or other event in respect of securities of the Corporation of one or more particular classes or series pursuant to which such Person becomes the Beneficial Owner of Voting Shares or Convertible Securities on the same pro rata basis as all other holders of securities of the particular class, classes or series;
  - (iii) the acquisition or the exercise by the Person of rights to purchase Voting Shares distributed to that Person in the course of a distribution to all holders of securities of the Corporation of one or more particular classes or series pursuant to a rights offering (other than the Rights) or pursuant to a prospectus provided that the Person does not thereby acquire a greater percentage of such Voting Shares, or securities convertible into or exchangeable for Voting Shares, so offered than the Person’s percentage of Voting Shares Beneficially Owned immediately prior to such acquisition;
  - (iv) a distribution of Voting Shares, or securities convertible into or exchangeable for Voting Shares (and the conversion or exchange of such convertible or exchangeable securities), made pursuant to a prospectus or by way of a private placement by the Corporation, provided that the Person does not thereby acquire a greater percentage of such Voting Shares, or Convertible Securities so offered than the Person’s percentage of Voting Shares Beneficially Owned immediately prior to such acquisition; or
  - (v) pursuant to a plan of arrangement, amalgamation or other statutory procedure requiring approval of shareholders at a duly called meeting.
- (oo) **“Record Time”** means the Close of Business on the date of this Agreement.
- (pp) **“Redemption Price”** has the meaning ascribed thereto in Subsection 5.1(a).

- (qq) “**regular periodic cash dividends**” means cash dividends paid at regular intervals in any fiscal year of the Corporation to the extent that such cash dividends do not exceed, in the aggregate, the greatest of:
- (i) 100% of the aggregate consolidated net income of the Corporation, before extraordinary items, for its immediately preceding fiscal year; and
  - (ii) 200% of the aggregate amount of cash dividends declared payable by the Corporation on its Common Shares in its immediately preceding fiscal year; and
  - (iii) 300% of the arithmetic mean of the aggregate amounts of cash dividends declared payable by the Corporation on its Common Shares in its three immediately preceding fiscal years divided by the arithmetic mean of the number of Common Shares outstanding as at the end of each of such fiscal years.
- (rr) “**Right**” means a right to purchase a Common Share upon the terms and subject to the conditions set forth in this Agreement.
- (ss) “**Rights Certificates**” means the certificates representing the Rights after the Separation Time, which shall be substantially in the form attached hereto as Schedule I.
- (tt) “**Rights Register**” has the meaning ascribed thereto in Subsection 2.6(a).
- (uu) “**Securities Act**” means the *Securities Act* (Ontario), as amended from time to time, and the regulations thereunder, and any comparable or successor laws or regulations thereto.
- (vv) “**Separation Time**” shall mean the Close of Business on the tenth Trading Day after the earlier of:
- (i) the Stock Acquisition Date;
  - (ii) the date of the commencement of, or first public announcement of the intent of any Person (other than the Corporation or any Subsidiary of the Corporation), to commence a Take-over Bid (other than a Permitted Bid); and
  - (iii) the date upon which a Permitted Bid ceases to be such;
- or, in the case of Subsections (ii) and (iii) of this definition, such later time as may be determined by the Board of Directors in good faith; provided that (x) if any Take-over Bid referred to in Subsection (ii) above expires, is not made, is cancelled, terminated or otherwise withdrawn prior to the Separation Time, such Take-over Bid shall be deemed, for the purposes of this definition, never to have been commenced, made or announced, and (y) if the Board of Directors determines, pursuant to Section 5.2, to waive the application of Section 3.1 to a Flip-In Event, then the Separation Time in respect of such Flip-In Event shall be deemed never to have occurred.
- (ww) “**Shareholder Approval**” means approval by a majority of the votes cast by the holders of Voting Shares at a meeting called and held in accordance with applicable laws and the articles and by-laws of the Corporation or a written resolution approved by holders of a majority of the outstanding Voting Shares excluding, in all cases, Voting Shares held by Persons who are not Independent Shareholders.

- (xx) “**Stock Acquisition Date**” shall mean the first date of public announcement (which, for purposes of this definition, shall include, without limitation, a report filed pursuant to Section 5.2(1) of NI 62-104 or any other applicable securities laws) by the Corporation or an Acquiring Person of facts indicating that a Person has become an Acquiring Person.
- (yy) A corporation shall be deemed to be a “**Subsidiary**” of another corporation if:
- (i) it is controlled by:
    - (A) that other; or
    - (B) that other and one or more corporations each of which is controlled by that other; or
    - (C) two or more corporations each of which is controlled by that other; or
  - (ii) it is a Subsidiary of a corporation that is that other’s Subsidiary.
- (zz) “**Take-over Bid**” means an Offer to Acquire Voting Shares, or securities convertible into Voting Shares, where the Voting Shares subject to the Offer to Acquire, together with (i) the Voting Shares into which securities subject to the Offer to Acquire are convertible and (ii) the Offeror’s Securities, constitute in the aggregate 20% or more of the outstanding Voting Shares at the date of the Offer to Acquire.
- (aaa) “**Trading Day**”, when used with respect to any securities, means a day on which the principal Canadian stock exchange on which such securities are listed or admitted to trading is open for the transaction of business or, if the securities are not listed or admitted to trading on any Canadian stock exchange, a Business Day.
- (bbb) “**U.S. – Canadian Exchange Rate**” means, on any date:
- (i) if on such date the Bank of Canada sets an average noon spot rate of exchange for the conversion of one United States dollar into Canadian dollars, such rate; and
  - (ii) in any other case, the rate for such date for the conversion of one United States dollar into Canadian dollars calculated in such manner as may be determined by the Board of Directors from time to time acting in good faith.
- (ccc) “**Voting Share Reduction**” means an acquisition or redemption by the Corporation of Voting Shares or any other transaction which, by reducing the number of Voting Shares outstanding, increases the percentage outstanding of Voting Shares Beneficially Owned by any Person to 20% or more of the Voting Shares then outstanding.
- (ddd) “**Voting Shares**” shall mean the Common Shares of the Corporation and any other shares in the capital of the Corporation entitled to vote generally in the election of all directors.

## 1.2 Currency

All sums of money, which are referred to in this Agreement are expressed in lawful money of Canada, unless otherwise specified.



### **1.3 Headings**

The division of this Agreement into Articles, Sections, Subsections, Clauses, Subclauses, Paragraphs, Subparagraphs or other portions hereof and the insertion of headings and subheadings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

### **1.4 Calculation of Beneficial Ownership of Outstanding Voting Shares**

- (a) For purposes of this Agreement, the percentage of Voting Shares Beneficially Owned by any Person, shall be and be deemed to be the product (expressed as a percentage) determined by the following formula:

$$100 \times A/B$$

where:

A = the number of votes for the election of all directors generally attaching to the Voting Shares Beneficially Owned by such Person; and

B = the number of votes for the election of all directors generally attaching to all outstanding Voting Shares.

- (b) For the purposes of the foregoing formula, where any Person is deemed to Beneficially Own unissued Voting Shares which may be acquired pursuant to Convertible Securities, such Voting Shares shall be deemed to be outstanding for the purpose of calculating the percentage of Voting Shares Beneficially Owned by such Person in both the numerator and the denominator, but no other unissued Voting Shares which may be acquired pursuant to any other outstanding Convertible Securities shall, for the purposes of that calculation, be deemed to be outstanding.

### **1.5 Acting Jointly or in Concert**

For the purposes of this Agreement, a Person is acting jointly or in concert with every other Person who, as a result of any agreement, arrangement, commitment or understanding, whether formal or informal, or written or unwritten, with the first Person or any Associate or Affiliate thereof, acquires or offers to acquire or Offer to Acquire any Voting Shares or Convertible Securities (other than (A) customary agreements with and between underwriters and/or banking group members and/or selling group members with respect to a distribution of securities by way of prospectus or private placement; (B) pledges of securities in the ordinary course of business, or (C) Permitted Lock-Up Agreements).

## **ARTICLE 2 THE RIGHTS**

### **2.1 Issuance and Evidence of Holdings of Rights**

- (a) Certificates representing Common Shares which are issued after the Record Time but prior to the earlier of the Separation Time and the Expiration Time, shall also evidence one Right for each Common Share represented thereby until the earlier of the Separation Time or the Expiration Time and shall have impressed on, printed on, written on or otherwise affixed to them the following legends:

“Until the earlier of the Separation Time or the Expiration Time (as both terms are defined in the Shareholder Rights Agreement referred to below), this certificate also evidences and entitles the holder hereof to certain Rights described in the Shareholder Rights Plan Agreement dated September 25, 2014, as may be amended or supplemented from time to time (the “**Shareholder Rights Agreement**”) between Critical Outcome Technologies Inc. (the “**Corporation**”) and COMPUTERSHARE INVESTOR SERVICES INC., as Rights Agent, the terms of which are incorporated herein by reference and a copy of which is on file at the principal offices of the Corporation. Under certain circumstances set out in the Shareholder Rights Agreement, the Rights may expire, may be amended or redeemed, may become null and void or may be evidenced by separate certificates and no longer evidenced by this certificate. The Corporation will mail or arrange for the mailing of a copy of the Shareholder Rights Agreement to the holder of this certificate without charge as soon as practicable after the receipt of a written request therefor.”

- (b) Certificates representing Common Shares that are issued and outstanding at the Record Time shall also evidence one Right for each Common Share represented thereby notwithstanding the absence of the foregoing legend until the Close of Business on the earlier of the Separation Time and the Expiration Time. Registered holders of Common Shares who have not received a share certificate and are entitled to do so on the earlier of the Separation Time and the Expiration Time shall be entitled to Rights as if such certificates had been issued and such Rights shall for all purposes hereof be evidenced by the corresponding entries on the Corporation’s securities register for Common Shares.

## **2.2 Exercise of Rights; Detachment of Rights**

- (a) Subject to adjustment as herein set forth, each Right will entitle the holder thereof, from and after the Separation Time and prior to the Expiration Time, to purchase one Common Share for the Exercise Price (which Exercise Price and number of Common Shares are subject to adjustment as set forth below). Notwithstanding any other provision of this Agreement, any Rights held by the Corporation or any of its Subsidiaries shall be void.
- (b) Until the Separation Time:
  - (i) the Rights shall not be exercisable and no Right may be exercised; and
  - (ii) each Right will be evidenced by the certificate for the associated Common Share registered in the name of the holder thereof (which certificate shall also be deemed to represent a Rights Certificate) and will be transferable only together with, and will be transferred by a transfer of, such associated Common Share.
- (c) From and after the Separation Time and prior to the Expiration Time:
  - (i) the Rights shall be exercisable; and
  - (ii) the registration and transfer of Rights shall be separate from and independent of the Common Shares.

Promptly following the Separation Time, the Corporation will prepare or cause to be prepared and the Rights Agent will mail to each holder of record of Common Shares as of the Separation Time

and, in respect of each Convertible Security converted into Common Shares after the Separation Time and prior to the Expiration Time, promptly after such conversion, the Corporation will prepare or cause to be prepared and the Rights Agent will mail to the holder so converting (other than in either case an Acquiring Person and, in respect of any Rights Beneficially Owned by such Acquiring Person which are not held of record by such Acquiring Person, the holder of record of such Rights (a “**Nominee**”)), at such holder’s address as shown by the records of the Corporation (the Corporation hereby agreeing to furnish copies of such records to the Rights Agent for this purpose): (x) a Rights Certificate appropriately completed, representing the number of Rights held by such holder at the Separation Time or at the time of conversion, as applicable, and having such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Corporation may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any law, rule or regulation or with any rule or regulation of any self-regulatory organization, stock exchange or quotation system on which the Rights may from time to time be listed or traded, or to conform to usage; and (y) a disclosure statement describing the Rights, provided that a Nominee shall be sent the materials provided for in (x) and (y) only in respect of all Common Shares held of record by it which are not Beneficially Owned by an Acquiring Person. In order for the Corporation to determine whether any Person is holding Common Shares which are Beneficially Owned by another Person, the Corporation may require such first Person to furnish such information and documentation as the Corporation deems necessary.

- (d) Rights may be exercised, in whole or in part, on any Business Day after the Separation Time and prior to the Expiration Time by submitting to the Rights Agent at its office in Toronto, Ontario, Canada or any other office of the Rights Agent in cities designated from time to time for that purpose by the Corporation with the approval of the Rights Agent:
  - (i) the Rights Certificate evidencing such Rights;
  - (ii) an election to exercise such Rights (an “**Election to Exercise**”) substantially in the form attached to the Rights Certificate appropriately completed and duly executed by the holder or such holder’s executors or administrators or other personal representatives or such holder’s or their legal attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Rights Agent; and
  - (iii) payment by wire transfer, certified cheque, banker’s draft or money order payable to the order of the Rights Agent, of a sum equal to the Exercise Price multiplied by the number of Rights being exercised and a sum sufficient to cover any transfer tax or charge which may be payable in respect of any transfer involved in the transfer or delivery of Rights Certificates or the issuance or delivery of certificates for Common Shares in a name other than that of the holder of the Rights being exercised.
- (e) Upon receipt of a Rights Certificate, together with a duly completed Election to Exercise executed in accordance with Subsection 2.2(d)(ii), which does not indicate that such Right is null and void as provided by Subsection 3.1(c), and payment as set forth in Subsection 2.2(d)(iii), the Rights Agent (unless otherwise instructed by the Corporation in the event that the Corporation is of the opinion that the Rights cannot be exercised in accordance with this Agreement) will thereupon as soon as practicable:
  - (i) requisition from the transfer agent for the Common Shares certificates representing the number of such Common Shares to be purchased (the Corporation hereby irrevocably authorizing its transfer agent to comply with all such requisitions);

- (ii) when appropriate, requisition from the Corporation the amount of cash to be paid in lieu of issuing fractional Common Shares;
  - (iii) after receipt of the certificates referred to in Subsection 2.2(e)(i), deliver the same to or upon the order of the registered holder of such Rights Certificate, registered in such name or names as may be designated by such holder;
  - (iv) after receipt of the certificates referred to in Subsection 2.2(e)(i), deliver any cash referred to in Subsection 2.2(e)(ii) to or to the order of the registered holder of such Rights Certificates; and
  - (v) remit to the Corporation all payments received on the exercise of Rights.
- (f) In case the holder of any Rights shall exercise less than all the Rights evidenced by such holder's Rights Certificate, a new Rights Certificate evidencing the remaining unexercised Rights (subject to the provisions of Subsection 5.6(a)) will be issued by the Rights Agent to such holder or to such holder's duly authorized assigns.
- (g) The Corporation covenants and agrees that it will:
- (i) take all such action as may be necessary and within its power to ensure that all Common Shares delivered upon exercise of Rights shall, at the time of delivery of the certificates for such Common Shares (subject to payment of the Exercise Price), be duly and validly authorized, executed, issued and delivered as fully paid and non-assessable;
  - (ii) take all reasonable actions as may be necessary and within its power to comply with the requirements of the Business Corporations Act, the Securities Act and the applicable securities laws or comparable legislation of each of the provinces of Canada and any other applicable law, rule or regulation, in connection with the issuance and delivery of the Rights Certificates and the issuance of any Common Shares upon exercise of Rights;
  - (iii) use reasonable efforts to cause all Common Shares issued upon exercise of Rights to be listed on the stock exchanges on which such Common Shares were traded immediately prior to the Stock Acquisition Date;
  - (iv) cause to be reserved and kept available out of the authorized and unissued Common Shares, the number of Common Shares that, as provided in this Agreement, will from time to time be sufficient to permit the exercise in full of all outstanding Rights;
  - (v) pay when due and payable, if applicable, any and all federal, provincial and municipal transfer taxes and charges (not including any income or capital taxes of the holder or exercising holder or any liability of the Corporation to withhold tax) which may be payable in respect of the original issuance or delivery of the Rights Certificates, or certificates for Common Shares to be issued upon exercise of any Rights, provided that the Corporation shall not be required to pay any transfer tax or charge which may be payable in respect of any transfer involved in the transfer or delivery of Rights Certificates or the issuance or delivery of certificates for Common Shares in a name other than that of the holder of the Rights being transferred or exercised;
  - (vi) perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as

may reasonably be required by the Rights Agent for the carrying out or performing by the Rights Agent of the provisions of this Agreement; and

- (vii) after the Separation Time, except as permitted by Section 5.1, not take (or permit any Subsidiary of the Corporation to take) any action if at the time such action is taken it is reasonably foreseeable that such action will diminish substantially or otherwise eliminate the benefits intended to be afforded by the Rights.

### **2.3 Adjustments to Exercise Price; Number of Rights**

The Exercise Price, the number and kind of securities subject to purchase upon exercise of each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 2.3.

- (a) In the event the Corporation shall at any time after the Record Time and prior to the Expiration Time:
  - (i) declare or pay a dividend on Common Shares payable in Common Shares (or capital stock or other securities exchangeable for or convertible into or giving a right to acquire Common Shares or other capital stock) other than pursuant to any optional stock dividend program, Dividend Reinvestment Plan or a dividend payable in Voting Shares in lieu of a regular periodic cash dividend;
  - (ii) subdivide or change the then outstanding Common Shares into a greater number of Common Shares;
  - (iii) consolidate or change the then outstanding Common Shares into a smaller number of Common Shares; or
  - (iv) otherwise issue any Common Shares (or other securities exchangeable for or convertible into or giving a right to acquire Common Shares) in respect of, in lieu of or in exchange for existing Common Shares in a reclassification, amalgamation, merger, statutory arrangement, or consolidation,

the Exercise Price, the number of Rights outstanding and the securities purchasable upon exercise of the Rights shall be adjusted as of the record or effective date as follows:

- (x) the Exercise Price in effect after such adjustment will be equal to the Exercise Price in effect immediately prior to such adjustment divided by the number of Common Shares (the “**Expansion Factor**”) that a holder of one Common Share immediately prior to such dividend, subdivision, change, consolidation or issuance would hold thereafter as a result thereof (assuming the exercise of any such exchange, conversion or acquisition rights); and
- (y) each Right held prior to such adjustment shall become that number of Rights equal to the Expansion Factor and the adjusted number of Rights will be deemed to be allocated among the Common Shares with respect to which the original Rights were associated (if they remain outstanding) and the shares issued in respect of such dividend, subdivision, change, consolidation or issuance, so that each such Common Share will have exactly one Right associated with it.

To the extent that any such exchange, conversion or acquisition rights are not exercised prior to the expiration thereof, the Exercise Price shall be readjusted to the Exercise Price which would be in effect, based on the number of Common Shares actually issued on the exercise of such rights.

In the event the Corporation at any time after the Record Time and prior to the Separation Time issues any Common Shares (or other securities exchangeable for or convertible into or giving a right to acquire Common Shares), each such Common Share shall automatically have one new Right associated with it, which Right shall be evidenced by the certificate representing such associated Common Share. If, after the Separation Time and prior to the Expiration Time, the Corporation shall issue any shares of capital stock other than Common Shares (or other securities exchangeable for or convertible into or giving a right to acquire shares of any such capital stock) in a transaction of a type described in Subsections 2.3(a)(i) or (iv), the shares of such capital stock shall be treated herein as nearly equivalent to Common Shares to the extent practicable and appropriate under the circumstances, as determined by the Board of Directors, and the shares purchasable upon exercise of Rights shall be adjusted as necessary such that the shares purchasable upon exercise of each Right after such adjustment will be the shares that a holder of the shares purchasable upon exercise of one Right immediately prior to such issuance would hold thereafter as a result of such issuance. Notwithstanding Section 5.5, the Corporation and the Rights Agent are authorized and agree to amend this Agreement in order to give effect to the foregoing.

- (b) If the Corporation will, at any time after the Record Time and prior to the Separation Time, fix a record date for the making of a distribution to all holders of Common Shares of rights, options or warrants entitling them (for a period expiring within 45 days after such record date) to subscribe for or purchase Common Shares (or securities convertible into or exchangeable for or carrying a right to purchase or subscribe for Common Shares) at a price per Common Share (or, in the case of a security convertible into or exchangeable for or carrying a right to purchase or subscribe for Common Shares, having a conversion, exchange or exercise price (including the price required to be paid to purchase such convertible or exchangeable security or right) per share) that is less than the Market Price per Common Share on such record date, the Exercise Price will be adjusted. The Exercise Price in effect after such record date will equal the Exercise Price in effect immediately prior to such record date multiplied by a fraction, of which the numerator will be the number of Common Shares outstanding on such record date plus the number of Common Shares which the aggregate offering price of the total number of Common Shares so to be offered (and/or the aggregate initial conversion, exchange or exercise price of the convertible or exchangeable securities or rights so to be offered (including the price required to be paid to purchase such convertible or exchangeable securities or rights)) would purchase at such Market Price and of which the denominator will be the number of Common Shares outstanding on such record date plus the number of additional Common Shares to be offered for subscription or purchase (or into which the convertible or exchangeable securities or rights so to be offered are initially convertible, exchangeable or exercisable). In case such subscription price may be paid in a form other than cash, the value of such non-cash consideration will be as determined by the Board of Directors, whose determination shall be described in a statement filed with the Rights Agent and shall be binding on the Rights Agent and the holders of Rights. To the extent that any such rights or warrants are not so issued or, if issued, are not exercised prior to the expiration thereof, the Exercise Price will be readjusted to the Exercise Price which would then be in effect if such record date had not been fixed or to the Exercise Price which would then be in effect based upon the number of Common Shares (or securities convertible into or exchangeable for Common Shares) actually issued upon the exercise of such rights or warrants, as the case may be. For purposes of this Agreement, the granting of the right to purchase Common Shares (whether previously unissued, treasury shares or otherwise) pursuant to any optional Dividend Reinvestment Plan and/or any Common Share purchase plan providing for the reinvestment of dividends payable on securities of

the Corporation and/or employee stock option, stock purchase or other employee benefit plan (so long as such right to purchase is in no case evidenced by the delivery of rights or warrants) will not be deemed to constitute an issue of rights or warrants by the Corporation; provided, however, that, in the case of any Dividend Reinvestment Plan, the right to purchase Common Shares is at a price per share of not less than 90% of the then current market price per share (determined as provided in such plan) of the Common Shares.

- (c) If the Corporation will, at any time after the Record Time and prior to the Separation Time, fix a record date for the making of a distribution to all holders of Common Shares of evidences of indebtedness or assets (other than a regular periodic cash dividend or a dividend paid in Common Shares) or rights or warrants (excluding those referred to in Subsection 2.3(a) or 2.3(b)), the Exercise Price will be adjusted. The Exercise Price in effect after such record date will, subject to adjustment as provided in Subsection 2.3(b), equal the Exercise Price in effect immediately prior to such record date less the fair market value (as determined by the Board of Directors) of the portion of the assets, evidences of indebtedness, rights or warrants so to be distributed applicable to the securities purchasable upon exercise of one Right.
- (d) Each adjustment made pursuant to this Section 2.3 will be made as of:
  - (i) the payment or effective date for the applicable dividend, subdivision, change, consolidation or issuance in the case of an adjustment made pursuant to Subsection 2.3(a) above; and
  - (ii) the record date for the applicable dividend or distribution, in the case of an adjustment made pursuant to Subsections 2.3(b) or (c) above.
- (e) Subject to the prior consent of the holders of Common Shares or Rights obtained in accordance with the provisions of Subsection 5.5(b) or (c), as applicable, if the Corporation will, at any time after the Record Time and prior to the Separation Time, issue any Shares of capital (other than Common Shares), or rights or warrants to subscribe for or purchase any such Shares, or securities convertible into or exchangeable for any such Shares, in a transaction referred to in Subsections 2.3(a)(i) or (a)(iv) above and if the Board of Directors determines that the adjustments contemplated by Subsections 2.3(a), (b) and (c) above in connection with such transaction will not appropriately protect the interests of the holders of Rights, the Board of Directors may determine what other adjustments to the Exercise Price, number of Rights and/or securities purchasable upon exercise of Rights would be appropriate and, notwithstanding such clauses, such adjustments (rather than the adjustments contemplated by Subsections 2.3(a), (b) and (c) above) will be made and the Corporation and the Rights Agent will amend this Agreement as appropriate to provide for such adjustments.
- (f) Notwithstanding anything herein to the contrary, no adjustment in the Exercise Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Exercise Price; provided, however, that any adjustments which by reason of this Subsection 2.3(f) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 2.3 shall be made to the nearest cent or to the nearest ten-thousandth of a share. Notwithstanding the first sentence of this Subsection 2.3(f), any adjustment required by this Section 2.3 shall be made no later than the earlier of: (i) three years from the date of the transaction which gives rise to such adjustment; and (ii) the Expiration Time.
- (g) All Rights originally issued by the Corporation subsequent to any adjustment made to an Exercise Price hereunder will evidence the right to purchase, at the adjusted Exercise Price, the number of

Common Shares purchasable from time to time hereunder upon exercise of the Rights, all subject to further adjustment as provided herein.

- (h) Unless the Corporation will have exercised its election as provided in Subsection 2.3(i), upon each adjustment of an Exercise Price as a result of the calculations made in Subsections 2.3(b) or (c), each Right outstanding immediately prior to the making of such adjustment will thereafter evidence the right to purchase, at the adjusted Exercise Price, that number of Common Shares (calculated to the nearest one ten-thousandth) obtained by:
  - (i) multiplying (A) the number of Common Shares covered by a Right immediately prior to this adjustment, by (B) the Exercise Price in effect immediately prior to such adjustment of the Exercise Price; and
  - (ii) dividing the product so obtained by the Exercise Price in effect immediately after such adjustment of the Exercise Price.
- (i) The Corporation may elect on or after the date of any adjustment of an Exercise Price to adjust the number of Rights, in lieu of any adjustment in the number of Common Shares purchasable upon the exercise of a Right. Each of the Rights outstanding after the adjustment in the number of Rights will be exercisable for the number of Common Shares for which a Right was exercisable immediately prior to such adjustment. Each Right held of record immediately prior to such adjustment of the number of Rights will become the number of Rights (calculated to the nearest one ten-thousandth) obtained by dividing the Exercise Price in effect immediately prior to the adjustment of the Exercise Price by the Exercise Price in effect immediately after adjustment of the Exercise Price. The Corporation will make a public announcement of its election to adjust the number of Rights, indicating the record date for the adjustment and, if known at the time, the amount of the adjustment to be made. This record date may be the date on which the Exercise Price is adjusted or any date thereafter, but, if the Rights Certificates have been issued, will be at least 10 calendar days after the date of the public announcement. If Rights Certificates have been issued, upon each adjustment of the number of Rights pursuant to this Subsection 2.3(j), the Corporation will, as promptly as practicable, cause to be distributed to holders of record of Rights Certificates on such record date, Rights Certificates evidencing the additional Rights to which such holder will be entitled as a result of such adjustment, or, at the option of the Corporation, will cause to be distributed to such holders of record in substitution or replacement for the Rights Certificates held by such holders prior to the date of adjustment, and upon surrender thereof, if required by the Corporation, new Rights Certificates evidencing all the Rights to which such holders will be entitled after such adjustment. Rights Certificates so to be distributed will be issued, executed and countersigned in the manner provided for herein and may bear, at the option of the Corporation, the adjusted Exercise Price and will be registered in the names of the holders of record of Rights Certificates on the record date specified in the public announcement.
- (j) Irrespective of any adjustment or change in the Exercise Price or the number of Common Shares issuable upon the exercise of the Rights, the Rights Certificates theretofore and thereafter issued may continue to express the Exercise Price per Common Share and the number of Common Shares which were expressed in the initial Rights Certificates issued hereunder.
- (k) If, as a result of an adjustment made pursuant to Section 3.1, the holder of any Right thereafter exercised will become entitled to receive any securities other than Common Shares, thereafter the number of such other securities so receivable upon exercise of any Right and the applicable Exercise Price thereof will be subject to adjustment from time to time in a manner and on terms as nearly equivalent as may be practicable to the provisions with respect to the Common Shares contained in



the foregoing Subsections of this Section 2.3 and the provisions of this Agreement with respect to the Common Shares will apply on like terms to any such other securities.

- (l) In any case in which this Section 2.3 shall require that an adjustment in the Exercise Price be made effective as of a record date for a specified event, the Corporation may elect to defer until the occurrence of such event the issuance to the holder of any Right exercised after such record date the number of Common Shares and other securities of the Corporation, if any, issuable upon such exercise over and above the number of Common Shares and other securities of the Corporation, if any, issuable upon such exercise on the basis of the Exercise Price in effect prior to such adjustment; provided, however, that the Corporation shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional shares (fractional or otherwise) or other securities upon the occurrence of the event requiring such adjustment.
- (m) Notwithstanding anything contained in this Section 2.3 to the contrary, the Corporation shall be entitled to make such reductions in the Exercise Price, in addition to those adjustments expressly required by this Section 2.3, as and to the extent that in their good faith judgment the Board of Directors shall determine to be advisable, in order that any:
  - (i) consolidation or subdivision of Common Shares;
  - (ii) issuance (wholly or in part for cash) of Common Shares or securities that by their terms are convertible into or exchangeable for Common Shares;
  - (iii) stock dividends; or
  - (iv) issuance of rights, options or warrants,

hereafter made by the Corporation to holders of its Common Shares, shall not be taxable to such shareholders.

- (n) Whenever an adjustment to the Exercise Price or a change in the securities purchasable upon exercise of the Rights is made pursuant to this Section 2.3, the Corporation shall promptly and in any event, where such change or adjustment occurs prior to the Separation Time, not later than the Separation Time:
  - (i) file with the Rights Agent and with each transfer agent for the Common Shares a certificate specifying the particulars of such adjustment or change; and
  - (ii) cause notice of the particulars of such adjustment or change to be given to the holders of the Rights.

Failure to file such certificate or to cause such notice to be given as aforesaid, or any defect therein, shall not affect the validity of such adjustment or change.

#### **2.4 Date on Which Exercise Is Effective**

Each Person in whose name any certificate for Common Shares or other securities, if applicable, is issued upon the exercise of Rights shall for all purposes be deemed to have become the absolute holder of record of the Common Shares or other securities, if applicable, represented thereon, and such certificate shall be dated the date upon which the Rights Certificate evidencing such Rights was duly surrendered in accordance with Subsection 2.2(d) (together with a duly completed Election to Exercise) and payment of

the Exercise Price for such Rights (and any applicable transfer taxes and other governmental charges payable by the exercising holder hereunder) was made; provided, however, that if the date of such surrender and payment is a date upon which the Common Share transfer books of the Corporation are closed, such Person shall be deemed to have become the record holder of such Common Shares on, and such certificate shall be dated, the next succeeding Business Day on which the Common Share transfer books of the Corporation are open.

## **2.5 Execution, Authentication, Delivery and Dating of Rights Certificates**

- (a) The Rights Certificates shall be executed on behalf of the Corporation by any one of its Chief Executive Officer, Chief Financial Officer, President or Corporate Secretary. The signature of any of these officers on the Rights Certificates may be manual, by facsimile or by other electronically transmitted form. Rights Certificates bearing the manual, facsimile or electronically transmitted signature of the individual who was at any time the proper officer of the Corporation shall bind the Corporation, notwithstanding that such individual has ceased to hold such office either before or after the countersignature and delivery of such Rights Certificates.
- (b) Promptly after the Corporation learns of the Separation Time, the Corporation will notify the Rights Agent of such Separation Time and will deliver (i) Rights Certificates executed by the Corporation to the Rights Agent for countersignature, and (ii) a disclosure statement describing the Rights. The Rights Agent shall manually countersign (in a manner satisfactory to the Corporation) Rights Certificates and send such Rights Certificates and the disclosure statement to the holders of the Rights pursuant to Subsection 2.2(c) hereof. No Rights Certificate shall be valid for any purpose until countersigned by the Rights Agent as aforesaid.
- (c) Each Rights Certificate shall be dated the date of countersignature thereof.

## **2.6 Registration, Transfer and Exchange**

- (a) After the Separation Time, the Corporation will cause to be kept a register (the “**Rights Register**”) in which, subject to such reasonable regulations as it may prescribe, the Corporation will provide for the registration and transfer of Rights. The Rights Agent is hereby appointed registrar for the Rights (the “**Rights Registrar**”) for the purpose of maintaining the Rights Register for the Corporation and registering Rights and transfers of Rights as herein provided and the Rights Agent hereby accepts such appointment. In the event that the Rights Agent shall cease to be the Rights Registrar, the Rights Agent will have the right to examine the Rights Register at all reasonable times. After the Separation Time and prior to the Expiration Time, upon surrender for registration of transfer or exchange of any Rights Certificate, and subject to the provisions of Subsection 2.6(c), the Corporation shall execute, and the Rights Agent shall manually countersign and deliver, in the name of the holder or the designated transferee or transferees, as required pursuant to the holder’s instructions, one or more new Rights Certificates evidencing the same aggregate number of Rights as did the Rights Certificates so surrendered.
- (b) All Rights issued upon any registration of transfer or exchange of Rights Certificates shall be the valid obligations of the Corporation, and such Rights shall be entitled to the same benefits under this Agreement as the Rights surrendered upon such registration of transfer or exchange.
- (c) Every Rights Certificate surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Corporation or the Rights Agent, as the case may be, duly executed by the holder thereof or such holder’s attorney duly authorized in writing. As a condition to the issuance of any new Rights Certificate under this Section

2.6, the Corporation or the Rights Agent may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the reasonable fees and expenses of the Rights Agent) connected therewith.

## **2.7 Mutilated, Destroyed, Lost and Stolen Rights Certificates**

- (a) If any mutilated Rights Certificate is surrendered to the Rights Agent prior to the Expiration Time, the Corporation shall execute and the Rights Agent shall countersign and deliver in exchange therefor a new Rights Certificate evidencing the same number of Rights as did the Rights Certificate so surrendered.
- (b) If there shall be delivered to the Corporation and the Rights Agent prior to the Expiration Time:
  - (i) evidence to their reasonable satisfaction of the destruction, loss or theft of any Rights Certificate; and
  - (ii) such security or indemnity as may be reasonably required by each of them in their sole discretion to save each of them and any of their agents harmless;

then, in the absence of notice to the Corporation or the Rights Agent that such Rights Certificate has been acquired by a bona fide purchaser, the Corporation shall execute and upon the Corporation's request the Rights Agent shall countersign and deliver, in lieu of any such destroyed, lost or stolen Rights Certificate, a new Rights Certificate evidencing the same number of Rights as did the Rights Certificate so destroyed, lost or stolen.

- (c) As a condition to the issuance of any new Rights Certificate under this Section 2.7, the Corporation or the Rights Agent may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the reasonable fees and expenses of the Rights Agent) connected therewith.
- (d) Every new Rights Certificate issued pursuant to this Section 2.7 in lieu of any destroyed, lost or stolen Rights Certificate shall evidence the contractual obligation of the Corporation, whether or not the destroyed, lost or stolen Rights Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Agreement equally and proportionately with any and all other Rights duly issued hereunder.

## **2.8 Persons Deemed Owners of Rights**

The Corporation, the Rights Agent and any agent of the Corporation or the Rights Agent may deem and treat the Person, in whose name a Rights Certificate (or, prior to the Separation Time, the associated Common Share certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby for all purposes whatsoever. In this Agreement, unless the context otherwise requires, the term "holder" of any Right means the registered holder of such Right (or, prior to the Separation Time, of the associated Common Share).

## **2.9 Delivery and Cancellation of Rights Certificates**

All Rights Certificates surrendered upon exercise, or for redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Rights Agent, be delivered to the Rights Agent and, in any case, shall be promptly cancelled by the Rights Agent. The Corporation may at any time deliver to the Rights Agent for cancellation any Rights Certificates previously countersigned and delivered hereunder

which the Corporation may have acquired in any manner whatsoever, and all Rights Certificates so delivered shall be promptly cancelled by the Rights Agent. No Rights Certificate shall be countersigned in lieu of or in exchange for any Rights Certificates cancelled as provided in this Section 2.9, except as expressly permitted by this Agreement. The Rights Agent shall, subject to applicable laws, destroy all cancelled Rights Certificates and, if requested, deliver a certificate to the Corporation confirming such destruction.

## **2.10 Agreement of Rights Holders**

Every holder of Rights, by accepting the same, consents and agrees with the Corporation and the Rights Agent and with every other holder of Rights:

- (a) to be bound by and subject to the provisions of this Agreement, as may be amended or supplemented from time to time in accordance with the terms hereof, in respect of all Rights held;
- (b) that prior to the Separation Time, each Right will be transferable only together with, and will be transferred by a transfer of, the associated Common Share certificate representing such Right;
- (c) that after the Separation Time, the Rights Certificates will be transferable only on the Rights Register as provided herein;
- (d) that prior to due presentment of a Rights Certificate (or, prior to the Separation Time, the associated Common Share certificate) for registration of transfer, the Corporation, the Rights Agent and any agent of the Corporation or the Rights Agent may deem and treat the Person in whose name the Rights Certificate (or, prior to the Separation Time, the associated Common Share certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on such Rights Certificate or the associated Common Share certificate made by anyone other than the Corporation or the Rights Agent) for all purposes whatsoever, and neither the Corporation nor the Rights Agent shall be affected by any notice to the contrary;
- (e) that such holder of Rights has waived his right to receive any fractional Rights or any fractional shares or other securities upon exercise of a Right (except as provided herein);
- (f) that, subject to the provisions of Section 5.5, this Agreement may be supplemented or amended from time to time as provided herein without the approval of any holder of Rights or Voting Shares and upon the sole authority of the Board of Directors, acting in good faith;
- (g) perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent for the carrying out or performing by the Rights Agent of the provisions of this Agreement; and
- (h) that notwithstanding anything in this Agreement to the contrary, neither the Corporation nor the Rights Agent shall have any liability to any holder of a Right or any other Person as a result of its inability to perform any of its obligations under this Agreement by reason of any preliminary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or by a governmental, regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or enacted by any governmental authority, prohibiting or otherwise restraining performance of such obligation.

## **2.11 Rights Certificate Holder Not Deemed a Shareholder**

No holder, as such, of any Rights or Rights Certificate shall be entitled to vote, receive dividends or be deemed for any purpose whatsoever the holder of any Common Share or any other share or security of the Corporation which may at any time be issuable on the exercise of the Rights represented thereby, nor shall anything contained herein or in any Rights Certificate be construed or deemed or confer upon the holder of any Right or Rights Certificate, as such, any right, title, benefit or privilege of a holder of Common Shares or any other shares or securities of the Corporation or any right to vote at any meeting of shareholders of the Corporation whether for the election of directors or otherwise or upon any matter submitted to holders of Common Shares or any other shares of the Corporation at any meeting thereof, or to give or withhold consent to any action of the Corporation, or to receive notice of any meeting or other action affecting any holder of Common Shares or any other shares of the Corporation except as expressly provided herein, or to receive dividends, distributions or subscription rights, or otherwise, until the Right or Rights evidenced by Rights Certificates shall have been duly exercised in accordance with the terms and provisions hereof.

### **ARTICLE 3**

#### **ADJUSTMENTS TO THE RIGHTS IN THE EVENT OF CERTAIN TRANSACTIONS**

##### **3.1 Flip-in Event**

- (a) Subject to Subsection 3.1(b) and Section 5.2, in the event that prior to the Expiration Time a Flip-in Event shall occur, each Right shall constitute, effective no later than the Close of Business on the tenth Trading Day after the Stock Acquisition Date, the right to purchase from the Corporation, upon exercise thereof in accordance with the terms hereof, that number of Common Shares having an aggregate Market Price on the date of consummation or occurrence of such Flip-in Event equal to twice the Exercise Price for an amount in cash equal to the Exercise Price (such right to be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 in the event that after such date of consummation or occurrence, an event of a type analogous to any of the events described in Section 2.3 shall have occurred).
- (b) Notwithstanding anything in this Agreement to the contrary, upon the occurrence of any Flip-in Event, any Rights that are or were Beneficially Owned on or after the earlier of the Separation Time or the Stock Acquisition Date by:
  - (i) an Acquiring Person (or any Affiliate or Associate of an Acquiring Person or any other Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of such other Person); or
  - (ii) a transferee or other successor in title (collectively, a “**Transferee**”) of Rights, directly or indirectly, from an Acquiring Person (or any Affiliate or Associate of an Acquiring Person or any other Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of such other Person), where such Transferee becomes a transferee concurrently with or subsequent to the Acquiring Person becoming such in a transfer, whether or not for consideration, that the Board of Directors has determined is part of a plan, understanding or scheme of an Acquiring Person (or any Affiliate or Associate of an Acquiring Person or any other Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of such other Person), that has the purpose or effect of avoiding this Section 3.1(b),

shall become null and void without any further action, and any holder of such Rights (including a Transferee) shall thereafter have no right to exercise such Rights under any provision of this Agreement and further shall thereafter not have any other rights whatsoever with respect to such Rights, whether under any provision of this Agreement or otherwise.

- (c) From and after the Separation Time, the Corporation shall do all such acts and things as shall be necessary and within its power to ensure compliance with the provisions of this Section 3.1 including, without limitation, all such acts and things as may be required to satisfy the requirements of the Business Corporation Act, the Securities Act, the securities laws or comparable legislation of each of the provinces of Canada, and any other applicable laws in respect of the issue of Common Shares upon the exercise of Rights in accordance with this Agreement.
- (d) Any Rights Certificate that represents Rights Beneficially Owned by a Person described in either Subsections 3.1(b)(i) or 3.1(b)(ii) or transferred to any nominee of any such Person, and any Rights Certificate issued upon the transfer, exchange, replacement or adjustment of any other Rights Certificate referred to in this sentence, shall contain the following legends:

“The Rights represented by this Rights Certificate were issued to a Person who was an Acquiring Person or an Affiliate or an Associate of an Acquiring Person or a Person who was acting jointly or in concert with an Acquiring Person or an Affiliate or Associate of an Acquiring Person (as such terms are defined in the Shareholder Rights Plan Agreement). This Rights Certificate and the Rights represented hereby are void or shall become void in the circumstances specified in Subsection 3.1(b) of the Shareholder Rights Plan Agreement.”

provided, however, that the Rights Agent shall not be under any responsibility to ascertain the existence of facts that would require the imposition of such legend but shall impose such legend only if instructed to do so by the Corporation in writing or if a holder fails to certify upon transfer or exchange in the space provided on the Rights Certificate that such holder is not a Person described in such legend and provided further that the fact that such legend does not appear on a certificate is not determinative of whether any Rights represented thereby are void under this Section.

## ARTICLE 4 THE RIGHTS AGENT

### 4.1 General

- (a) The Corporation hereby appoints the Rights Agent to act as agent for the Corporation and the holders of the Rights in accordance with the terms and conditions hereof, and the Rights Agent hereby accepts such appointment. The Corporation may from time to time appoint such co-rights agents (a “**Co-Rights Agents**”) as it may deem necessary or desirable. In the event the Corporation appoints one or more Co-Rights Agents, the respective duties of the Rights Agent and Co-Rights Agents shall be as the Corporation may determine. The Corporation agrees to pay to the Rights Agent reasonable compensation for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses and other disbursements reasonably incurred in the execution and administration of this Agreement and the exercise and performance of its duties hereunder, including the reasonable fees of legal counsel for matters referred in connection with the discharge of the Rights Agent’s duties hereunder, with the prior approval of the Corporation. The Corporation also agrees to indemnify the Rights Agent for, and to hold it harmless against, any loss, liability, or expense, incurred without negligence, bad faith or wilful misconduct on the part of the Rights Agent,

for anything done or omitted by the Rights Agent in connection with the acceptance and administration of this Agreement, including the costs and expenses of defending against any claim of liability, which right to indemnification will survive the termination of this Agreement.

- (b) The Rights Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of this Agreement in reliance upon any certificate for Common Shares, Rights Certificate, certificate for other securities of the Corporation, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement, or other paper or document believed by it to be genuine and to be signed, executed and, where necessary, verified or acknowledged, by the proper Person or Persons.
- (c) The Corporation shall inform the Rights Agent in a reasonably timely manner of events which may materially affect the administration of this Agreement by the Rights Agent and, at any time upon request, shall provide to the Rights Agent an incumbency certificate certifying the then current officers of the Corporation.
- (d) The Rights Agent may retain any cash balance held in connection with this Agreement and may, but need not, hold the same in its deposit department or the deposit department of one of its Affiliates; but the Rights Agent and its Affiliates shall not be liable to account for any profit to the Corporation or any other person or entity other than at a rate, if any, established from time to time by the Rights Agent or its Affiliates.

#### **4.2 Merger, Amalgamation or Consolidation or Change of Name of Rights Agent**

- (a) Any corporation into which the Rights Agent or any successor rights agent may be merged or amalgamated or with which it may be consolidated, or any corporation resulting from any merger, amalgamation, statutory arrangement or consolidation to which the Rights Agent or any successor rights agent is a party, or any corporation succeeding to the shareholder or stockholder services business of the Rights Agent or any successor rights agent, will be the successor to the Rights Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided that such corporation would be eligible for appointment as a successor rights agent under the provisions of Section 4.4. In case at the time such successor rights agent succeeds to the agency created by this Agreement, any of the Rights Certificates have been countersigned but not delivered, any such successor rights agent may adopt the countersignature of the predecessor Rights Agent and deliver such Rights Certificates so countersigned; and in case at that time any of the Rights have not been countersigned, any successor rights agent may countersign such Rights Certificates in the name of the predecessor Rights Agent or in the name of the successor rights agent; and in all such cases such Rights Certificates will have the full force provided in the Rights Certificates and in this Agreement.
- (b) In case at any time the name of the Rights Agent is changed and at such time any of the Rights Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Rights Certificates so countersigned; and in case at that time any of the Rights Certificates shall not have been countersigned, the Rights Agent may countersign such Rights Certificates either in its prior name or in its changed name; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates and in this Agreement.

### **4.3 Duties of Rights Agent**

The Rights Agent undertakes the duties and obligations imposed by this Agreement upon the following terms and conditions, all of which the Corporation, the holders of certificates for Common Shares and the holders of Rights Certificates, by their acceptance thereof, shall be bound:

- (a) the Rights Agent may consult with legal counsel (who may be legal counsel for the Corporation) and the opinion of such counsel will be full and complete authorization and protection to the Rights Agent as to any action taken or omitted by it in good faith and in accordance with such opinion; the Rights Agent may also, with the prior approval of the Corporation, consult with such other experts as the Rights Agent shall consider necessary or appropriate to properly carry out the duties and obligations imposed under this Agreement;
- (b) whenever in the performance of its duties under this Agreement, the Rights Agent deems it necessary or desirable that any fact or matter be proved or established by the Corporation prior to taking or suffering any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by any one of the Chairman, Chief Executive Officer, President, Chief Financial Officer or any Vice-President of the Corporation and delivered to the Rights Agent; and such certificate will be full authorization to the Rights Agent for any action taken or suffered in good faith by it under the provisions of this Agreement in reliance upon such certificate;
- (c) the Rights Agent will be liable hereunder for its own negligence, bad faith or willful misconduct;
- (d) the Rights Agent will not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the certificates for Common Shares or the Rights Certificates (except its countersignature thereof) or be required to verify the same, but all such statements and recitals are and will be deemed to have been made by the Corporation only;
- (e) the Rights Agent will not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due authorization, execution and delivery hereof by the Rights Agent) or in respect of the validity or execution of any certificate for a Common Share or Rights Certificate (except its countersignature thereof); nor will it be responsible for any breach by the Corporation of any covenant or condition contained in this Agreement or in any Rights Certificate; nor will it be responsible for any change in the exercisability of the Rights (including the Rights becoming void pursuant to Subsection 3.1(b)) or any adjustment required under the provisions of Section 2.3 or responsible for the manner, method or amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustment (except with respect to the exercise of Rights after receipt of the certificate contemplated by Section 2.3 describing any such adjustment); nor will it by any act hereunder be deemed to make any representation or warranty as to the authorization of any Common Shares to be issued pursuant to this Agreement or any Rights or as to whether any Common Shares will, when issued, be duly and validly authorized, executed, issued and delivered as fully paid and non-assessable;
- (f) the Rights Agent is hereby authorized and directed to accept instructions in writing with respect to the performance of its duties hereunder from any one of the Chairman, Chief Executive Officer, President, Chief Financial Officer or any Vice-President of the Corporation, and to apply to any such individual for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered by it in good faith in accordance with instructions of any such individual;



- (g) the Rights Agent and any shareholder, director, officer or employee of the Rights Agent may buy, sell or deal in Common Shares, Rights or other securities of the Corporation or become pecuniarily interested in any transaction in which the Corporation may be interested, or contract with or lend money to the Corporation or otherwise act as fully and freely as though it were not the Rights Agent under this Agreement;
- (h) nothing herein shall preclude the Rights Agent from acting in any other capacity for the Corporation or for any other legal entity; and
- (i) the Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Rights Agent will not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys or agents or for any loss to the Corporation resulting from any such act, default, neglect or misconduct, provided reasonable care was exercised in the selection and continued employment thereof.

#### **4.4 Change of Rights Agent**

The Rights Agent may resign and be discharged from its duties under this Agreement upon 60 days' notice (or such lesser notice as is acceptable to the Corporation) in writing mailed to the Corporation and to the transfer agent of Common Shares by registered or certified mail. The Corporation may remove the Rights Agent upon 30 days' notice (or such lesser notice as is acceptable to the Rights Agent) in writing, mailed to the Rights Agent and to the transfer agent of the Common Shares by registered or certified mail. If the Rights Agent should resign or be removed or otherwise become incapable of acting, the Corporation will appoint a successor to the Rights Agent. If the Corporation fails to make such appointment within a period of 30 days after such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent, then by prior written notice to the Corporation the resigning Rights Agent or the holder of any Rights (which holder shall, with such notice, submit such holder's Rights Certificate, if any, for inspection by the Corporation), may apply to any court of competent jurisdiction for the appointment of a new rights agent. Any successor rights agent, whether appointed by the Corporation or by such a court, shall be a corporation incorporated under the laws of Canada or a province thereof authorized to carry on the business of a trust company in the Province of Ontario. After appointment, the successor rights agent will be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or deed; but the predecessor Rights Agent shall deliver and transfer to the successor rights agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Corporation will file notice thereof in writing with the predecessor Rights Agent and the transfer agent of the Common Shares and mail a notice thereof in writing to the holders of the Rights in accordance with Section 5.12. Failure to give any notice provided for in this Section 4.4, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of any successor rights agent, as the case may be.

#### **4.5 Compliance with Anti-Money Laundering Legislation**

The Rights Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Rights Agent reasonably determines that such an act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Rights Agent reasonably determine at any time that its acting under this Agreement has resulted in it being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' prior written notice to the Corporation, provided: (i) that the Rights Agent's written notice

shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Rights Agent's satisfaction within such 10 day period, then such resignation shall not be effective.

## **ARTICLE 5 MISCELLANEOUS**

### **5.1 Redemption of Rights**

- (a) Until the occurrence of a Flip-in Event, as to which the application of Section 3.1 has not been waived pursuant to Section 5.2, the Board of Directors, subject to receipt of Shareholder Approval, may at any time elect to redeem all but not less than all of the then outstanding Rights at a redemption price of \$0.00001 per Right (the "**Redemption Price**"), appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3, if an event of the type analogous to any of the events described in Section 2.3 shall have occurred.
- (b) If a Person acquires, pursuant to a Permitted Bid or pursuant to an Exempt Acquisition occurring under Section 5.2 hereof, outstanding Voting Shares and/or Convertible Securities, the Board of Directors shall, notwithstanding the provisions of Subsection 5.1(a), immediately upon such acquisition and without further formality, be deemed to have elected to redeem the Rights at the Redemption Price.
- (c) Where a Take-over Bid that is not a Permitted Bid expires, is withdrawn or otherwise terminated after the Separation Time has occurred and prior to the occurrence of a Flip-in Event, the Board of Directors may elect to redeem all of the outstanding Rights at the Redemption Price.
- (d) If the Board of Directors elects to or is deemed to have elected to redeem the Rights (i) the right to exercise the Rights will thereupon, without further action and without notice, terminate and the only right thereafter of the holders of Rights shall be to receive the Redemption Price, and (ii) subject to Subsection 5.1(f), no further Rights shall thereafter be issued.
- (e) Within 10 Business Days of the Board of Directors electing or having been deemed to have elected to redeem the Rights, the Corporation shall give notice of redemption to the holders of the then outstanding Rights by mailing such notice to each such holder at his last address as it appears upon the Rights Register, or, prior to the Separation Time, on the Common Share register maintained by the Corporation's transfer agent or transfer agents. Each such notice of redemption shall state the method by which the payment of the Redemption Price shall be made.
- (f) Upon the Rights being redeemed pursuant to Subsection 5.1(c), all the provisions of this Agreement shall continue to apply as if the Separation Time had not occurred and Rights Certificates representing the number of Rights held by each holder of record of Common Shares as of the Separation Time had not been mailed to each such holder and for all purposes of this Agreement, the Separation Time shall be deemed not to have occurred.

### **5.2 Waiver of Flip-In Events**

- (a) The Board of Directors may, subject to receipt of Shareholder Approval, at any time prior to the occurrence of a Flip-in Event that would occur by reason of an acquisition of Voting Shares otherwise than in the circumstances set forth in Subsection 5.2(b), waive the application of Section 3.1 to such Flip-in Event by written notice delivered to the Rights Agent. In the event that the Board of Directors proposes such a waiver, the Board of Directors shall extend the Separation Time to a

date subsequent to and not more than 10 Business Days following the meeting of shareholders called to approve such waiver.

- (b) The Board of Directors may waive the application of Section 3.1 in respect of the occurrence of any Flip-in Event if the Board of Directors has determined that a Person became an Acquiring Person by inadvertence and without any intention to become, or knowledge that it would become, an Acquiring Person under this Agreement and, in the event that such a waiver is granted by the Board of Directors, such Stock Acquisition Date shall be deemed not to have occurred. Any such waiver pursuant to this Subsection 5.2(b) must be on the condition that such Person, within 14 days after the foregoing determination by the Board of Directors or such earlier or later date as the Board of Directors may determine (the “**Disposition Date**”), has reduced its Beneficial Ownership of Voting Shares such that the Person is no longer an Acquiring Person. If the Person remains an Acquiring Person at the Close of Business on the Disposition Date, the Disposition Date shall be deemed to be the date of occurrence of a further Stock Acquisition Date and Section 3.1 shall apply thereto.

### **5.3 Expiration**

No Person shall have any rights whatsoever pursuant to this Agreement or in respect of any Right after the Expiration Time, except the Rights Agent as specified in Subsection 4.1(a) of this Agreement.

### **5.4 Issuance of New Rights Certificates**

Notwithstanding any of the provisions of this Agreement or the Rights Certificates to the contrary, the Corporation may, at its option, issue new Rights Certificates evidencing Rights in such form as may be approved by the Board of Directors to reflect any adjustment or change in the number or kind or class of securities purchasable upon exercise of Rights made in accordance with the provisions of this Agreement.

### **5.5 Supplements and Amendments**

- (a) The Corporation may make amendments to this Agreement to correct any clerical or typographical error or any other amendments which are required to maintain the validity of this Agreement as a result of any change in any applicable legislation or regulations or rules thereunder. Notwithstanding anything in this Section 5.5 to the contrary, no such supplement or amendment shall be made to the provisions of Article 4 except with the written concurrence of the Rights Agent to such supplement or amendment.
- (b) Subject to Subsection 5.5(a), the Corporation may, with the prior consent of the holders of Voting Shares obtained as set forth below, at any time prior to the Separation Time, supplement, amend, vary, rescind or delete any of the provisions of this Agreement and the Rights (whether or not such action would materially adversely affect the interests of the holders of Rights generally). Such consent shall be deemed to have been given if the action requiring such approval is authorized by the affirmative vote of a majority of the votes cast by Independent Shareholders present or represented at and entitled to be voted at a meeting of the holders of Voting Shares duly called and held in compliance with applicable laws and the articles and by-laws of the Corporation.
- (c) The Corporation may, with the prior consent of the holders of Rights, at any time on or after the Separation Time, supplement, amend, vary, rescind or delete any of the provisions of this Agreement and the Rights (whether or not such action would materially adversely affect the interests of the holders of Rights generally), provided that no such amendment, supplement, variation or deletion shall be made to the provisions of Article 4 except with the written concurrence of the Rights Agent thereto. Such consent shall be deemed to have been given if such amendment, supplement, variation

or deletion is authorized by the affirmative votes of the holders of Rights present or represented at and entitled to be voted at a meeting of the holders and representing more than 50% of the votes cast in respect thereof.

- (d) Any approval of the holders of Rights shall be deemed to have been given if the action requiring such approval is authorized by the affirmative votes of the holders of Rights present or represented at and entitled to be voted at a meeting of the holders of Rights and representing a majority of the votes cast in respect thereof. For the purposes hereof, each outstanding Right (other than Rights which are void pursuant to the provisions hereof) shall be entitled to one vote, and the procedures for the calling, holding and conduct of the meeting shall be those, as nearly as may be, which are provided in the Corporation's articles and by-laws and the Business Corporations Act with respect to meetings of shareholders of the Corporation.
- (e) Any amendments made by the Corporation to this Agreement pursuant to Subsection 5.5(a) which are required to maintain the validity of this Agreement as a result of any change in any applicable legislation or regulation thereunder shall:
  - (i) if made before the Separation Time, be submitted to the shareholders of the Corporation at the next meeting of shareholders and the shareholders may, by the majority referred to in Subsection 5.5(b), confirm or reject such amendment; or
  - (ii) if made after the Separation Time, be submitted to the holders of Rights at a meeting to be called for on a date not later than immediately following the next meeting of shareholders of the Corporation and the holders of Rights may, by resolution passed by the majority referred to in Subsection 5.5(d), confirm or reject such amendment.
- (f) Any amendments made by the Corporation pursuant to Section 5.5 shall be subject to the receipt of any required acceptance, approval or consent of any governmental or regulatory authority having jurisdiction over the Corporation, including any required approval of stock exchanges on which the Voting Shares are listed. Any such amendment shall, unless the Board of Directors otherwise stipulates, be effective from the date of the resolution of the Board of Directors adopting such amendment, until it is confirmed or rejected or until it ceases to be effective (as described in the next sentence) and, where such amendment is confirmed, it continues in effect in the form so confirmed. If such amendment is rejected by the shareholders or the holders of Rights or is not submitted to the shareholders or holders of Rights as required, then such amendment shall cease to be effective from and after the termination of the meeting (or any adjournment of such meeting) at which it was rejected or to which it should have been but was not submitted or from and after the date of the meeting of holders of Rights that should have been but was not held, and no subsequent resolution of the Board of Directors to amend this Agreement to substantially the same effect shall be effective until confirmed by the shareholders or holders of Rights, as the case may be.

## **5.6 Fractional Rights and Fractional Shares**

- (a) The Corporation shall not be required to issue fractions of Rights or to distribute Rights Certificates which evidence fractional Rights. After the Separation Time, in lieu of issuing fractional Rights, the Corporation shall pay to the holders of record of the Rights Certificates (provided the Rights represented by such Rights Certificates are not void pursuant to the provisions of Subsection 3.1(b), at the time such fractional Rights would otherwise be issuable), an amount in cash equal to the Market Price of one Right multiplied by the fraction of a Right that would otherwise be issuable.

- (b) The Corporation shall not be required to issue fractions of Common Shares upon exercise of Rights or to distribute certificates which evidence fractional Common Shares. In lieu of issuing fractional Common Shares, the Corporation shall pay to the registered holders of Rights Certificates, at the time such Rights are exercised as herein provided, an amount in cash equal to the Market Price of one Common Share multiplied by the fraction of a Common Share that would otherwise be issuable upon the exercise of such Right at the date of such exercise.

## **5.7 Rights of Action**

Subject to the terms of this Agreement, all rights of action in respect of this Agreement, other than rights of action vested solely in the Rights Agent, are vested in the respective holders of the Rights. Any holder of Rights, without the consent of the Rights Agent or of the holder of any other Rights, may, on such holder's own behalf and for such holder's own benefit and the benefit of other holders of Rights, enforce, and may institute and maintain any suit, action or proceeding against the Corporation to enforce such holder's right to exercise such holder's Rights, or Rights to which such holder is entitled, in the manner provided in such holder's Rights Certificate and in this Agreement. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and will be entitled to specific performance of the obligations under, and injunctive relief against actual or threatened violations of the obligations of any Person subject to, this Agreement.

## **5.8 Regulatory Approvals**

Any obligation of the Corporation or action or event contemplated by this Agreement shall be subject to the receipt of any requisite approval or consent from any governmental or regulatory authority, including without limiting the generality of the foregoing, any necessary approvals of the TSX Venture Exchange or any other applicable stock exchange or market.

## **5.9 Fiduciary Duties of the Board of Directors**

For greater certainty, nothing contained in this Agreement shall be construed so as to suggest or imply that the Board of Directors shall not be entitled to recommend that the holders of Voting Shares and/or Convertible Securities reject or accept any Take-over Bid or take any other action, including the commencement, prosecution, defence or settlement of any litigation, and the solicitation of additional or alternative Take-over Bids or other proposals to shareholders that the Board of Directors believe are necessary or appropriate in the exercise of their fiduciary duties.

## **5.10 Declaration as to Non-Canadian Holders**

If in the opinion of the Board of Directors (who may rely upon the advice of counsel) any action or event contemplated by this Agreement would require compliance by the Corporation with the securities laws or comparable legislation of a jurisdiction outside Canada, the Board of Directors acting in good faith shall take such actions as it may deem appropriate to ensure such compliance is not required, including establishing procedures for the issuance to a Canadian resident Fiduciary of Rights or securities issuable upon exercise of Rights, the holding thereof in trust for persons entitled thereto (but reserving to the Fiduciary or to the Fiduciary and the Corporation, as the Corporation may determine in its absolute discretion with respect thereto) and the sale thereof and remittance of the proceeds of such sale, if any, to the Persons entitled thereto. In no event shall the Corporation or the Rights Agent be required to issue or deliver Rights or securities issuable on exercise of Rights to Persons who are citizens, residents or nationals of any jurisdiction other than Canada, in which such issue or delivery would be unlawful without registration of the relevant Persons or securities for such purposes.

### 5.11 Privacy Legislation

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individual's personal information (collectively, "**Privacy Laws**") applies to obligations and activities under this Agreement. Despite any other provision of this Agreement, neither party will take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Corporation will, prior to transferring or causing to be transferred personal information to the Rights Agent, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or will have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Rights Agent will use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws.

### 5.12 Notices

- (a) Notices or demands authorized or required by this Agreement to be given or made by the Rights Agent or by the holder of any Rights to or on the Corporation shall be sufficiently given or made if delivered, sent by first class mail, postage prepaid, or sent by facsimile or other form of recorded electronic communication, charges prepaid and confirmed in writing, as follows:

Critical Outcome Technologies Inc.  
213 - 700 Collip Circle  
London, Ontario  
N6G 4X8

Attention: Chief Executive Officer  
Fax: (519) 858-5179  
Email: wdanter@criticaloutcome.com

- (b) Notices or demands authorized or required by this Agreement to be given or made by the Corporation or by the holder of any Rights to or on the Rights Agent shall be sufficiently given or made if delivered, sent by first class mail, postage prepaid, or sent by facsimile or other form of recorded electronic communication, charges prepaid and confirmed in writing, as follows:

COMPUTERSHARE INVESTOR SERVICES INC.  
600, 530 – 8th Avenue SW  
Calgary, Alberta  
T2P 3S8

Attention: Manager – Client Services  
Fax: (403) 267-6529

- (c) Notices or demands authorized or required by this Agreement to be given or made by the Corporation or the Rights Agent to or on the holder of any Rights shall be sufficiently given or made if delivered or sent by first class mail, postage prepaid, addressed to such holder at the address of such holder as it appears upon the register of the Rights Agent or, prior to the Separation Time, on the register of the Corporation for the Common Shares. Any notice which is mailed or sent in the manner herein provided shall be deemed given, whether or not the holder receives the notice.
- (d) Any notice given or made in accordance with this Section 5.12 shall be deemed to have been given and to have been received on the day of delivery, if so delivered, on the third Business Day

(excluding each day during which there exists any general interruption of postal service due to strike, lockout or other cause) following the mailing thereof, if so mailed, and on the day such notice is sent by facsimile or by other means of recorded electronic communication (provided that if such sending is prior to 4:30 p.m. (local time of the recipient) on a Business Day, be deemed to be given and received on that day and, in any other case, be deemed to be given and received on the next Business Day.)

- (e) Each of the Corporation and the Rights Agent may from time to time change its address for notice under Subsection 5.12(a) or (b) by notice to the other given in the manner aforesaid.

### **5.13 Costs of Enforcement**

The Corporation agrees that if the Corporation fails to fulfil any of its obligations pursuant to this Agreement, then the Corporation will reimburse the holder of any Rights for the costs and expenses (including legal fees) reasonably incurred by such holder to enforce such holder's rights pursuant to any Rights or this Agreement.

### **5.14 Successors**

All the covenants and provisions of this Agreement by or for the benefit of the Corporation or the Rights Agent shall bind and enure to the benefit of their respective successors and assigns hereunder.

### **5.15 Benefits of this Agreement**

Nothing in this Agreement shall be construed to give to any Person other than the Corporation, the Rights Agent and the holders of the Rights any legal or equitable right, remedy or claim under this Agreement. This Agreement shall be for the sole and exclusive benefit of the Corporation, the Rights Agent and the holders of the Rights.

### **5.16 Governing Law**

This Agreement and each Right issued hereunder shall be deemed to be a contract made under the laws of the Province of Ontario and for all purposes shall be governed by and construed in accordance with the laws of such province applicable to contracts to be made and performed entirely within such province. The Courts of the Province of Ontario shall have the irrevocable and exclusive jurisdiction and venue over all disputes arising in connection with this Agreement.

### **5.17 Severability**

If any term or provision hereof or the application thereof to any circumstance shall, in any jurisdiction and to any extent, be invalid or unenforceable, such term or provision shall be ineffective only as to such jurisdiction and to the extent of such invalidity or unenforceability in such jurisdiction without invalidating or rendering unenforceable or ineffective the remaining terms and provisions hereof in such jurisdiction or the application of such term or provision in any other jurisdiction or to circumstances other than those as to which it is specifically held invalid or unenforceable.

### **5.18 Effective Date**

This Agreement is effective and in full force and effect in accordance with its terms from and after October 13, 2016 (the "**Effective Date**"), the date of the Corporation's annual general and special meeting of shareholders at which this Agreement was confirmed by resolution passed by a majority of

more than 50% of the votes cast by the Independent Shareholders who voted in respect of such confirmation at the meeting.

**5.19 Determinations and Actions by the Board of Directors**

All actions, calculations and determinations (including all omissions with respect to the foregoing) which are done or made by the Board of Directors, in good faith, shall not subject the Board of Directors or any director of the Corporation to any liability whatsoever to the holders of the Rights.

**5.20 Time of the Essence**

Time shall be of the essence in this Agreement.

**5.21 Execution in Counterparts**

This Agreement may be executed in any number of counterparts and may be executed by facsimile or other electronic transmission, all of which when taken together shall be deemed to be one and the same document and notwithstanding the actual date of execution of each counterpart, this Agreement shall be deemed to be dated as of the date first above written.

**5.22 Language**

The parties confirm that it is their express wish that this Agreement, as well as any other documents relating to this Agreement, including notices, schedules and authorizations, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté expresse que cette convention, de même que tous les documents s'y rattachant, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.

**[signature page follows]**



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**CRITICAL OUTCOME TECHNOLOGIES INC.**

Per: \_\_\_\_\_  
Name: Dr. Wayne R. Danter  
Title: Chief Executive Officer

**COMPUTERSHARE INVESTOR SERVICES INC.**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE I -  
SHAREHOLDER RIGHTS PLAN AGREEMENT**

**[FORM OF RIGHTS CERTIFICATE]**

Certificate No.

Rights

THE RIGHTS ARE SUBJECT TO REDEMPTION, AT THE OPTION OF THE CORPORATION, ON THE TERMS SET FORTH IN THE RIGHTS AGREEMENT. UNDER CERTAIN CIRCUMSTANCES (SPECIFIED IN SECTION 3.1 OF THE RIGHTS AGREEMENT), RIGHTS BENEFICIALLY OWNED BY AN ACQUIRING PERSON, ANY PERSON ACTING JOINTLY OR IN CONCERT WITH AN ACQUIRING PERSON OR THEIR RESPECTIVE ASSOCIATES AND AFFILIATES (AS SUCH TERMS ARE DEFINED IN THE RIGHTS AGREEMENT) AND THEIR RESPECTIVE TRANSFEREES SHALL BECOME VOID WITHOUT ANY FURTHER ACTION.

**RIGHTS CERTIFICATE**

This certifies that \_\_\_\_\_ or registered assigns, is the registered holder of the number of Rights set forth above each of which entitles the registered holder thereof, subject to the terms, provisions and conditions of the Amended and Restated Shareholder Rights Plan Agreement dated October **[13]**, 2016, as amended and restated from time to time (the “**Rights Agreement**”), between CRITICAL OUTCOME TECHNOLOGIES INC., a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), and COMPUTERSHARE INVESTOR SERVICES INC., as rights agent (the “**Rights Agent**”, which term shall include any successor Rights Agent under the Rights Agreement) to purchase from the Corporation at any time after the Separation Time (as such term is defined in the Rights Agreement) and prior to the Expiration Time (as such term is defined in the Rights Agreement) one fully paid and non-assessable Common Share of the Corporation (a “**Common Share**”) at the Exercise Price referred to below, upon presentation and surrender of this Rights Certificate together with the Form of Election to Exercise duly executed and submitted to the Rights Agent at its principal offices in the city of Toronto. The Exercise Price is an amount equal to three times the Market Price (as such term is defined in the Rights Agreement) per Common Share, subject to adjustment in certain events as provided in the Rights Agreement.

In certain circumstances described in the Rights Agreement, each Right evidenced hereby may entitle the registered holder thereof to purchase or receive assets, debt securities or other equity securities of the Corporation (or a combination thereof) all as provided in the Rights Agreement.

This Rights Certificate is subject to all of the terms, provisions and conditions of the Rights Agreement, which terms, provisions and conditions are hereby incorporated herein by reference and made a part hereof and to which Rights Agreement reference is hereby made for a full description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Rights Agent, the Corporation and the holders of the Rights. Copies of the Rights Agreement are on file at the registered head office of the Corporation and are available upon written request.

This Rights Certificate, with or without other Rights Certificates, upon surrender at any of the offices of the Rights Agent designated for such purpose, may be exchanged for another Rights Certificate or Rights Certificates of like tenor and date evidencing an aggregate number of Rights entitling the holder to purchase a like aggregate number of Common Shares as the Rights evidenced by the Rights Certificate or

Rights Certificates surrendered. If this Rights Certificate shall be exercised in part, the registered holder shall be entitled to receive, upon surrender hereof, another Rights Certificate or Rights Certificates for the number of whole Rights not exercised.

Subject to the provisions of the Rights Agreement, the Rights evidenced by this Rights Certificate may be, and under certain circumstances are required to be, redeemed by the Corporation at a redemption price of \$0.00001 per Right.

No fractional Common Shares will be issued upon the exercise of any Right or Rights evidenced hereby.

No holder of this Rights Certificate, as such, shall be entitled to vote, receive dividends or be deemed for any purpose the holder of Common Shares or of any other securities of the Corporation which may at any time be issuable upon the exercise hereof, nor shall anything contained in the Rights Agreement or herein be construed to confer upon the holder hereof any of the rights of a shareholder of the Corporation or any right to vote for the election of directors or upon any matter submitted to shareholders of the Corporation at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting shareholders of the Corporation (except as expressly provided in the Rights Agreement), or to receive dividends, distributions or subscription rights, or otherwise until the Rights evidenced by this Rights Certificate shall have been exercised as provided in the Rights Agreement.

This Rights Certificate shall not be valid or obligatory for any purpose until it shall have been manually countersigned by the Rights Agent.

**WITNESS** the facsimile signature of the proper officers of the Corporation.

Dated \_\_\_\_\_

**CRITICAL OUTCOME TECHNOLOGIES INC.**

By: \_\_\_\_\_  
Authorized Signature

**COMPUTERSHARE INVESTOR SERVICES  
INC.**

By: \_\_\_\_\_  
Authorized Signature

(To be attached to each Rights Certificate)

**FORM OF ELECTION TO EXERCISE**

**TO: CRITICAL OUTCOME TECHNOLOGIES INC.**

The undersigned hereby irrevocably elects to exercise \_\_\_\_\_ whole Rights represented by the attached Rights Certificate to purchase the Common Shares issuable upon the exercise of such Rights and requests that certificates for such Common Shares be issued to:

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY AND PROVINCE OR STATE )

If such number of Rights shall not be all the Rights evidenced by this Rights Certificate, a new Rights Certificate for the balance of such Rights shall be registered in the name of and delivered to:

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY AND PROVINCE OR STATE )

\_\_\_\_\_  
SOCIAL INSURANCE, SOCIAL SECURITY OR OTHER TAXPAYER NUMBER

Dated \_\_\_\_\_

Signature Guaranteed

\_\_\_\_\_  
Signature

(Signature must correspond to name as written upon the face of this Rights Certificate in every particular, without alteration or enlargement or any change whatsoever)

Signature must be guaranteed by a Schedule 1 Canadian Chartered Bank or a Financial Institution that is a member of a recognized STAMP, MSP or SEMP Program.

**To be completed if true**

The undersigned hereby represents, for the benefit of all holders of Rights and Common Shares, that the Rights evidenced by this Rights Certificate are not, and, to the knowledge of the undersigned, have never been, Beneficially Owned by an Acquiring Person or an Affiliate or Associate thereof or any Person acting jointly or in concert with any of the foregoing or any Affiliate or Associate of such Person (as defined in the Rights Agreement).

---

Signature

**NOTICE**

In the event the certification set forth in the Form of Election to Exercise is not completed, the Corporation will deem the Beneficial Owner of the Rights evidenced by this Rights Certificate to be an Acquiring Person or an Affiliate or Associate thereof (as defined in the Rights Agreement) and accordingly such Rights shall be null and void.

**FORM OF ASSIGNMENT**

**(To be executed by the registered holder if such holder desires to transfer the Rights Certificate)**

FOR VALUE RECEIVED \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_  
(Please print name and address of transferee)

the Rights represented by this Rights Certificate, together with all right, title and interest therein and does hereby irrevocably constitute and appoint \_\_\_\_\_ as attorney to transfer the within Rights on the books of the Corporation, with full power of substitution.

Dated \_\_\_\_\_

Signature Guaranteed

\_\_\_\_\_  
Signature

(Signature must correspond to name as written upon the face of this Rights Certificate in every particular, without alteration or enlargement or any change whatsoever)

Signature must be guaranteed by a Schedule 1 Canadian Chartered Bank or a Financial Institution that is a member of a recognized STAMP, MSP or SEMP Program.

**To be completed if true**

The undersigned hereby represents, for the benefit of all holders of Rights and Common Shares, that the Rights evidenced by this Rights Certificate are not and, to the knowledge of the undersigned, have never been, Beneficially Owned by an Acquiring Person or an Affiliate or Associate thereof or any Person acting jointly or in concert with any of the foregoing (as defined in the Rights Agreement).

\_\_\_\_\_  
Signature

**NOTICE**

In the event the certification set forth in the Form of Assignment is not completed, the Corporation will deem the Beneficial Owner of the Rights evidenced by this Rights Certificate to be an Acquiring Person or an Affiliate or Associate thereof (as defined in the Rights Agreement) and accordingly such Rights shall be null and void.