

INVESTMENT AGREEMENT

AMONG

CAPSTONE COPPER CORP.

AND

OMF FUND IV SPV P LTD.

AND

0908113 B.C. LTD.

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INVESTMENT AGREEMENT

THIS AGREEMENT is made as of the 13th day of October 2025 (the “Effective Date”).

BETWEEN:

CAPSTONE COPPER CORP. (“Capstone”) a company incorporated under the laws of the Province of British Columbia

and

OMF FUND IV SPV P LTD (“Orion”), a limited company incorporated under the laws of the Cayman Islands

and

0908113 B.C. LTD. (“Company”) a company incorporated under the laws of the Province of British Columbia

RECITALS

- (A) Capstone through its indirect ownership of the Project Subsidiaries have undertaken certain activities related to (i) a copper-iron-gold-cobalt mining project commonly referred to as the Santo Domingo project located in or near Copiapó, Chile (the “Santo Domingo Project”) and (ii) a mineral development and exploration property project commonly referred to as the Sierra Norte project, located approximately 20 kilometers northwest of the Santo Domingo Project and 110 kilometers north of Copiapó, Chile (the “Sierra Norte Project”).
- (B) Orion, or one or more of its Affiliates, wishes to subscribe and pay for, and the Company and Capstone wish to allot and issue, Subscription Shares in accordance with the terms and conditions of this Agreement.
- (C) Concurrent with the execution of this Agreement, Orion, or one or more of its Affiliates, wish to subscribe and pay for, and Capstone wish to allot and issue, Capstone Shares in accordance with the terms and conditions of Concurrent Private Placement Subscription Agreement.

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND ADEQUACY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement, the following words and expressions, unless the context otherwise requires, shall have the following meanings respectively:

“2024 AIF” has the meaning given to it in paragraph 16.1 of Part 2 of Schedule 3.

“2025 MD&A and Financial Statements” has the meaning given to it in paragraph 16.1 of Part 2 of Schedule 3.

“Accounts Date” means December 31, 2024.

“Actual Cash” means, with respect to the Project Entities (as if the Capstone Expanded Investment Structure had occurred), the consolidated aggregate cash and cash equivalents of the Project Entities as of the Completion Date, including, without duplication, (i) aggregate of the line item entitled ‘Cash and cash equivalents’ and (ii) any other amount which constitutes cash or a cash equivalent of the Project Entities as of the Completion Date. For illustrative purposes only, attached as Exhibit A is a sample calculation of the Actual Cash as of June 30, 2025.

“Actual Indebtedness” means, with respect to the Project Entities (as if the Capstone Expanded Investment Structure had occurred), the consolidated Indebtedness of the Project Entities as of the Completion Date, including, without duplication, (i) the aggregate of the line items entitled “Lease Liabilities” and “Early Delivery Liability” set forth in the consolidated balance sheet of the Company as of the Completion Date and (ii) any other amount which constitutes Indebtedness of the Project Entities as of the Completion Date, in each case, excluding (x) all obligations in respect of letters of credit, surety bonds, performance bonds or bankers’ acceptances, (y) the settlement value (including breakage costs) payable under interest rate protection agreements outstanding, including swaps, caps, collars, hedges or similar arrangements and (z) liabilities in relation to the Wheaton PMPA, which liabilities include, for the avoidance of doubt, any accrued balance with respect to the Early Deposit Delay Payment (as defined in the Wheaton PMPA) as of the date of determination. For illustrative purposes only, attached as Exhibit A is a sample calculation of the Actual Indebtedness as of June 30, 2025.

“Affiliate” means, with respect to any person, any other person which directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such person.

“Agreement” means this Investment Agreement.

“Anti-Corruption Laws” means laws, regulations or orders relating to anti-bribery or anti-corruption (governmental or commercial), without limitation, laws that prohibit the corrupt payment, offer, promise, or authorisation of the payment or transfer of anything of value (including gifts or entertainment), directly or indirectly, to any government official, commercial entity, or any other person to obtain a (business) advantage; such as, without limitation, the *Corruption of Foreign Public Officials Act* (Canada), the *United States Foreign Corrupt Practices Act of 1977*, as amended, the Chilean Law on Economic Crimes No. 21,595, Chilean Law on Criminal Liability of Legal Entities No. 20,393, the United Nations Convention Against Corruption approved by decree dated as of 12 June 2008, the UK Bribery Act of 2010 and all national and international laws enacted to implement to OECD Convention of Combating Bribery of Foreign Officials in International Business Transactions.

“Anti-Money Laundering Laws” means all applicable laws relating to money laundering or terrorist financing activities, including, without limitation, the *U.S. PATRIOT Act*, *Trading with the Enemy Act*, *Money Laundering Control Act of 1986* and the regulations and rules promulgated thereunder, as amended from time to time, and any other U.S. federal or state laws relating to “know your customer” rules and regulations, the Beneficial Ownership Regulation, the *Bank Secrecy Act* and the regulations and rules promulgated thereunder, as amended from time to time; and corresponding laws of (a) Canada, the United Kingdom and the European Union designed to combat money laundering and terrorist financing and (b) any other applicable jurisdictions, including Part XII.2 of the *Criminal Code* (Canada), the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and the regulations promulgated thereunder.

“Authorization” means any consent, approval, authorisation, waiver, permit (including any exploration or exploitation permit or mining right), order, grant, franchise, concession, licence, exemption, order, registration, declaration, filing, report or required notice of, with or to any Governmental Authority.

“Borrowed Money” of any person means at any date, without duplication (a) all obligations of such person to repay money, (b) all obligations of such person to pay money evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such person to pay the deferred purchase price of property or services, and (d) all obligations of such person as lessee under capital leases.

“Business” means the ownership, operation and development of the Projects.

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for business in (i) the United States of America, (ii) Canada, and (iii) Chile.

“Business Permits” has the meaning given to it in paragraph 10.2 of Part 2 of Schedule 3.

“Capstone” has the meaning set forth in the Preamble.

“Capstone Expanded Investment Structure” means the transactions as substantially described in Schedule 6.

“Capstone Entities” means Capstone, Capstone Mining Corp., the Company and each Project Entity.

“Capstone Excluded Matter” means any and all matters that are related to the Excluded Capstone Business.

“Capstone Group” means Capstone and its Subsidiaries.

“Capstone Indemnitees” has the meaning given to it in clause 12.1(B).

“Capstone Nominees” means three (3) directors and their alternates nominated in writing by Capstone no later than the earlier of (i) five Business Days before Completion, (ii) the

date of the Subscription Shareholder Resolution and (iii) such earlier date agreed between the parties in writing.

“Capstone Offtake Agreement” means the offtake agreement to be entered into between Minera Santo Domingo SCM and a member of the Capstone Group at Completion.

“Capstone Related Parties” has the meaning set forth in 16.10.

“Capstone Shares” means the common shares of Capstone.

“Change of Control” means a transaction or series of transactions which would result in Capstone ceasing to hold (directly or indirectly) at least 50% of the issued shares in the Company or any Project Entity, but shall not include a bona fide third-party: (i) tender offer, take-over bid, insider bid or issuer bid in respect of Capstone or (ii) acquisition of the Capstone Shares, whether consummated pursuant to a merger, arrangement, amalgamation, business combination, consolidation or other similar transaction with respect to Capstone.

“CIM” means the Canadian Institute of Mining, Metallurgy and Petroleum.

“Claim” means any asserted, pending or completed claim, demand, action, arbitration, audit, subpoena, suit or proceeding (including any cross claim or counterclaim in any action, suit or proceeding), whether civil, criminal, administrative, arbitral, investigative or other and whether made pursuant to federal, state or other law (including securities laws).

“Cobalt Processing Circuit” means a processing circuit and related facilities to recover and process cobalt from the Santo Domingo Project.

“Company” means 0908113 B.C. Ltd.

“Company Shares” means *[Redacted – Commercially Sensitive Information – Description of Share Class]*.

“Completion” means completion of the issue and allotment of the Subscription Shares to Orion.

“Completion Date” means the date on which Completion occurs.

“Completion Payment” means two hundred and twenty-five million dollars (\$225,000,000), as adjusted in accordance with clause 8.

“Completion Statement” means the statement setting forth the information in respect of Actual Cash and Actual Indebtedness of the Project Entities as of 12:01 a.m., New York, New York time, on the Completion Date, together with the attachments thereto.

“Concurrent Private Placement” means the issuance by Capstone to the Concurrent Private Placement Subscriber of Capstone Shares having an aggregate subscription price of \$10,000,000.

“Concurrent Private Placement Subscriber” means an Affiliate of Orion designated by Orion that has executed the Concurrent Private Placement Subscription Agreement.

“Concurrent Private Placement Subscription Agreement” means the subscription agreement entered into by Capstone and the Concurrent Private Placement Subscriber that provides for the issuance by Capstone of the Capstone Shares to be issued under the Concurrent Private Placement.

“Conditions” has the meaning given to it in clause 3.3.

“Conditions of Capstone” has the meaning given to it in clause 3.2.

“Conditions of Orion” has the meaning given to it in clause 3.3.

“Conditions of the Parties” has the meaning given to it in clause 3.1.

“Confidentiality Agreement” means that certain confidentiality agreement by and between Capstone Copper Corp. and Orion Resources Partners (USA) LP in effect as of the date hereof.

“Construction Documentation” means the primary engineering, procurement, and construction (EPC) contract or engineering, procurement and construction management (EPCM) contract, and ancillary documents in relation to the construction of the Santo Domingo Project, as approved by the board of directors of Capstone.

“Contingent Payments” means the contingent payments described in clause 11.

“Contracts” means all legally binding written contracts, agreements, leases, deeds, mortgages, licenses, instruments, notes, commitments, undertakings, purchase orders, indentures and joint ventures.

“Control” (including the terms “Controlling”, “Controlled by” and “under common Control with”) means, in respect of a particular person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ability to exercise voting power, by contract or otherwise.

“Data Room” means the electronic data room established by Capstone and hosted by Venue by DFIN in connection with the transactions contemplated under this Agreement, containing the Data Room Information.

“Data Room Information” means the written information and documents made available to Orion and its Representatives in the Data Room at least three Business Days immediately preceding the Effective Date, of which a line item index has been delivered to Orion at the Effective date.

“Disclosed” means, in respect of any fact, matter or document, the facts, matters or documents disclosed:

(A) as of the Effective Date in:

- (1) the Disclosure Letter; or
- (2) the Public Disclosure Documents,

in each case, with sufficient detail to enable a reasonably sophisticated investor to identify the nature and scope of the relevant fact, matter or document so disclosed. The disclosure of any item in any paragraph, clause, section or subsection of the Disclosure Letter shall be deemed Disclosed solely with respect to the paragraph, clause, section or subsection of this Agreement to which it corresponds in number.

“Disclosure Letter” means the disclosure letter dated as at the Effective Date, written by Capstone to Orion, disclosing information constituting specific exceptions to the Warranties and details of other matters referred to in this Agreement.

“DL600” means Decree Law No. 600, of 1974, whose text was revised, coordinated and systematized by Decree with the Force of Law No. 523 of 1993.

“DL600 Agreement” has the meaning given to it in paragraph 20.12 of Part 2 of Schedule 3.

“Effective Date” has the meaning set forth in the Preamble.

“Employees” means the employees of the Project Entities.

“Encumbrance” means any claim, charge, pledge, negative easements (in Spanish, “*servidumbres negativas*”), mortgage, security, pledge, or other in rem right or other security interest, lien, option, equity, power of sale, usufruct, hypothecation, retention of title, right of pre-emption, right of first refusal, right-of-way, encroachment or other third-party rights or security interest of any kind or an agreement to create any of the foregoing.

“Environmental Laws” means any statute, law, ordinance, regulation, rule, code, order, consent decree or judgment, relating to pollution or to the protection of the environment, human health or welfare or the conditions of the workplace including any relating to the treatment, storage, disposal, generation or treatment of Hazardous Materials.

“Environmental Permits” means any permit, approval, identification number, license and other authorisation required under or issued pursuant to any applicable Environmental Law.

“Excluded Capstone Business” means the business, properties, equity interests, assets and liabilities of the Capstone Group that are not the Joint Venture Business.

“Exclusive Transaction” has the meaning given to it in clause 16.9.

“Existing Technical Report” means the Technical Report for the Santo Domingo Project titled “Santo Domingo Project, NI 43-101 Technical Report and Feasibility Study Update Atacama Region, Chile”, as filed on SEDAR+, with an effective date of July 31, 2024.

“External Claim” has the meaning given to it in paragraph 3.1 of Schedule 4.

“Fundamental Warranties” means the Warranties in paragraphs 1, 2, 3 and 4.1 of Part 1 of Schedule 3 and paragraphs 1, 2, 3, 4, 5, 21.1 and 22 of Part 2 of Schedule 3.

“Good Industry Practice” means, in relation to any decision or undertaking, the exercise of that degree of diligence, skill, care, prudence, oversight, economy and stewardship which is commonly observed or would reasonably be expected to be observed by skilled and experienced professionals in the international mining industry engaged in the same type of undertaking under the same or similar circumstances.

“Governmental Authority” means any national, supranational, state, federal, provincial, local, municipal, foreign or other government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body of competent jurisdiction (including any branch, department or official of any of the foregoing), or any self-regulatory organization, securities exchange, regulatory authority, administrative tribunal or authority or quasi-governmental body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing.

“Gross Up Amount” has the meaning given to it in clause 9.7(C).

“Hazardous Materials” means any chemical, material, substance or waste prescribed as “toxic” or “hazardous” or as a “contaminant” or “explosive”, or any other similar characterisation under any Environmental Law.

“IFRS” means International Financial Reporting Standards published by the International Accounting Standards Board.

“Indebtedness” means, with respect to any person, (a) any obligation of a person for Borrowed Money, including financial indebtedness, (b) all obligations in respect of letters of credit, surety bonds, performance bonds or bankers’ acceptances, (c) the settlement value (including breakage costs) payable under interest rate protection agreements outstanding, including swaps, caps, collars, hedges or similar arrangements, (d) all reimbursement, payment or similar obligations incurred in connection with performance guaranties or related to insurance obligations, in each case only to the extent there are balances drawn, (e) all bank or book overdrafts, (f) obligations in respect of accrued (or declared) but unpaid dividends, (g) any performance or surety bonds, performance guaranties or similar financial commitments to the extent drawn or funded with cash collateral, (h) all obligations, contingent or otherwise, for deferred purchase price of assets, property or equity securities (including conditional sale agreements, earnout payments, installment payments or other similar payments of deferred or contingent purchase price relating to any acquisition of the assets or securities of any person), or amounts owing under promissory notes, (i) all lease obligations that are required to be capitalized under IFRS, (j) overdue and unpaid payables to Affiliates of Capstone, (k) all obligations to make

Early Deposit Delay Payments (as defined in the Wheaton PMPA) to Wheaton or its affiliates under the Wheaton PMPA, (l) all guaranties and similar obligations of such person in connection with any item listed in clauses (a) through (k) above, and (m) all interest, principal, premiums, overdrafts, fees or expenses (including prepayment penalties) due or owing in respect of any item listed in clauses (a) through (l) above.

“Indemnification Payment Date” has the meaning given to it in paragraph 10(A) of Schedule 4.

“Indemnified Party” has the meaning given to it in paragraph 3.2(A) of Schedule 4.

“Indemnified Tax” means any and all Losses incurred or borne by, or directly imposed upon, Orion (or a direct or indirect Affiliate of Orion) based upon, arising out of, with respect to or by reason of any misrepresentation, inaccuracy, breach of any representation, warranty, or covenant relating to Taxes (including Taxes related to the Capstone Expanded Investment Structure).

“Indemnifying Party” has the meaning given to it in paragraph 3.2(A) of Schedule 4.

“Initial Business Plan & Budget” means the business plan and budget attached hereto as Annex 2.

“Initial Capex” means the initial capital expenditures line item in the Initial Business Plan & Budget.

“Insolvency Event” shall occur with respect to any person, if such person:

- (A) shall admit in writing its inability to pay its debts generally;
- (B) shall make an assignment for the benefit of its creditors or file a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (Canada), Chilean Law No. 20,720 on Insolvency and Enterprise Reorganization or similar legislation to some or all of its creditors;
- (C) shall petition or apply to any court for the appointment of a receiver, receiver manager, administrator, inspector, liquidator, agent, trustee or other similar official (each, a “Receiver”) for it or for all or substantially all of its property;
- (D) is adjudged or declared bankrupt or insolvent and such judgment or declaration is not dismissed, rescinded, withdrawn or stayed within 30 days (provided that upon any such stay ceasing to be in full force and effect, an Insolvency Event shall thereupon be deemed to occur unless the related judgment or declaration has theretofore been dismissed, rescinded or withdrawn);
- (E) is dissolved, liquidated or wound up, or an effective resolution is passed authorizing the dissolution, liquidation or winding up of such person;

- (F) commences or files notice of any proceedings relating to it or all or substantially all of its property under any law, whether now or hereafter in effect, of any jurisdiction relating to dissolution, liquidation, winding up, bankruptcy, insolvency, reorganization of insolvent debtors, arrangement or readjustment or moratorium of debts;
- (G) consents to any such proceeding for it or for all or substantially all of its property commenced by any other person or if there is no such consent, any such proceeding commenced by any other person is not dismissed within 30 days; and
- (H) shall suffer the private appointment of any Receiver, and any such appointment is not set aside or stayed within 30 days after the date that such appointment was suffered, provided that such 30-day period shall only apply if such appointment was not applied for or consented to by the relevant person and is being actively and diligently contested in good faith by appropriate proceedings.

“Insurance Policies” has the meaning given to it in paragraph 23.1 in Part 2 of Schedule 3.

“Investment Canada Act Approval” means (a) either the Minister has not sent to Orion a notice under subsection 25.2(1) of the Investment Canada Act and the Minister has not made an order under subsection 25.3(1) of the Investment Canada Act, or if the Minister has sent to Orion a notice under subsection 25.2(1) of the Investment Canada Act or the Minister has made an order under subsection 25.3(1) of the Investment Canada Act, Orion has subsequently received (i) a notice under paragraph 25.2(4) of the Investment Canada Act indicating that a review of the transactions contemplated by the Completion on grounds of national security will not be commenced, (ii) a notice under paragraph 25.3(6)(b) of the Investment Canada Act indicating that no further action will be taken, or (iii) a copy of an order under paragraph 25.4(1)(b) of the Investment Canada Act authorizing the transactions contemplated by the Completion, and (b) if Orion has submitted an Investment Canada Act notification in respect of the transactions contemplated under this agreement, 45 days have elapsed following the day of certification of such Investment Canada Act notification.

“Investment Notice” has the meaning set forth in 8.2(B).

“Joint Venture Business” means the equity interests, assets and liabilities of the Project Entities (after giving effect to the implementation of the Capstone Expanded Investment Structure), including, for greater certainty, the Business and the Projects.

“JV PF Amounts” means (i) the Financing Fee (as defined in *[Redacted – Commercially Sensitive Information]*) and (ii) any reasonable and documented closing fee or similar success-based fee paid to the lenders under the Project Finance Arrangement, and in each case, solely to the extent actually paid by the Company or an Affiliate prior to Completion, if any. For the avoidance of doubt, JV PF Amounts exclude (x) any overhead cost, internal cost of Capstone and any fee paid to counsel and (y) any advisory fee, retainer and reimbursement of cost and expenses or other fee, cost or expense that is not part of a success fee, closing fee or similar fee.

“Key Management Members” means Cashel Meagher, Chris Richter, Wendy King, Peter Amelunxen, Jim Whittaker, Raman Randhawa and Sergio Gaete.

“Law” means any law (including common law and equity), any international or other treaty, any domestic or foreign constitution or any multinational, federal, provincial, territorial, state, municipal, county or local statute, law, ordinance, code, rule, regulation, Order (including any securities laws or requirements of stock exchanges and any consent, decree or administrative Order), or Authorization of a Governmental Authority in each such case to the extent applicable to and binding upon or having the force of law over any specified person, property, transaction or event, or any such person’s property or assets.

“Losses” means any and all losses, liabilities, damages, costs or expenses (including out-of-pocket reasonable and documented legal fees and expenses and reasonable expenses incurred in investigating, preparing or defending any Claim commenced in connection with this Agreement), but excluding any punitive or indirect damages and loss of profit or similar construction (except to the extent such punitive or indirect damages and loss of profit or similar construction damages are actually recovered by a third party from a party to this agreement in connection with a Claim for which such party is entitled to indemnification under this Agreement).

“Material Adverse Effect” means, in respect of the Project Entities, any fact or state of facts, circumstance, change, effect, occurrence or event that, individually or in the aggregate with other facts, state of facts, circumstances, changes, effects, occurrences or events, has had or would reasonably be expected to have a material adverse effect on the business, operations, results of operations, properties, assets or liabilities of the Project Entities (including, for greater certainty, the Projects), on a consolidated basis, except for and excluding any fact or state of facts, circumstance, change, effect, occurrence or event to the extent resulting from or arising in connection with:

- (A) any change in Law or interpretation thereof by any Governmental Authority;
- (B) any change in IFRS;
- (C) any change, development or condition in or relating to global, national, provincial or regional political conditions (including strikes, lockouts, riots, the outbreak or escalation of war or acts of terrorism or declarations of a state of emergency, tariffs, trade restrictions, export or import bans) or in general economic, business, banking, regulatory, currency exchange, interest rate, rates of inflation or market conditions, or in national financial or capital markets, including credit markets or securities markets;
- (D) any change generally affecting the copper mining industry;
- (E) force majeure events, including any earthquake or other natural disaster including droughts, floods, or widespread power outages or blackouts;
- (F) pandemics, epidemics or similar events;

- (G) changes in commodity prices of copper, cobalt or iron;
- (H) failure to meet projections, forecasts or estimates, except to the extent arising from underlying events that constitute a Material Adverse Effect;
- (I) effects resulting from the execution, announcement, pendency or performance of this Agreement or consummation of the Completion including any loss or threatened loss of, or adverse change or threatened adverse change in, the relationship of such party or any of its subsidiaries with any of its current employees, lenders, suppliers or other business partners; or
- (J) actions taken at the written request, or with the prior written consent, of Orion.

provided, however, that (1) with respect to clauses (A) through to and including (G) above, if such matter has a disproportionate effect on the Project Entities, on a consolidated basis, relative to other comparable companies and entities operating in the Project Entities industries, businesses or segments thereof, such matter may be taken into account in determining whether a Material Adverse Effect has occurred; and (2) references in certain sections of this Agreement to dollar amounts are not intended to be, and shall not be deemed to be, illustrative or interpretive for purposes of determining whether a Material Adverse Effect has occurred.

“Material Contracts” has the meaning given to it in paragraph 9.1 of Part 2 of Schedule 3.

“Minister” means the Minister of Industry.

“NI 43-101” means National Instrument 43-101 – *Standards of Disclosure for Mineral Projects*.

“Non-Recourse Party” has the meaning given to it in clause 16.12.

“Offtake Agreement” means, collectively, the Orion Offtake Agreement and the Capstone Offtake Agreement.

“Offtake Term Sheet” means the term sheet attached as Schedule 8.

“Option Acquisition” means any acquisition or series of related acquisitions by Capstone or its Affiliates, whether by purchase, merger or otherwise, of all or a portion of the assets or shares or other ownership interests of any person or of all or a portion of the assets constituting a business line or unit or a division of any person that is within the Area of Interest (as defined in the Shareholders’ Agreement) and not currently part of the Business.

“Option Target” has the meaning set forth in 8.2(B).

“Order” means any order, writ, directive, decree, stipulation, judgment, ruling, award, injunction, direction or request of any Governmental Authority or other decision-making authority of competent jurisdiction.

“Orion” has the meaning set forth in the Preamble.

“Orion Group” means funds managed or advised by Orion Resources Partners (USA) LP.

“Orion Indemnities” has the meaning given to it in clause 12.1(A).

“Orion Nominees” means one (1) director and their alternate nominated in writing by Orion, and acceptable to Capstone, no later than the earlier of (i) five Business Days before Completion, (ii) the date of the Subscription Shareholder Resolution, and (iii) such earlier date agreed between the parties in writing.

“Orion Offtake Agreement” means the offtake agreement to be entered into between Minera Santo Domingo SCM and a member of the Orion Group, substantially on the terms indicated in the Offtake Term Sheet.

“Orion Warranties” means the representations and warranties set out in Schedule 5.

“Outside Date” has the meaning given to it in clause 13.1(A)(2).

“Oxide Processing Circuit” means a processing circuit and related facilities to recover and process oxide ore from the Santo Domingo Project.

“Permit” means all permits, concessions, licenses, authorizations, registrations, certificates, variances, easements and similar rights obtained, or required to be obtained, from Governmental Authorities.

“Project Entities” means the Company and each of its direct and indirect Subsidiaries, including Far West Mining Ltd., Capstone Resources MSD Ltd., FWM Exploration (Chile) Ltd., Far West Exploration S.A., the Projects and the Project Subsidiaries and, following the implementation of the Capstone Expanded Investment Structure, the Company, the Projects and the Project Subsidiaries and any other legal entities, partnerships or Subsidiaries directly or indirectly Controlled by the Company or any Project Subsidiary, in each case from time to time.

“Project Finance Arrangements” means financing arrangements in a form acceptable to the Company and Capstone, acting reasonably, to be provided by one or more finance providers of suitable standing and creditworthiness with respect to the financing of the Santo Domingo Project.

“Project Finance Documentation” means the loan facility agreement or other financing agreement and ancillary documents setting out the terms of the Project Finance Arrangements.

“Project Subsidiaries” means, collectively, Minera Santo Domingo SCM and Compañía Minera Sierra Norte S.A.

“Project Subsidiaries Accounts” means the financial statements of Minera Santo Domingo SCM and Minera Sierra Norte S.A. as at and for December 31, 2024.

“Projects” means the Santo Domingo Project and the Sierra Norte Project.

“Properties” means the properties set out in Section 1.1(a) of the Disclosure Letter, and

“Property” means any of them.

“Provider” has the meaning given to it in paragraph 3.3(B) of Schedule 4.

“Public Disclosure Documents” has the meaning set forth in clause 16.1 of Schedule 3.

“Receiver” has the meaning given to it in paragraph (C) of the definition of Insolvency Event.

“Recipient” has the meaning given to it in paragraph 3.3(B) of Schedule 4.

“Regulatory Approvals” means sanctions, rulings, consents, orders, exemptions, permits, waivers, early termination authorizations, clearances, written confirmations of no intention to initiate legal proceedings and other approvals (including the lapse, without objection, of a prescribed time under a statute or regulation that states that a transaction may be implemented if a prescribed time lapses following the giving of notice without an objection being made) of Governmental Authorities required in relation to the consummation of the transactions contemplated hereby, including Investment Canada Act Approval.

“Release” means any release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, migration, injection, escape, leaching, disposal, dumping, depositing, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Material, whether accidental or intentional, into the environment.

“Released Parties” has the meaning set forth in 16.10.

“Released Parties Claims” has the meaning set forth in 16.10.

“Representatives” means, in relation to a party, its Affiliates and their respective directors, officers, agents, employees, advisers and consultants.

“Right” has the meaning given to it in clause 16.4.

[Redacted – Commercially Sensitive Information].

“Sanctioned Territory” means any country or other territory subject to a general export, import, financial or investment embargo under any Sanctions, which, as of Effective Date, including, without limitation, Cuba, Burma (Myanmar), Iran, North Korea, Sudan, Syria, the Crimea Region and the non-government controlled areas of Zaporizhzhia and Kherson Regions of Ukraine, the so-called Donetsk People’s Republic and the so-called Luhansk People’s Republic.

“Sanctions” means economic or financial sanctions, restrictive measures, trade embargoes, export control laws administered or enforced from time to time by any Sanctions Authority.

“Sanctions Authority” means (a) the Canadian government; (b) the United States government; (c) the United Nations; (d) the European Union; (e) the United Kingdom; (f) the Chilean government; or (g) the respective governmental institutions, departments and agencies of any of the foregoing, including the U.S. Department of the Treasury, the U.S. Department of State, and His Majesty’s Treasury of the United Kingdom.

“Santo Domingo FID” means (i) the Company determines, in accordance with applicable corporate law, and with prior approval by the board of directors of Capstone, to issue a positive final investment decision, as notified in writing to Orion, to proceed with the construction of the Santo Domingo Project (the “Positive Final Investment Decision”) and (ii) the construction of the Santo Domingo Project on the date of the Positive Final Investment Decision remains in accordance with the Initial Business Plan & Budget; *provided, however*, that deviations from the estimated expenses set forth in the Initial Business Plan & Budget shall be permitted (and clause (ii) will be deemed to have been achieved) solely to the extent that *either* (a) the Initial Capex does not increase more than 6.0% annually during the period between July 31, 2024 (the effective date of the Existing Technical Report) and the date of the Positive Final Investment Decision, *or* (b) the amount of capital contributions expected from Orion does not increase more than 6% annually during the period between July 31, 2024 and the date of the Positive Final Investment Decision over and above \$[Redacted – Commercially Sensitive Information – Dollar Figure], provided that neither clause (a) or (b) shall create additional obligation or liability on Orion to make a payment or contribution to Capstone, the Company or any of their respective Affiliates in excess of an amount equal to \$[Redacted – Commercially Sensitive Information – Dollar Figure] plus all contingent payments that become due and payable in accordance with clause 11.

“Santo Domingo Project” has the meaning set forth in the Recitals.

“Securities Law” means all applicable Canadian securities Laws in each of the provinces and territories of Canada and the respective regulations made thereunder, together with applicable and binding published fee schedules, prescribed forms, policy statements, notices, orders, blanket rulings and other regulatory instruments of the Securities Regulators and all rules and policies of the TSX.

“Securities Regulators” means, collectively, the securities commissions or other securities regulatory authorities in each of the provinces and territories of Canada.

“SEDAR+” means the System for Electronic Data Analysis and Retrieval + of the Canadian Securities Administrators.

“Shareholder” means a holder of shares in the capital of the Company.

“Shareholders’ Agreement” means the shareholders’ agreement to be entered into between the Shareholders at Completion, substantially in the form set out in Schedule 9.

“Sierra Norte Project” has the meaning set forth in the Recitals.

“Subscription” means the subscription by Orion, or one or more of its managed investment funds, for the Subscription Shares pursuant to clause 2 of this Agreement.

“Subscription Board Resolutions” means the resolutions of the board of directors of the Company approving issuance of new Company Shares (equal to the number of Subscription Shares) in according with applicable laws.

“Subscription Shareholder Resolution” means the Shareholder resolutions of the Company to create the *[Redacted – Commercially Sensitive Information – Description of Share Class]*, and elect the Orion Nominees and the Capstone Nominees as directors of the Company.

“Subscription Shares” means new Company Shares, representing a 25% interest in the issued share capital of the Company, on a fully diluted basis, as at the Completion Date.

“Subsidiary” of any person means any other person (i) of which a majority of the ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other persons performing similar functions or is directly or indirectly owned or Controlled by such person or (ii) which such person otherwise controls.

“Tax” or “Taxation” means any tax, and any duty, contribution, impost, levy or charge in the nature of tax imposed, assessed or collected by any Governmental Authority and any fine, penalty, inflation adjustment, surcharge or interest connected therewith, including (without prejudice to the foregoing) corporation tax, thin capitalization penalty tax, rejected expenses penalty tax, and in general, income taxes (including as set forth by Chilean Law Decree No. 824 of 1974 and its amendments), taxes required to be deducted or withheld from or accounted for in respect of any payment, any Chilean provisional monthly payments (“*Pagos Provisionales Mensuales*”), annual mining license payments, mining royalty tax, national insurance and social security contributions, capital gains tax, donation tax, inheritance tax, value added tax (including as set forth by *Chilean Decree Law No. 825 of 1974* and its amendments), customs excise and import duties, stamp, registration, documentary and other transfer taxes or duties (including stamp tax as set forth by *Chilean Decree Law No. 3,475 of 1980* and its amendments), land tax (including as set forth by *Chilean Law No. 17,235 of 1969* and its amendments), municipal licence (including as set forth by *Chilean Law Decree No. 3,063 of 1979* and its amendments), business licence tax (“*patente municipal*”), rates, and any other payment whatsoever which the Company is or may be or become bound to make to any person and which is or purports to be in the nature of taxation or otherwise by reason of any Taxation statute.

“Tax Authority” means any governmental, treasury, state, federal, provincial, local or municipal fiscal, revenue, customs or excise authority, body, agency or official anywhere in the world having or purporting to have power or authority in relation to Tax.

“Tax Returns” means all computations and returns relating to Tax matters (and correspondence and documentation relating thereto).

“Tax Warranties” means the Warranties in paragraph 20 of Part 2 of Schedule 3.

“Technical Report” means a report prepared and filed in accordance with NI 43-101 and Form 43-101F1 – *Technical Report* that includes, in summary form, all material scientific and technical information in respect of the subject property as of the effective date of the Technical Report.

“Third-Party Claim” has the meaning given to it in paragraph 3.2(C) of Schedule 4.

“Third-Party Payment” has the meaning given to it in paragraph 4.1 of Schedule 4.

“Tipping Basket” has the meaning given to it in paragraph 1.2(A)(2) of Schedule 4.

“Transaction Documents” means this Agreement and the documents listed in Schedule 2 of this Agreement.

“Warranties” means the representations and warranties set out in Schedule 3.

“Warranty Claim” means, (i) with respect to Capstone, a claim by Orion, the basis of which is that any Warranty of Capstone is, or is alleged to be, untrue or inaccurate and (ii) with respect to Orion, a claim by Capstone, the basis of which is that any Warranty of Orion is, or is alleged to be, untrue or inaccurate.

“Wheaton” means Wheaton Precious Metals International Ltd.

“Wheaton Consent and Amendment” means (i) the written consent of Wheaton under the Wheaton Finance Arrangements required in relation to the consummation of the transactions contemplated hereby, including, for the avoidance of doubt, the Capstone Expanded Investment Structure and (ii) an amendment to the Wheaton PMPA or binding written confirmation from Wheaton providing that (x) Orion will have several and not joint liability with Capstone and its Affiliates and shall not be deemed a “Future Owner” and (y) *[Redacted – Commercially Sensitive Information]*.

“Wheaton Finance Arrangements” means financing arrangements provided by Wheaton in connection with the Wheaton PMPA.

“Wheaton PMPA” means the precious metals purchase agreement dated as of March 24, 2021, between Wheaton, as purchaser, Capstone Resources MSD Ltd., as seller, and Capstone Mining Corp., as parent company, as may be amended, supplemented, restated or otherwise modified from time to time.

1.2 **Knowledge**

In this Agreement, any reference to the knowledge of a party, includes matters known to the party or of which the party is aware or any similar expression. Capstone and the Company will be deemed to know, or be aware of all facts, matters or circumstances of which any of the Key Management Members are aware as at the date the statement is made, having made all reasonable enquiries of their direct reports.

1.3 Interpretation

In this Agreement, where the context admits:

- (A) every reference to a statutory provision or other Law shall be construed as a reference to all other Laws made under the Law referred to and to all such Laws as amended, re-enacted, consolidated or replaced or as their application or interpretation is affected by other Laws from time to time and whether before or after Effective Date;
- (B) references to clauses, sub-clauses and schedules are references to clauses and sub-clauses of and schedules to this Agreement and references to paragraphs are, unless otherwise stated, references to paragraphs and clauses of the schedule in which the reference appears;
- (C) “person” includes any individual, partnership, body corporate, corporation sole or aggregate, government, state or agency of a state, and any unincorporated association or organisation, in each case whether or not having separate legal personality;
- (D) “company” includes any body corporate wherever incorporated;
- (E) words introduced by the word “other” shall not be given a restrictive meaning because they are preceded by words referring to a particular class of acts, matters or things;
- (F) words in the singular include the plural and vice-versa and words in one gender include all genders;
- (G) general words shall not be given a restrictive meaning because they are followed by words which are particular examples of the acts, matters or things covered by the general words, and the word “including” shall be construed without limitation;
- (H) references to contracts are deemed to include all present amendments, supplements, restatements and replacements to those contracts;
- (I) the headings and sub-headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (J) each of the schedules shall have effect as if set out in full in this Agreement; and
- (K) unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of the United States of America and “\$” refers to United States dollars and “CLP\$” refers to Chilean pesos.

2. **Subscription**

- 2.1 Orion hereby applies for the allotment and issue to Orion and, subject to the fulfilment of the Conditions, at Completion, Orion shall subscribe for the Subscription Shares in consideration for the Completion Payment, on and subject to the terms of this Agreement.
- 2.2 Subject to the fulfilment of the Conditions, on the Completion Date Capstone shall cause the Company to allot and issue to Orion the Subscription Shares with the rights attaching thereto on and from allotment, and Orion shall subscribe for the Subscription Shares and pay the Completion Payment in full.
- 2.3 Orion shall, subject to fulfilment of the Conditions, accept the Subscription Shares allotted to it on the terms of the Company's by-laws, and consents to the entry of its name in the register of Shareholders of the Company as the holder of the Subscription Shares.
- 2.4 In addition to the payment of the Completion Payment, Orion shall pay to the Company, as contribution of capital in respect of the Subscription Shares, no later than six (6) months from the Completion Date, an additional amount in cash equal to seventy-five million dollars (\$75,000,000) by wire-by-wire transfer of immediately available funds to an account designated in writing by the Company.

3. **Conditions**

3.1 **Satisfaction of the Conditions of the Parties**

The obligations of Orion and Capstone to consummate the transactions contemplated hereunder are subject to the satisfaction (or written waiver by Orion and Capstone, in whole or in part, to the extent such conditions may be legally waived, at their joint discretion), at or prior to the Completion Date of the following conditions ("Conditions of the Parties"):

- (A) the Wheaton Consent and Amendment is obtained;
- (B) the Regulatory Approvals are obtained; and
- (C) (i) no law shall have been enacted, promulgated or enforced by any Governmental Authority which prevents, restrains or enjoins the performance of the Completion, or the Completion, in whole or in part, (ii) no order from Governmental Authorities shall be in effect preventing, restraining or enjoining, or seeking to prevent, restrain or enjoin the Completion and (iii) no action, investigation or proceeding requesting such order or ruling described in sub clause (ii) shall be initiated by any Governmental Authority.

3.2 **Satisfaction of the Conditions of Capstone**

The obligations of Capstone to consummate the transactions contemplated by the Completion are subject to the satisfaction (or written waiver by Capstone, in whole or in

part, to the extent such conditions may be legally waived, at its sole discretion), at or prior to the Completion Date of the following conditions (“Conditions of Capstone”):

- (A) the covenants and agreements contained in this Agreement to be complied with and performed by Orion at or before Completion shall have been complied with or performed in all material respects at or prior to Completion;
- (B) the Orion Warranties shall be true and correct in all respects as of the Effective Date and as at Completion as if made at and as of such time (except for representations and warranties made as of a specified date, such accuracy of which shall be determined as of that specified date), except in the case of this where the failure to be so true and correct in all respects, individually or in the aggregate, has not prevented or significantly impeded or materially delayed, and would not reasonably be expected to prevent or significantly impede or materially delay, Completion;
- (C) completion of Concurrent Private Placement; and
- (D) Orion shall have delivered (or be ready, willing and able to deliver at Completion) all of the certificates, instruments, agreements and other documents specified to be delivered by it pursuant to clause 10.3.

3.3 **Satisfaction of the Conditions of Orion**

The obligations of Orion to consummate the transactions contemplated by the Completion are subject to the satisfaction (or written waiver by Orion, in whole or in part, to the extent such conditions may be legally waived, at its sole discretion), at or prior to the Completion Date of the following conditions (“Conditions of Orion” and, jointly with the Conditions of the Parties and the Conditions of Capstone, the “Conditions”):

- (A) (i) the Fundamental Warranties contained in this Agreement shall be true and correct in all respects (A) as of the Effective Date, and (B) at Completion (excluding de minimis inaccuracies as a result of effectuating the Capstone Expanded Investment Structure or matters consented to by Orion pursuant to clause 4.1(B)), in each case, except for representations and warranties made as of a specified date, such accuracy of which shall be determined as of that specified date, (ii) the Warranties in paragraphs 4.2 and 4.3 of Part 1 of Schedule 3 and paragraph 8.1 and 21.2 of Part 2 of Schedule 3 shall be true and correct in all material respects (A) as of the Effective Date, and (B) at Completion (excluding inaccuracies as a result of effectuating the Capstone Expanded Investment Structure or matters consented to by Orion pursuant to clause 4.1(B)), in each case, except for representations and warranties made as of a specified date, such accuracy of which shall be determined as of that specified date and (iii) all other Warranties shall be true and correct (A) in all material respects (disregarding any materiality, “material” or “Material Adverse Effect” qualification contained in any such representation or warranty) as of the Effective Date (except for representations and warranties made as of a specified date, such accuracy of which shall be determined as of that specified date) and (B) as at Completion (including after giving effect to the Capstone Expanded

Investment Structure or any matter consented by Orion pursuant to clause 4.1(B)), (disregarding any materiality, “material” or “Material Adverse Effect” qualification contained in any such representation or warranty) as if made at and as of such time, in each case, except for representations and warranties made as of a specified date, such accuracy of which shall be determined as of that specified date, except as would not have a Material Adverse Effect.

- (B) the covenants and agreements contained in this Agreement to be complied with and performed by Capstone at or before the Completion shall have been complied with or performed in all material respects at or prior to the Completion;
- (C) Capstone shall have delivered the Capstone Offtake Agreement, duly executed by the applicable member of the Capstone Group, which agreement shall include terms and conditions (including any pricing, volume, delivery, credit, term, or other material commercial terms) that are, taken as a whole, not materially more favorable to the applicable member of the Capstone Group than those set forth in the Orion Offtake Agreement with respect to the applicable member of the Orion Group;
- (D) the Santo Domingo Project, as presented to the board of directors of Capstone for the Positive Final Investment Decision, shall be materially consistent with the Existing Technical Report, except for modifications that do not materially and adversely impact on executability or returns, provided that, a material inconsistency shall not be deemed to exist for the purpose of this clause solely due to a numerical deviation in and of itself that is otherwise permitted by the definition of Santo Domingo FID (provided, further, however, that the underlying facts and circumstances leading to such numerical deviation may still be taken into account in determining compliance with this clause);
- (E) the Santo Domingo FID has been made;
- (F) the Capstone Expanded Investment Structure is complete in all material respects;
- (G) the Subscription Shareholder Resolution has been passed, effective as of the Completion Date and the notice of articles shall be updated with the registry to so reflect;
- (H) the Permits listed on Annex 1 shall have been obtained and in full force and effect;
- (I) the definitive agreement in respect of the Project Finance Documentation shall have been executed;
- (J) the definitive agreement in respect of the Construction Documentation shall have been executed;
- (K) Capstone shall have delivered (or be ready, willing and able to deliver at Completion) all of the certificates, instruments, agreements and other documents specified to be delivered by it pursuant to clause 10.3; and

(L) no Material Adverse Effect has occurred and is continuing.

3.4 Satisfaction of the Conditions

- (A) From the Effective Date until the Completion, Capstone shall, and shall cause its Affiliates to, use commercially reasonable efforts to take such actions as are necessary to procure satisfaction of the Conditions in clause 3.3 as soon as practicable.
- (B) From the Effective Date until the Completion, each of the parties shall use their reasonable endeavours to procure satisfaction of the Conditions in clause 3.1, it being acknowledged that all of them are entitled to participate in negotiations and discussions with any counterparties.

3.5 Waiver of Conditions

- (A) A party entitled to waive, or join in the waiver of, a Condition may do so in its absolute discretion.
- (B) Where a Condition may be waived by one party, that party may only waive the Condition by giving notice in writing to the other parties. Where a Condition may be waived by two or more parties jointly, those parties may only waive the Condition by agreeing in writing to do so and giving a copy of that agreement to each other party.
- (C) If a party waives or joins in the waiver of a Condition in accordance with this clause 3, that waiver does not:
 - (1) preclude that party from bringing a claim against any other party for any breach of this agreement; or
 - (2) constitute a waiver of any other Condition.

3.6 Notice of Satisfaction of Conditions

On becoming aware of a Condition being satisfied, the party becoming so aware shall give notice to the others and where appropriate provide relevant copy documentation to each of the other parties.

3.7 Completion of Conditions

From the Effective Date until the Completion, and without prejudice to each party's other obligations under this Agreement, each party shall use commercially reasonable efforts to take such actions as are necessary to as soon as practicable satisfy such party's applicable Conditions set forth in this Agreement.

4. **Pre-Completion Obligations**

4.1 **Interim Period**

- (A) Subject to sub-clause (C), Capstone shall and shall cause the Project Entities to, from Effective Date until Completion, (x) carry on the Business in the ordinary course, consistent with Good Industry Practice and (y) use commercially reasonable efforts to preserve intact its material relationships with Governmental Authorities.
- (B) Without limiting the generality of the foregoing, except with the prior written consent of Orion (such consent not to be unreasonably withheld or delayed) and subject to sub-clause (C), from Effective Date until Completion, Capstone shall cause the Project Entities to:
 - (1) (a) maintain and renew any material Authorization and Permit held by it, and apply for any material Authorization and Permit, related to the Business; (b) pay any premium due on any of its insurance policies where such policy is in relation to a material aspect of the Business, (c) not to abandon, modify, waive, surrender, withdraw or terminate any material insurance policy or other material Authorization related to the Business and (d) making applications to maintain, renew, and apply for any material mining concession, mining easements, occupation rights, and other Properties, necessary for the development, construction and operation of the Business, including but not limited to the Permits listed on Annex 1;
 - (2) not effect any recapitalization, subdivision, reclassification, equity split, combination or like change in its capitalization;
 - (3) not dispose the whole or any substantial of any part of their business, assets or the Projects, other than for the purpose of disposing of obsolete or worthless assets or to the extent such assets are replaced with like assets of equivalent value;
 - (4) not create, allot, issue, purchase, buy back or redeem any share capital;
 - (5) save for the Wheaton Finance Arrangements, the Project Finance Arrangements, Construction Documentation, mine closure bonds, equipment lease financing, inter-company loans with Affiliates and working capital facilities in the ordinary course of business including lease obligations or repayments required to replace an existing obligation for another under similar conditions, not incur any Indebtedness or increase the aggregate principal amount of its borrowings, in each case, in excess of *\$/[Redacted – Commercially Sensitive Information – Dollar Figure]* or beyond the level that would cause a Project Entity to breach the Chilean excess of indebtedness rules;

- (6) not incur or permit to be incurred any Encumbrance on any equity interests of the Project Entities;
- (7) not settle, agree to settle, waive or otherwise compromise any pending or threatened Claim related to the Business or the Project Entities other than any such settlement that is solely a monetary settlement that requires payment of less than \$[Redacted – Commercially Sensitive Information – Dollar Figure];
- (8) not voluntarily recognize any labor union or enter into any collective bargaining agreement;
- (9) not make any material change in the policies, practices or principles of any Project Entity relating to underwriting, claims administration, reserving, financial or accounting, as applicable, in effect on the Effective Date (in each case, other than any change required by IFRS) or fail to comply with any such policies, principles, or practice or principles;
- (10) not (a) make, change or revoke any material Tax election (other than any election that has yet to be made in respect of any event or circumstance occurring prior to the date of this Agreement), (b) adopt or change any material method of Tax accounting, (c) amend any material Tax Returns, (d) enter into any material closing agreement, voluntary disclosure agreement or similar agreement relating to Taxes, (e) settle any Tax claim, audit, assessment or dispute relating to any material Taxes, (f) surrender any material right to claim a Tax refund, offset or other reduction in Tax liability, or (g) request any ruling or similar guidance with respect to Taxes;
- (11) not adopt a plan of complete or partial liquidation or rehabilitation or authorize or undertake a merger, dissolution, consolidation, restructuring, recapitalization, reorganization or similar transactions;
- (12) not, other than in the ordinary course of business, modify, amend (in any material respect), recapture, extend or terminate (other than at its stated expiry date) any Material Contract or waive, release or assign any material rights or Claims thereunder or enter into any Contract, except as expressly contemplated by this Agreement, which would, if entered into prior to the Effective Date, have been a Material Contract;
- (13) not change the Business or enter into any new line of business;
- (14) not fail to timely file with any Governmental Authority all material required regulatory filings;
- (15) maintain their corporate existence; keep proper books of account and records; and maintain their corporate status, qualifications and licenses in all jurisdictions where each entity carries on business;

- (16) not to reincorporate, redomesticate or amend its constitutional or organizational documents;
 - (17) use commercially reasonable efforts to maintain the Projects and their respective interests and operations in the Properties in good standing and in compliance, in all material respects, with applicable Law;
 - (18) provide notice to Orion about any material proceedings commenced, or assessments issued, by any Governmental Authority in respect of Taxes;
 - (19) maintain any closure bonds in full force and effect as and when required in accordance with the mining closure plan and the applicable Laws; or
 - (20) not to (a) enter into or make any material change to agreements that are not with arm's-length counterparties, or (b) enter into or make any material change to any transaction between a Project Entity, on one hand, and Capstone and any of its Affiliates, on the other hand.
- (C) Notwithstanding clause 4.1 and sub-clause (B), Capstone and its Affiliates may, with prompt written notice to Orion if such action will otherwise be subject to clause 4.1, take any action:
- (1) to effectuate the steps set forth on Schedule 6 (the Capstone Expanded Investment Structure);
 - (2) that is reasonably necessary or prudent to respond to an emergency or disaster situation or other material unforeseen operational risks, to avoid or mitigate any health, environmental and/or safety related risks or issues or to mitigate value destruction, in respect of the Projects;
 - (3) required or reasonably necessary to comply with any Law, regulation or court process by which a Project Entity is bound;
 - (4) contemplated under this Agreement; or
 - (5) described in Section 4.1 of the Disclosure Letter;

and, provided that Capstone and its Affiliates have acted reasonably and in good faith, such actions shall not constitute a breach of any term or condition of this Agreement.

4.2 Notice of Certain Events; Information

- (A) From the Effective Date until the earlier of Completion and the termination of this Agreement, Capstone shall use commercially reasonable efforts to keep Orion reasonably informed as to the status of the Business, the Projects and Santo

Domingo FID, which shall include providing notice to Orion within five Business Days of receipt thereof, of the following:

- (1) Material reports and other material correspondence received by or delivered to any Project Entity or Capstone regarding the Business;
 - (2) any notice or electronic communication from any person alleging that the consent of such person is or may be required in connection with the transactions contemplated by this Agreement;
 - (3) any notice of breach, notice of default or similar notices delivered pursuant to any material Permit or Material Contract; and
 - (4) any material Claim commenced or, to Capstone's knowledge, threatened in writing against, relating to or involving or otherwise affecting the Project Entities, the Business, the Projects, the Company Shares or the Subscription Shares. From the Effective Date until the earlier of Completion and the termination of this Agreement, Capstone shall deliver to Orion quarterly reports with respect to the Business and operations and financial conditions of the Projects.
- (B) From the Effective Date until the earlier of Completion and the termination of this Agreement:
- (1) Capstone shall use commercially reasonable efforts to (i) keep Orion reasonably informed as to the status of the Business, the Projects and Santo Domingo FID, which shall include providing notice to Orion within (3) weeks of the end of each quarter a quarterly operation report; (ii) provide Orion with a copy of any relevant portion of material presentations and reports that are presented to the Board of Directors of Capstone in respect of the Business or any Project Entity along with other relevant materials as reasonably requested; and (iii) provide Orion with prior written notice of any incurrence of Indebtedness or increase the aggregate principal amount of its borrowings, in each case, in excess of \$5,000,000.
 - (2) Capstone shall participate in meetings with Orion, on a monthly basis, regarding the development of the Projects and the Business;
 - (3) Capstone shall use commercially reasonable efforts to keep Orion reasonably informed as to the status of the Business, the Projects and Santo Domingo FID, which shall include providing notice to Orion within three (3) months of the end of the first, second and third quarters of the applicable fiscal year, unaudited quarterly financial statements, including an income statement, balance sheet and statement of cash flows; and
 - (4) Capstone shall use commercially reasonable efforts to keep Orion reasonably informed as to the status of the Business, the Projects and Santo Domingo FID, which shall include providing notice to Orion within three

(3) months of the end of each applicable fiscal year, audited annual financial statements, substantially in the form of Capstone Mining Corp.'s annual financial statements, including an income statement, balance sheet and statement of cash flow, and accompany notes to the financial statements.

4.3 Access

Capstone shall and shall cause each Project Entity to, from the Effective Date until Completion, provide Orion and its Representatives with access to the Projects, the Properties and the books and records of the Project Entities, personnel, officers and other facilities and properties of the Project Entities in connection with each such visit during normal business hours on any Business Day and on reasonable advance notice to Capstone, provided that Orion and its Representatives shall follow all policies and procedures in place at the Properties and neither Capstone nor any Affiliate shall have any responsibility or liability in connection with such access to the Properties.

4.4 Standstill

Prior to Completion, Orion covenants and agrees with Capstone that no member of the Orion Group shall, without written consent of Capstone, agree, or advise, assist, encourage, provide information or provide financing to others, or permit an Affiliate to agree, or to advise, assist, encourage, provide information or provide financing to others, to, individually or collectively, directly or indirectly:

- (A) engage in short sales of any of the Capstone Shares;
- (B) solicit or join in or in any way directly or indirectly participate in a solicitation of proxies from Capstone's shareholders or otherwise attempt to influence the conduct of Capstone's shareholders;
- (C) initiate, tender to, vote its Capstone Shares in favour of or otherwise support an acquisition transaction for control of Capstone that is not recommended by the Board of Directors of Capstone; or
- (D) authorize any of or commit to do any of the foregoing matters.

4.5 Other Covenants

- (A) Neither Capstone nor any of its Affiliates will enter into any agreement or arrangement which would result in a Change of Control of the Project Entities.
- (B) Prior to Completion, Orion covenants and agrees with Capstone that it shall notify Capstone of any material adverse change in its financial condition or ability to fulfil its payment obligations under this Agreement.
- (C) Orion will not file a notification under the Investment Canada Act unless required by law or a notification is requested by the Minister, in which case, Orion shall file a notification for Investment Canada Act Approval as promptly as practical. In

connection with the Investment Canada Act Approval, Orion and Capstone shall coordinate and cooperate in exchanging information and supplying assistance that is reasonably requested, including (i) keeping each other reasonably informed as to the status of the proceedings related to obtaining such Investment Canada Act Approval, (ii) providing each other with advanced copies of and reasonable opportunity to comment on all filings, submissions, notices, information, documentation and material correspondence (including emails) submitted to or filed in connection with the Investment Canada Act Approval, and (iii) promptly providing to each other copies of all filings, submissions, notices, information, documentation, material correspondence (including emails) and requests received from any Governmental Authority.

- 4.6 The parties agree to negotiate in good faith and use their commercially reasonable efforts to finalize definitive versions of the Offtake Agreements, with the basis and parameters for such negotiations and efforts being (a) in the case of the Orion Offtake Agreement, the Offtake Term Sheet, (b) the terms and conditions of this Agreement and the transactions contemplated hereby, (c) customary terms and conditions, and (d) consistent with industry practice. The parties shall use their commercially reasonable efforts to settle definitive forms of the Offtake Agreements prior to November 30, 2025.
- 4.7 The parties shall agree to negotiate in good faith and use their commercially reasonable efforts to negotiate and enter into iron offtake agreements with Minera Santo Domingo SCM.

5. **Negotiation of Project Finance Arrangements**

- 5.1 Capstone shall, at its own cost and expense, use its commercially reasonable efforts to: (i) assist the Company in obtaining the best available rates and terms for the Project Finance Arrangements and (ii) optimize the cost of debt for the Company.
- 5.2 Subject to clause 5.3, from the Effective Date until the earlier of the termination of this Agreement and Completion, Orion shall use commercially reasonable efforts to provide such cooperation reasonably requested by Capstone in connection with the arrangement of any Project Finance Arrangements, to: (i) as promptly as reasonably practicable furnish Capstone with documentation and other information of Orion and its Affiliates as required under applicable “know your customer” and anti-money laundering rules and regulations, including the U.S. Patriot Act, in each case, that has been reasonably requested in writing, and (ii) allow the participation by senior management of Orion in, and assistance with, meetings with prospective financing sources and complying with reasonable requests for diligence, to the extent necessary to assist with negotiations of the Project Finance Arrangements. Without limiting the generality of the foregoing, Orion shall use commercially reasonable efforts to provide all required cooperation and information to Capstone in sufficient time and detail to permit Capstone to take all steps and perform all necessary actions in connection with the arrangement of any Project Finance Arrangements.

- 5.3 Nothing in this clause 5 obliges either Capstone or Orion to:
- (A) incur any obligation (financial or otherwise) to any external financier (or other person) in relation to securing the Project Finance Arrangements;
 - (B) ensure that any Project Finance Arrangement is obtained; or
 - (C) otherwise underwrite, provide support for or incur any expense in relation to such financing,

[Redacted – Commercially Sensitive Information].

- 5.4 The parties agree that all JV PF Amounts paid by Capstone prior to Completion shall be shared on pro-rata basis based on Capstone's and Orion's ownership interest in the Company after Completion; provided that if Capstone or its Affiliates have paid such JV PF Amounts prior to Completion, then Capstone shall receive a credit for future capital contributions under the Shareholders Agreement for 25% of such JV PF Amounts paid prior to Completion.

6. **Negotiation of Construction Documentation**

- 6.1 Capstone shall, at Capstone's expense, use its commercially reasonable efforts to: (i) assist the Company in obtaining the best possible terms for the Construction Documentation and (ii) secure favourable terms and maximize the quality and efficiency of the services provided to the Company under the Construction Documentation.
- 6.2 Subject to clause 6.3, from the Effective Date until the earlier of the termination of this Agreement and Completion, Orion shall provide such cooperation reasonably requested by Capstone in connection with the negotiation of any Construction Documentation, to allow the participation by senior management of Orion in, and assistance with, meetings with prospective service providers to the extent necessary to assist with negotiations of the Construction Documentation. Without limiting the generality of the foregoing, Orion shall use commercially reasonable efforts to provide all required cooperation and information to Capstone in sufficient time and detail to permit Capstone to take all steps and perform all necessary actions in connection with the negotiation of any Construction Documentation.
- 6.3 Nothing in this clause 6.3 obliges either Capstone or Orion to:
- (A) incur any obligation (financial or otherwise) to any external construction services provider in relation to agreeing the Construction Documentation;
 - (B) ensure that any Construction Documentation is finally agreed; or
 - (C) otherwise provide support for or incur any expense in relation to securing such final agreement.

7. **Concurrent Private Placement**

- 7.1 Concurrent with the execution of this Agreement, Orion has delivered, on behalf of the Concurrent Private Placement Subscriber, the duly execute Concurrent Private Placement Subscription Agreement subscribing for the allotment and issue to the Concurrent Private Placement Subscriber of Capstone Shares in consideration for aggregate subscription proceeds of \$10,000,000, on and subject to the terms of the Concurrent Private Placement Subscription Agreement.
- 7.2 Capstone shall allot and issue to the Concurrent Private Placement Subscriber the Capstone Shares to be issued in the Concurrent Private Placement and Orion shall cause the Concurrent Private Placement Subscriber to subscribe for such Capstone Shares on and subject to the terms of the Concurrent Private Placement Subscription Agreement.

8. **Adjustments to Completion Payment**

8.1 **Cash and Indebtedness Adjustment**

The amount of the Completion Payment will be adjusted as follows:

- (A) if the Actual Indebtedness is greater than nil, the Completion Payment shall reduce by an amount calculated as follows:

$\text{Actual Indebtedness} / 0.75 * 0.25$; and

- (B) if the Actual Cash is greater than nil, the Completion Payment shall increase by an amount calculated as follows:

$\text{Actual Cash} / 0.75 * 0.25$.

8.2 **Option Adjustment**

- (A) If, prior to the Completion Date, Capstone or its Affiliates, identifies or otherwise acquires knowledge of or receives information relating to any Option Acquisition in which Capstone or its Affiliates intend to participate, Capstone shall promptly communicate and present to Orion all material information regarding such Option Acquisition that is reasonably available to it or that Orion reasonably requests, including, without limitation, each of the following: (i) a proposed letter of intent or term sheet, (ii) all material terms and conditions of such Option Acquisition (including all material financial terms and the identities of other parties involved in the same) available to or prepared by Capstone, in reasonable detail, (iii) reasonably detailed information and parameters regarding the technical, financial and commercial viability of such Option Acquisition, in each case to the extent prepared by or made available to Capstone, and (iv) such other information as may be reasonably required by such Option Acquisition to make an investment decision. To the extent that Capstone or any of its Affiliates has preliminary drafts or summaries (whether or not finalized) of any information to be provided under

clauses (i) through (iv) above, Capstone shall use its commercially reasonable efforts to promptly provide such information to Orion as and when available.

- (B) Orion shall have thirty (30) days after Capstone delivers notice of an Option Acquisition, together with all applicable information set forth in clause 8.2(A) (and such 30-day window will not start until all such information is provided to Orion, acting reasonably), to elect to participate in such Option Acquisition by delivery of written notice to Capstone electing to treat the acquired person or assets (the “Option Target”) as a Project Entity or as assets of the Project Entities following Completion (an “Investment Notice”).
- (C) If Orion does so elect for the Option Target to become a Project Entity following Completion and the Option Acquisition is consummated, then the amount of the Completion Payment will be increased by an amount equal to twenty five percent (25%) of the aggregate consideration paid in connection with the consummation of the Option Acquisition and 25% of the reasonable and documented expenses incurred by Capstone or its Affiliates in connection with the consummation of the Option Acquisition.
- (D) In the event that Orion does not timely provide any such Investment Notice with such thirty (30)-day period described above, then Orion shall no longer have the right to participate in such Option Acquisition. Notwithstanding anything in to the contrary, if Orion timely delivers any Investment Notice within such thirty (30)-day period, but Capstone or its Affiliates fail to enter into a definitive agreement with respect to such Option Acquisition within one hundred twenty (120) days of such Investment Notice, then Capstone shall be required to comply with the provisions of clause 8.2 anew. Notwithstanding anything to the contrary, Capstone and its Affiliates shall not be permitted to consummate an Option Acquisition, without again offering such Option Acquisition to Orion in compliance with the terms of this Agreement, if (x) such participation is on terms and conditions that are in the aggregate, materially more favorable to it or its investors therein than those offered to Orion pursuant to this clause 8.2 or (y) such Option Acquisition is not consummated within one hundred twenty (120) days following the date that Orion loses its right to participate in such Option Acquisition.

9. **Representations and Warranties**

9.1 **General**

- (A) Subject to clause 9.4, Capstone represents and warrants to and in favour of Orion as set forth in Schedule 3.
- (B) Orion represents and warrants to and in favour of Capstone as set forth in Schedule 5.

9.2 Survival

- (A) All covenants and agreements of the parties to this Agreement contained herein shall survive the later of (i) Completion for the period explicitly specified therein, if any, and (ii) until fully performed.
- (B) Each of the Warranties and the Orion Warranties survive and continue to have full force and effect for a period of *[Redacted – Commercially Sensitive Information – Time Period]* after the Completion Date, except in respect of (i) the Fundamental Warranties shall survive and continue to have full force and effect for a period of *[Redacted – Commercially Sensitive Information – Time Period]* after the Completion Date, and (ii) the Tax Warranties which survive and continue to have full force and effect for the full period of all applicable statutes of limitations applicable to the underlying subject matter (giving effect to any waiver, mitigation or extension thereof) plus 60 days.

9.3 Notice

If, before Completion, Capstone becomes aware of any matter or circumstance which is reasonably likely to result in any of the Warranties being untrue or inaccurate as at Completion, Capstone shall give notice to Orion specifying in reasonable detail that matter or circumstance. Any notice given under this clause 9.3 in relation to any matter or circumstance does not, for the avoidance of doubt, prevent Orion from making any Warranty Claim arising from that matter or circumstance.

9.4 Disclosures

The Warranties are given subject to and qualified by facts, matters and documents that are Disclosed.

9.5 Limitation of Liability

- (A) Subject to clause 9.5(B), the provisions of Schedule 4 shall apply to this Agreement and shall operate to limit and in certain cases exclude the liability of the parties under or in connection with the representations and warranties and certain other provisions of this Agreement.
- (B) None of the provisions of Schedule 4 nor any other provision of this Agreement qualifies or limits the liability of any party in relation to any Claim attributable to fraud, and nothing herein shall limit or exclude the liability of any party in relation to any indemnity obligations of a party with respect to damages awarded by a court of competent jurisdiction to a third party in connection with a Third-Party Claim for which a party is entitled to indemnification under this Agreement.

9.6 Remedies

Each party acknowledges that it has not been induced to enter into this Agreement by, and that it does not in connection with this Agreement or its subject matter rely on, any

representation, warranty, promise or assurance by the other party or any other person save for those contained in this Agreement or any other Transaction Document.

9.7 Gross-Up

- (A) Payments made under this Agreement (including in respect of Warranty Claims) shall be made without withholding or deduction of, or in respect of, any Tax, unless required by Law.
- (B) Where a party is required by Law to make a withholding or deduction in respect of a payment made by that party under this Agreement, then that party (the “payer”) shall make such deduction or withholding from the relevant payment; and
- (C) The payer shall, when making the payment to which the withholding or deduction relates, pay to the payee such additional amount (the “Gross Up Amount”) as will ensure that the payee receives the same total amount that it would have received if no such withholding or deduction had been required.
- (D) If the payer fails to make a withholding or deduction in respect of Tax required by this clause, the payer shall remain liable to pay to the payee the Gross Up Amount due under sub-clause (C).
- (E) The parties shall comply with this clause 9.7 in good faith, duly fulfilling their Tax withholding, filing and payment obligations.

10. Completion

- 10.1 Subject to the terms and conditions of this Agreement and the satisfaction or waiver of the Conditions, Completion shall take place at the offices of Blake, Cassels & Graydon LLP in Vancouver, Canada, and the offices of Baker & McKenzie LLP in Santiago, Chile on the twelfth (12th) Business Day after the date on which the last of the Conditions is satisfied or waived in accordance with clause 3, or such other date as the parties may agree in writing. The parties to this Agreement shall keep each other informed of the process of fulfillment of the Conditions.
- 10.2 Capstone shall provide to Orion the Completion Statement at least ten (10) Business Days before Completion.
- 10.3 At Completion:
 - (A) Orion shall pay to the Company the Completion Payment as directed by Capstone;
 - (B) the Company shall deliver or make available to Orion the share certificate, or equivalent record, in respect of the Subscription Shares; and

(C) Orion shall deliver to Capstone:

- (1) the Shareholders Agreement, in the form attached hereto as Schedule 9, duly executed by Orion;
- (2) consents to act as director from the Orion Nominees;
- (3) the Orion Offtake Agreement, duly executed by the applicable member of the Orion Group;
- (4) a certificate signed by a duly authorized Representative of Orion, dated as of the Completion Date, certifying that the conditions set forth in clauses 3.2(A) and 3.2(B) have been met; and
- (5) such other documents and instruments as Capstone may reasonably request, which such request must be made in writing by the requesting party at least five (5) Business Days prior to Completion, in each case that may be necessary and desirable to evidence and effect the transactions contemplated by this Agreement;

(D) Capstone shall deliver to Orion:

- (1) the Shareholders Agreement, in the form attached hereto as Schedule 9, duly executed by Capstone;
- (2) a certificate executed by two senior officers of Capstone attaching Capstone's constating documents and the resolutions of the directors of Capstone approving the Transaction Documents and the transactions contemplated thereby and certifying as to the incumbency of Capstone;
- (3) a copy of the central securities register of the Company evidencing the registration of the Subscription Shares in the name of Orion;
- (4) an executed copy of the Subscription Board Resolutions;
- (5) an executed copy of the Subscription Shareholder Resolution;
- (6) the Capstone Offtake Agreement, duly executed by the applicable member of the Capstone Group, which agreement shall include terms and conditions (including any pricing, volume, delivery, credit, term, or other material commercial terms) that are, taken as a whole, not materially more favorable to the applicable member of the Capstone Group than those set forth in the Orion Offtake Agreement with respect to the applicable member of the Orion Group;
- (7) a certificate signed by a duly authorized Representative of Capstone, dated as of the Completion Date, certifying that the conditions set forth in clauses 3.3(A) and 3.3(B) have been met;

- (8) a certificate of status or the equivalent for each Capstone Entity;
- (9) executed copies of all shareholder resolutions required by any of the Capstone Entities in order to approve the Transaction Documents and/or to effect the transactions contemplated therein;
- (10) a legal opinion of external counsel to the Capstone Entities, as to, among other things, (i) the corporate existence of each of the Capstone Entities; (ii) the corporate authority for the Capstone Entities to enter into the Transaction Documents, as applicable; (iii) the execution, delivery and enforceability of the Transaction Documents by and against the Capstone Entities, as applicable; and (iv) the ownership of each of the Capstone Entities (other than Capstone), in a form satisfactory to Orion, acting reasonably;
- (11) evidence reasonably satisfactory to Orion (including, in the form of executed payoff letters) evidencing the termination, repayment and release of all obligations and liabilities under the Contract set forth as item 1 on Schedule 3 Part 2 Section 5.1 of the Disclosure Letter; and
- (12) such other documents and instruments as Orion may reasonably request, which such request must be made in writing by Orion at least five (5) Business Days prior to Completion, in each case that may be necessary and desirable to evidence and effect the transactions contemplated by this Agreement.

11. **Contingent Payments**

- 11.1 Following Completion, if Capstone (i) prepares and files a Technical Report that is a Feasibility Study (as defined by the CIM) that incorporates construction of the Cobalt Processing Circuit and (ii) files and applies for all material Permits for the Cobalt Processing Circuit, then Orion shall pay to Capstone a cash payment of \$20,000,000.
- 11.2 Following Completion, if Capstone prepares and files a Technical Report that indicates a mineral reserve estimate for the Sierra Norte Project across the proven reserve and probable reserve categories (each as defined by the CIM) of at least 268 kilotonnes of contained sulfide copper of the Sierra Norte Project, then Orion shall pay to Capstone a cash payment of \$20,000,000.
- 11.3 Following Completion, if Capstone prepares and files a Technical Report that is a Feasibility Study (as defined by the CIM) that incorporates the construction of the Oxide Processing Circuit and demonstrates the processing of a minimum of oxide material containing 159 kilotonnes of copper, then Orion shall pay Capstone a cash payment of \$20,000,000.
- 11.4 Upon satisfaction of each of the applicable conditions with respect to each contingent payment described in this clause 11, Capstone shall provide notice to Orion, which notice shall set forth a reasonable description of the condition satisfied and, where applicable,

attaching a copy of the Technical Report filed, a summary of any material Permit filed, applied for and obtained, as applicable, and Capstone's bank account and electronic transfer information. Subject to the satisfaction of the applicable conditions with respect to each contingent payment described in this clause 11, Orion shall make the applicable payment described in this clause 11 to Capstone no later than five (5) Business Days after receiving such notice.

11.5 For the avoidance of doubt, no payment under this clause 11 shall be made prior to Completion, and any payment under this clause is conditioned on the occurrence of Completion.

11.6 Orion's obligations under this clause 11 shall terminate upon the occurrence of the First Repurchase (as defined in the Shareholders' Agreement).

12. **Indemnification**

12.1 **Obligation to Indemnify**

(A) Subject to the provisions of this clause 12, Capstone shall indemnify, defend and hold Orion and its Affiliates and their respective shareholders, members, partners, directors, managers, officers and employees (collectively, the "Orion Indemnitees") harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Orion Indemnitees (including Orion's or its applicable Affiliate's pro rata share of Losses incurred or sustained by a Project Entity, based on Orion's or its applicable Affiliate's ownership of Company Shares) based upon, arising out of, with respect to, related to or by reason of:

- (1) any inaccuracy in or breach of any of the representations or warranties of Capstone contained in this Agreement, the other Transaction Documents or in any certificate or instrument delivered by or on behalf of Capstone pursuant to this Agreement, as of, and as if made on, the Effective Date, and as of and as if made at Completion (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);
- (2) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Capstone pursuant to this Agreement or the other Transaction Documents;
- (3) the Capstone Expanded Investment Structure;
- (4) any third-party claim related to the Excluded Capstone Business; or
- (5) any Indemnified Tax.

(B) Subject to the provisions of this clause 12, Orion shall indemnify, defend and hold Capstone and its respective Affiliates and their respective shareholders, members,

partners, directors, managers, officers and employees (collectively, the “Capstone Indemnitees”) harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Capstone Indemnitees based upon, arising out of, with respect to, related to or by reason of:

- (1) any inaccuracy in or breach of any of the representations or warranties of Orion contained in this Agreement and the other Transaction Documents or in any certificate or instrument delivered by or on behalf of Orion pursuant to this Agreement as of, and as if made on, the Effective Date, and as of and as if made at Completion (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date); or
 - (2) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Orion pursuant to this Agreement or the other Transaction Documents.
- (C) For purposes of the indemnities contained in this clause 12, all qualifications and limitations set forth in Orion’s and Capstone’s representations and warranties as to “materiality,” “Material Adverse Effect” and words of similar import shall be disregarded in determining whether there shall have been any inaccuracy in or breach of any representations and warranties in this Agreement.

13. **Termination**

13.1 **Termination**

- (A) This Agreement may be terminated, before the Completion, upon any of the following:
- (1) by mutual written agreement of Orion and Capstone;
 - (2) by any party, if all of the Conditions are not satisfied (or waived in accordance with the provisions of this clause 13) by December 31, 2027 (the “Outside Date” or if receipt of a regulatory approval is required under clause 16.3, the Outside Date shall be extended for an additional 60 calendar days) or such other later date as has been agreed between the parties in writing or if the Completion does not otherwise occur by the Outside Date provided that a party may not terminate this Agreement pursuant to this clause if the failure of the Completion to so occur has been caused by, or is a direct result of, a breach by such party of any of its representations or warranties or the failure of such party to perform any of its covenants or agreements under this Agreement;
 - (3) by Orion, if Capstone has breached any of its representations, warranties or agreements or fails to perform any of its material obligations hereunder and fails to cure such default within 30 days after written notice and demand for cure by Orion, that has caused any conditions in clause 3.3(A) and clause

3.3(B) not to be satisfied; *provided, however*, that Orion is not in material breach of its obligations contained in this Agreement; and

- (4) by Capstone, if Orion has breached any of its representations, warranties or agreements or fails to perform any of its material obligations hereunder and fails to cure such default within 30 days after written notice and demand for cure by Capstone, that has caused any conditions in clause 3.2(A) and clause 3.2(B) not to be satisfied; *provided, however*, that Capstone is not in material breach of their obligations contained in this Agreement.

13.2 **Effect of Termination**

Upon termination of this Agreement under clause 13.1, this Agreement shall cease to have force and effect, and there shall be no further liability or obligation of Capstone or Orion (or any of their respective representatives or Affiliates), except that each party shall continue to be liable for any intentional act by such party that constitutes a material breach by such party of its representations, warranties, agreements or covenants contained in this Agreement occurring prior to such termination, whether or not such party knew or intended that such action would constitute such breach. Notwithstanding the foregoing, the provisions of clause 1 (Definitions and Interpretation), clause 12 (Indemnification) solely in respect of such liability for any intentional act by such party that constitutes a material breach by such party of its representations, warranties, agreements or covenants contained in this Agreement occurring prior to such termination, clause 13.2 (Effect of Termination), clause 14 (Confidentiality) and clause 16 (Other Provisions) (other than clause 16.9 and clause 16.10), shall remain in full force and effect and survive any such termination and nothing herein shall limit, relieve or release any party hereto from any liability with respect to willful breach or fraud by any such party prior to the termination of this Agreement.

14. **Confidentiality**

The terms of the Confidentiality Agreement are hereby incorporated by reference, and the Confidentiality Agreement shall continue in full force and effect in accordance with its terms until the Completion Date, at which time the Confidentiality Agreement shall terminate. If this Agreement is, for any reason, terminated prior to Completion, the Confidentiality Agreement shall continue in full force and effect.

15. **Announcements**

- 15.1 Subject to clause 15.2, no party shall make, or permit any person to make, any public announcement, communication or circular (“announcement”) concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other parties. The parties shall consult together on the timing, contents and manner of release of any announcement.
- 15.2 Where an announcement is required by Law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange), or by any court or other authority of competent jurisdiction, the party required to make the announcement shall

promptly notify the other parties. The party concerned shall make all reasonable attempts to agree the contents of the announcement before making it.

16. **Other Provisions**

16.1 **Notices**

(A) Any notice or other communication required to be given under this Agreement or in connection with the matters contemplated by it shall, except where otherwise specifically provided, be in writing in the English language and shall be addressed as provided in this clause 16.1(A) and may be:

- (1) personally delivered, in which case it shall be deemed to have been given upon delivery at the relevant address;
- (2) sent by pre-paid airmail or by air courier, in which case it shall be deemed to have been given five Business Days after the date of posting in the case of airmail or two Business Days after delivery to the courier in the case of air courier; or
- (3) sent by e-mail, in which case it shall be given at the time it left the e-mail gateway of the person giving the notice or other communication, provided that any notice dispatched by e-mail after 5:00 p.m. on a Business Day or on a non-Business Day, Saturday or Sunday (at the place where such e-mail is sent) such notice or other communication shall be deemed to have been received at 9:00 a.m. (local time at the place of receipt) on the next Business Day. The addresses and other details of the parties referred to in clause 16.1(A) are, subject to clause 16.1(C):

in the case of a notice to Orion, addressed to it at:

7 Bryant Park, 1045 Avenue of the Americas, Floor 25
New York, NY10018;
Attention: Legal
Email: *[Redacted – Personal Information]*

with a copy (not constituting notice) to:

Sidley Austin LLP
1000 Louisiana Street, Suite 5900
Houston, TX 77002
Attention: Joshua G. DuClos; Tim Chandler
Email: *[Redacted – Personal Information]*

with a copy (not constituting notice) to:

Carey
Isidora Goyenechea 2800, 43rd floor

Las Condes, Santiago, Chile
Attention: Rafael Vergara
Email: *[Redacted – Personal Information]*

and in the case of a notice to Capstone, addressed to it at:

2100-510 West Georgia Street
Vancouver, BC V6B 0M3 Canada

Attention: Chris Richter

Email: *[Redacted – Personal Information]*

with a copy (not constituting notice) to:

Blake, Cassels & Graydon LLP
1133 Melville Street, Suite 3500
Vancouver, British Columbia, V6E 4E5

Attention: Bob Wooder

Email: *[Redacted – Personal Information]*

with a copy (not constituting notice) to:

Baker & McKenzie LLP
Avenida Andrés Bello 2457,
Piso 19 Providencia, CL 7510689
Santiago Chile

Attention: Antonio Ortuzar, Jr.

Email: *[Redacted – Personal Information]*

- (B) In proving service of any notice, it shall be sufficient to prove:
- (1) in the case of a notice sent by post, that such notice was properly addressed, stamped and placed in the post;
 - (2) in the case of a notice personally delivered, that it was delivered or left at the specified address;
 - (3) in the case of a notice sent by e-mail, that the e-mail left the e-mail gateway of the person giving the notice; and
 - (4) in the case of a notice sent by air courier, that it was delivered to a representative of the courier.
- (C) A party to this Agreement may notify the other parties of any change to its address or other details specified in clause 16.1(A), provided that such notification shall

only be effective on the date specified in such notice or five Business Days after the notice is given, whichever is later.

16.2 Whole Agreement

This Agreement and the other Transaction Documents together constitute the whole agreement between the parties relating to its subject matter and supersede and extinguish any previous written or oral drafts, agreements and undertakings relating to such subject matter except to the extent that the same are repeated in this Agreement or any of the other Transaction Documents.

16.3 Successors and Assigns

No party shall assign, transfer, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement (or any other document referred to in it) without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed); *provided that* Orion shall be permitted to assign its rights under this Agreement to any member of the Orion Group, to the extent that such person is not a Restricted Person (as defined in the Shareholders' Agreement) and subject to any regulatory approvals required, if any, provided that if such regulatory approvals are not obtained within 59 calendar days of December 31, 2027, the assignment shall not be permitted under this Agreement; provided, further such assignment shall not relieve Orion of its obligations hereunder.

16.4 Waiver

No failure of a party to exercise, and no delay by it in exercising, any right, power, privilege or remedy under this Agreement (each, a "Right") shall in any way impair or affect the exercise or operate as a waiver of that Right, nor shall any single or partial exercise of any Right preclude any other or further exercise of that Right or the exercise of any other Right. Any express waiver or any breach of this Agreement shall not be deemed to be a waiver of any subsequent breach.

16.5 Variation

No variation or waiver of this Agreement shall be effective unless in writing and signed by or on behalf of each of the parties.

16.6 No Partnership or Agency

- (A) Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership between the parties or constitute any party the agent of another party.
- (B) Each party confirms that it is acting on its own behalf and not for the benefit of any other person.

16.7 Time of the Essence

Time shall be of the essence of this Agreement, both as regards any dates and periods mentioned and as regards any dates and periods which may be substituted for them by agreement in writing between the parties.

16.8 Costs

Each party shall pay all costs incurred by it in connection with the preparation, negotiation and entry into this Agreement and the documents to be entered into pursuant to it.

16.9 Exclusivity

From the Effective Date until the earlier of (a) termination of this Agreement pursuant to clause 13.1 and (b) Completion, Capstone shall not, nor shall it permit any of its Affiliates, officers, directors, managers, employees or representatives to (and it will direct such Affiliates, officers, directors, managers, employees or representatives not to), without the prior written consent of Orion, directly or indirectly, take, any action to (i) solicit, initiate or engage in discussions or negotiations with, or enter into any binding agreement with any person (other than Orion or any of its Affiliates) concerning (x) the sale, issuance or other transfer of equity, equity-like or equity-linked securities (including limited liability company interests, profit interests, profit sharing interests, preferred equity, combinations of equity and/or any other instruments or forms of equity capital, as well as warrants, options, purchase rights, and other securities that are exercisable or exchangeable for or convertible into, equity securities), of the Company or the Project Subsidiaries or otherwise in connection with the financing of the Projects, including the Company Shares or the Subscription Shares or (y) the sale a material portion of the assets of the Projects or the Project Entities (each such transaction, an “Exclusive Transaction”), (ii) enter into any agreement, arrangement or understanding with any person or group of persons relating to or that otherwise could be expected to lead to an Exclusive Transaction, (iii) take any action to facilitate or encourage any inquiries or the making of any proposal by any person or group of persons (other than Orion or any of its Representatives), regarding the Exclusive Transaction, or (iv) furnish any non-public information relating to the Project Entities or the Projects, or grant access to the assets, properties, books or records of the Project Entities to any person or group of persons (other than Orion and its Affiliates and Representatives) for the purpose of executing an Exclusive Transaction.

16.10 Release

Effective as of the Completion, Capstone, on behalf of itself, and its Affiliates (other than the Project Entities), and, to the extent permitted by Law, their respective current and former officers, managers, members, employees and agents (collectively, the “Capstone Related Parties”) hereby fully, irrevocably, and unconditionally releases, acquits, satisfies and forever discharges each Project Entity as well as the successors and assigns of such persons (collectively, the “Released Parties”), from and against any and all actions, demands, accounts, rights, sums of money, charges, contracts, agreements, promises, covenants or causes of action, including, but not limited to, negligence and all other tort

actions, suits, controversies, judgments, damages, debts, obligations, equities, statutory claims or liabilities, trespasses, losses, expenses and liabilities as of or prior to the Completion Date, of whatever kind or nature whether in law or in equity, including all matters related to the obligations of the Project Entities under any contract of any nature and kind whatsoever that the Capstone Related Parties may have against the Released Parties, and Capstone forever waives any right to make any Claim or seek any recourse against the Released Parties related thereto (collectively, the “Released Parties Claims”), provided, however, that notwithstanding any provision of this clause 16.10, the release provided herein shall not apply or extend to or affect, or constitute a release or discharge of, or an agreement to refrain from bringing any Claim that any Capstone Related Party may have related to or arising out of the Capstone Excluded Matters. This is a full and final release, applying to all known or unknown, foreseen, or unforeseen, anticipated, or unanticipated, suspected, or unsuspected, asserted or unasserted, liquidated or unliquidated, existing, or contingent, direct, or derivative Released Parties Claims that existed, may have existed, or may hereafter arise in any manner or degree from facts and circumstances whether known, or in addition to or different from those now believed to be true, in each case as of prior to the Completion Date. Capstone further acknowledges and agrees that this waiver of rights is an essential and material term of this Agreement.

16.11 Third-Party Rights

Except as provided for herein, this Agreement is solely for the benefit of the parties and no third party accrues any benefit, claim or right of any kind pursuant to, under, by or through this Agreement.

16.12 Non-Recourse

This Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as parties to this Agreement in their capacities as such and, except to the extent otherwise provided herein, no former, current or future equity holders, Controlling persons, Representatives or Affiliates of any party hereto or any former, current or future, direct or indirect, equity holder, Controlling person, Representative or Affiliate of any of the foregoing (each, a “Non-Recourse Party”) shall have any liability for any liability of the parties to this Agreement or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any representations made or alleged to be made in connection herewith. Without limiting the rights of any party against the other party hereto, in no event shall any party or any of its Affiliates seek to enforce this Agreement against, make any claims for breach of this Agreement against, or seek to recover monetary damages from, any Non-Recourse Party.

16.13 Further Assurance

Each party to this Agreement shall cooperate with the other parties and execute and deliver to the other parties such other instruments and documents and take such other actions as

may be reasonably requested by the other parties from time to time in order to carry out, evidence and confirm its rights and the intended purpose of this Agreement.

16.14 Severability

The provisions contained in each clause of this Agreement are enforceable independently of each other clause of this Agreement and the validity and enforceability of any clause of this Agreement will not be affected by the invalidity or unenforceability of any other clause.

16.15 Counterparts

- (A) This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- (B) Transmission of an executed counterpart of this Agreement by e-mail (in PDF, JPEG or other agreed format), shall take effect as delivery of an executed counterpart of this Agreement.
- (C) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

16.16 Inadequacy of Damages

The parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at Law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to injunctive relief, specific performance and other equitable relief to prevent breaches or threatened breaches of this Agreement, and to enforce compliance with the terms of this Agreement without any requirement for proof of damages or for the securing or posting of any bond in connection with the obtaining of any such relief. Such rights are in addition to any other remedy to which the parties may be entitled at Law or in equity. None of the parties shall object to the granting of injunctive relief, specific performance or other equitable relief on the basis that there exists an adequate remedy at law.

16.17 Governing Law and Jurisdiction

- (A) This Agreement is governed by, and interpreted and enforced in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable in that province, excluding the choice of law rules of that province.
- (B) Each of the parties irrevocably agrees that any dispute arising out of or in connection with this Agreement and the documents between the parties to be entered into pursuant to it, including any question regarding the Agreement's existence, validity or termination, shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled

under the Rules of Arbitration of the International Chamber of Commerce, on the following basis:

- (1) the number of arbitrators shall be three (3);
- (2) the seat, or legal place, of arbitration shall be Toronto, Ontario; and
- (3) the language to be used in arbitral proceedings shall be in English.

IN WITNESS of which this Agreement has been entered in to by the parties on the date first written above.

CAPSTONE COPPER CORP.

(signed) “Chris Richter”

Name: Chris Richter

Title: SVP, Corporate Development

0908113 B.C. LTD.

(signed) “Raman Randhawa”

Name: Raman Randhawa

Title: Director and CFO

OMF FUND IV SPV P LTD.

(signed) “Istvan Zollei”

Name: Istvan Zollei

Title: Director

SCHEDULE 1 : RESERVED

SCHEDULE 2 : TRANSACTION DOCUMENTS

Subscription Shareholder Resolution

The Shareholders' Agreement

The Offtake Agreements

The Concurrent Private Placement Subscription Agreement

SCHEDULE 3 : WARRANTIES

PART 1 : CAPSTONE

1. Capstone

- 1.1 Capstone is a corporation duly incorporated and validly existing and is in good standing under the *Business Corporations Act* (British Columbia).
- 1.2 The authorized capital of Capstone consists of an unlimited number of common shares of Capstone. As at Effective Date, there are 762,333,424 common shares of Capstone issued and outstanding.

2. Authority and Capacity

- 2.1 The entry by Capstone into this Agreement and each of the other Transaction Documents to which it is or will be a party and the performance of its obligations under it and the consummation of the transactions contemplated hereby or thereby will not violate or conflict with or exceed any limit imposed by applicable Law or its constitutional documents.
- 2.2 Capstone has the requisite power to execute and deliver this Agreement and each of the other Transaction Documents to which it is or will be a party, and to perform its obligations under this Agreement, and at Completion, Capstone will have the requisite power to execute and deliver and to perform its obligations under each of the other Transaction Documents to which it is or will be a party. Capstone has taken, or will have taken prior to Completion in respect of the Subscription Shareholder Resolution, all necessary corporate action to authorise the execution and delivery of this Agreement and each of the other Transaction Documents to which it is or will be a party, and the performance of such obligations under, this Agreement and any other Transaction Document.
- 2.3 Capstone's obligations under this Agreement are, and its obligations under each of the other Transaction Documents to which it is or will be a party are, or will on execution of those Transaction Documents be, legal, valid, binding and enforceable in accordance with their terms, except as may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and subject to the qualification that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.

3. Project Entities

- 3.1 Each Project Entity is duly qualified to carry on business in each jurisdiction in which the nature or character of its properties and assets, owned, leased or operated by it, or the nature or character of the properties and assets owned, leased or operated by its, or the nature of its business or activities, makes such qualification necessary.
- 3.2 Save as Disclosed, Capstone is, directly or indirectly, the legal, beneficial and registered owner of all of the issued shares of each Project Entity. All of the issued and outstanding shares in the capital of each Project Entity has been duly authorized and validly issued and

are fully paid and non-assessable, and all such shares are, except pursuant to restrictions on transfer contained in constating documents, bylaws or listed in the Disclosure Letter, owned free and clear of all Encumbrances except pursuant to corporate and securities Law, of any kind or nature whatsoever and are free of any other restrictions including any restrictions on the right to vote, sell or otherwise dispose of such shares or other equity interests and have not been issued in violation of any subscription rights, purchase or call option, preemptive rights, rights of first refusal or similar rights. Except for Far West Mining Ltd., Capstone Resources MSD Ltd., FWM Exploration (Chile) Ltd., Far West Exploration S.A., and the Project Subsidiaries, the Company has no other subsidiary or owns any capital stock or other interest of any person.

4. **Legal Compliance**

- 4.1 No Insolvency Event has occurred in relation to Capstone.
- 4.2 The Project Entities are in compliance in all material respects with all Laws in connection with the Business. Capstone and the Project Entities are in compliance with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws, and Sanctions and have instituted and maintained policies and procedures reasonably designed to promote and achieve compliance with such laws.
- 4.3 Except as listed in Section 4.3 of the Disclosure Letter, Capstone and the Project Entities have all necessary consents, licences and approvals in connection with entry into and performance of its obligations under this Agreement and, prior to Completion, the other Transaction Documents.

PART 2 : PROJECT ENTITIES

1. **Project Entities**

- 1.1 Each Project Entity is, or before Completion will be, a corporation duly incorporated and validly existing and is in good standing under its jurisdiction of formation.

2. **Authority and Capacity**

- 2.1 Each Project Entity has all necessary power and authority to own, operate or lease the Properties and assets now owned, operated or leased by it and to carry on its business as it is currently conducted.
- 2.2 Each Project Entity has, or will have at the time of execution, the requisite power to execute and deliver, and to perform its obligations under, this Agreement and each of the other Transaction Documents to which it is or will be a party, and it has taken, or will have at the time of execution, all necessary corporate action to authorise such execution and delivery and the performance of such obligations.
- 2.3 Each Project Entity's obligations under this Agreement are, and its obligations under each of the other Transaction Documents to which it is or will be a party are, or will on execution of those Transaction Documents be, legal, valid, binding and enforceable in accordance

with their terms, except as may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and subject to the qualification that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.

3. **No Subsidiaries.**

- 3.1 Section 3.1 of the Disclosure Letter sets forth a true and correct list of each Project Entity and the ownership thereof. Except as set forth on Section 3.1 of the Disclosure Letter, no Project Entity owns any equity securities or an ownership interest in any other person. The Project Entities have never engaged in any business or activity other than the Business.

4. **The Shares**

- 4.1 *[Redacted – Commercially Sensitive Information – Description of Authorized and Issued Share Capital of Subsidiaries].*
- 4.2 *[Redacted – Commercially Sensitive Information – Description of Authorized and Issued Share Capital of Subsidiaries].*
- 4.3 *[Redacted – Commercially Sensitive Information – Description of Authorized and Issued Share Capital of Subsidiaries].*
- 4.4 The issue of the Subscription Shares has been or will be duly authorized prior to Completion and, when issued and delivered to Orion will be validly issued and fully paid-up and entitle Orion to all of the rights attached thereto free from all Encumbrances except pursuant to corporate and securities Law.
- 4.5 None of the Subscription Shares are or will be subject to any voting trust, member or partnership agreement, proxy or voting agreement or other agreement, right, instrument or understanding with respect to any purchase, sale, issuance, transfer, repurchase, redemption, distribution rights, disposition, restriction or voting of any equity interests, other than the Shareholders Agreement or pursuant to corporate or securities laws. Except as listed in Section 4.5 of the Disclosure Letter, after giving effect to the issuance of the Subscription Shares to Orion as contemplated by this Agreement, Orion shall own the Subscription Shares free and clear of all Encumbrances except pursuant to corporate and securities Law.
- 4.6 Other than the Subscription Shares and the Concurrent Private Placement, there are no other equity interests of, or securities that are convertible into, or exchangeable for, equity interests of, any Project Entity; there are no outstanding stock appreciation rights, phantom stock, options, warrants, interests in the ownership of any Project Entity or other equity equivalent or equity-based award or rights with respect to any Project Entity or other rights or arrangements existing or outstanding that provide for the sale or issuance of any of the foregoing by any Project Entity, and there are no shareholder agreements; and no Project Entity is party to (nor any interests thereof are subject to) any proxies, voting trusts, voting agreements, pledge agreements, buy-sell agreements, redemption agreements, preemptive rights, rights of first refusal, tag-along, drag-along or similar rights, or other agreements or

understandings in effect with respect to the voting or transfer of any of the Subscription Shares.

5. **Brokers**

- 5.1 Except as listed in Section 5.1 of the Disclosure Letter, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement or any Transaction Document based upon arrangements made by or on behalf of any of the Project Entities.

6. **Solvency**

- 6.1 No act or proceeding has been taken by or against the Project Entities in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of a Project Entity. After giving effect to the transactions contemplated hereby and by the Transaction Documents, and assuming the accuracy of the representations and warranties made by Orion in this Agreement in all respects, each Project Entity will not (a) be insolvent (either because its financial condition is such that the sum of its debts is greater than the fair value of its assets or because the present fair saleable value of its assets will be less than the amount required to pay its probable liability on its debts as they become absolute and matured), (b) have unreasonably small capital with which to engage in its business, or (c) have incurred or plan to incur debts beyond its ability to pay as they become absolute and matured.

7. **Constitutional Documents, Corporate Registers and Minute Books**

- 7.1 The Data Room Information includes, in all material respects, complete and correct copies of the constating documents of each Project Entity, and complete and correct copies of the resolutions or minutes (or, in the case of draft minutes, the most recent drafts thereof) of all meetings of the board of directors of each Project Entity since January 1, 2023, excluding any minutes (or portion thereof) in relation to this Agreement and the applicable Project Entity has not taken any action to amend or supersede such documents.

8. **No Default**

- 8.1 The execution and delivery of, and the performance by Capstone and the Company of its obligations under, this Agreement, the other Transaction Documents to which Capstone or the Company is or will be a party and any other documents to be executed by Capstone or the Company pursuant to or in connection with this Agreement or the other Transaction Documents do not and will not result in:

- (A) a conflict with or result in any violation or breach of or default under (or constitute an event that, with notice or lapse of time or both, would constitute a default under) or give rise to a right of termination, cancellation or acceleration of any obligation, to any put or call or similar rights, or to loss of a benefit under, any provision of the constitutional documents of Capstone or any Project Entity, or any Material Contract or material Permit related to the Projects to which Capstone or any Project Entity is a party or by which it is bound;

- (B) a conflict with or result in a violation or breach of any provision of any Law or Order applicable to Capstone or any Project Entity; or
- (C) the creation of any Encumbrance upon any material assets of Capstone or the Project Entity.

Except as set forth in Section 8.1 of the Disclosure Letter, no consent, approval, Permit, Order, declaration or filing with, or notice to, any Governmental Authority is required by or with respect to Capstone, the Company or any Project Entity in connection with the execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby.

9. **Contracts and Commitments**

9.1 The Data Room Information contains true and complete copies (including all modifications, amendments, and supplements thereto and waivers thereunder) of each Material Contract related to the Projects and each Material Contract to which any Project Entity is a party. Section 9.1 of the Disclosure Letter has a list of the following Contracts to which the Projects or any project Entity is a party:

- (A) any Contract whether by reason of its nature, term, scope, price or otherwise, is material to the operation, revenues or profits of the Project Entities, taken as a whole or any Project;
- (B) any Contract that requires or may require a consideration or capital expenditure payable by the Project Entities or with respect to the Projects, or other liability, in excess of \$1,000,000 in the aggregate for a period of twelve (12) months;
- (C) any Contract that limits the ability of any Project Entity or the Projects from distributing dividends or competing in any line of business or in any geographic area after Completion in a material respect;
- (D) any Contract that is related to profit sharing arrangements, partnerships or joint ventures or contains a most favored customer pricing provision;
- (E) except for the organizational documents of such Project Entity, any side agreement or similar arrangement with any other person which relates to the granting of any rights, privileges or preferences in any Project Entity that are in the nature of an equity interest in such Project Entity;
- (F) any Contract with a Governmental Authority to which a Project Entity is a party; or
- (G) any Contract that was not entered in the ordinary course of its business or is not on arm's length terms,

(each a "Material Contract").

- 9.2 Each Material Contract is in full force and effect and is a valid and binding obligation of the applicable Project Entity and, to the knowledge of Capstone, the other parties thereto and is enforceable by the applicable Project Entity in accordance with its respective terms, except as may be limited by bankruptcy, insolvency and other laws affecting the enforcement of creditors' rights generally and subject to the qualification that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.
- 9.3 The Project Entities are not in breach of any Material Contract and the Project Entities have not given written notice to any counterparty to a Material Contract that such counterparty is in breach of the relevant Material Contract.
- 9.4 No counterparty to any Material Contract has given written notice of its intention to terminate, or has sought to repudiate or disclaim, any Material Contract and, so far as Capstone is aware, there are no grounds for any such notice.
- 9.5 None of the Project Entities has entered into any oral agreement that would be a Material Contract if in writing.
- 9.6 The Project Entities have secured, or are in the process of securing, interconnection agreements to be executed with the holders of existing transmission infrastructure and the power supply agreements required for the Business. With respect to the agreements that are in process of being obtained, to Capstone's knowledge, these agreements will be obtained in due course, as needed to support the ongoing progress of the Business.
- 9.7 At Completion, the Company will have adequate and available technical capacity in the transmission facility required for the operation of the Business or an agreement to expand the facility to obtain the requisite technical capacity on terms consistent with the Initial Business Plan & Budget.

10. **Legal Compliance**

- 10.1 Each Project Entity and each Project has been and is currently being operated in compliance in all material respects with applicable Laws and none of the Project Entities has received any notice, report, or complaint of any kind for potential unlawful conduct or of any alleged violation of any such Laws. Capstone does not have any knowledge of any future or potential changes in any Law that may materially impact the business, operations, financial condition, prospects or otherwise of the Project Entities or the Projects. Without limiting the generality of the foregoing, all issued and outstanding shares of the Project Entities have been issued in compliance with all applicable Laws.
- 10.2 Each Project Entity has all material Authorizations and Permits necessary to enable it to:
- (A) carry on its business as it does currently;
 - (B) own, operate and use the Projects and its assets substantially in the manner in which the assets are currently used; or

- (C) enable it to mine ore, or to process such ore to concentrates, or to export and sell copper, iron ore or silver concentrates in the manner in which it undertakes such business as Effective Date,

(the “Business Permits”).

Each of the Project Entities has applied for, or is in the process of applying for, all Business Permits necessary to achieve the aforementioned purposes and to develop, construct and operate the Business and to the knowledge of Capstone at the date of this Agreement there is no reason such Business Permits will not be obtained.

- 10.3 All Business Permits have been duly obtained or granted, are valid and subsisting in full force and effect and the Project Entities have complied with all terms and conditions of those Business Permits in all material respects and are not subject to any appeal or challenge. The Project Entities have paid all fees required in connection with the renewal and maintenance of such Business Permits.
- 10.4 Except as listed in Section 10.4 of the Disclosure Letter, (i) neither Capstone nor any Project Entity has received any written notice from a Governmental Authority alleging that it is not, in compliance with applicable Laws and Business Permits, or notice of any proceeding to suspend, revoke, withdraw, terminate or otherwise limit or modify any Business Permit in any manner adverse to any Project Entity; and (ii) no Governmental Authority has imposed any material fines, sanctions or similar penalties upon or against any Project Entity in connection with the Permits.
- 10.5 None of the Business Permits will be impaired or violated by the consummation of the transactions set forth herein.

11. **Environmental Matters**

- 11.1 The Project Entities and the Projects are in compliance with all applicable Environmental Laws in all material respects and have obtained, and are, and at all times since the Accounts Date have been, in material compliance with, all Environmental Permits required for carrying the operation of the Business, the Projects or assets of any Project Entity as currently conducted, and such Environmental Permits are in full force and effect, in good standing, have not been revoked, and no applications are currently required under applicable Environmental Laws to maintain their validity and prevent their expiration, lapse, or revocation.
- 11.2 The Project Entities have not received a written complaint or a notice alleging the Project Entities’ material non-compliance with, or liability under, Environmental Law or written correspondence stating that there are grounds for such a complaint being made or notice being served.
- 11.3 There are no Claims related to Environmental Laws pending, or, to Capstone’s knowledge, threatened in writing against any Project Entity. No Project Entity has entered into or agreed to any consent order, adjustment terms or is subject to any material Claim or order

relating to compliance with Environmental Laws or the investigation, sampling, monitoring, treatment, remediation removal or cleanup of Hazardous Materials.

- 11.4 There has been no Release of Hazardous Materials on, at, under or from any real property currently or, to the knowledge of Capstone and each Project Entity, formerly owned, operated or leased by any Project Entity or related to the Projects or at any third party site to which Hazardous Materials generated by the Project Entities were sent for treatment, recycling, storage or disposal, in a manner that would reasonably be expected to result in material liability to any Project Entity under any Environmental Law.
- 11.5 Except as Disclosed, no Project Entity has retained or assumed, by Contract or operation of law, any material liabilities of any third parties under any Environmental Law.

12. **Related Party Contracts**

- 12.1 Except as set forth on Section 12.1 of the Disclosure Letter, none of the Project Entities or any of their respective Affiliates nor any director, manager, officer or employee of the Project Entities, (a) is a party to any Contract with any Project Entity, (b) has any interest in any material asset, property or right owned or used by any Project Entity or (c) is owed any receivable or other Indebtedness by any Project Entity.

13. **Litigation**

- 13.1 Except as listed in Section 13.1 of the Disclosure Letter, None of the Project Entities is named as a defendant, in any material claim, legal action, suit, litigation, prosecution, investigation, enquiry, arbitration or civil, criminal, administrative or other proceeding in any jurisdiction (including under Environmental Law or in connection with employee matters or pensions or benefits).
- 13.2 There are no past or current, or to Capstone's knowledge, threatened or pending, Claims concerning directors, managers or employees of the Project Entities which relate to the business of the Project Entities or the Projects.
- 13.3 There are no Claims pending or to Capstone's knowledge, threatened in writing against or by Capstone or the Project Entities that challenges or seeks to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement.

14. **Project Subsidiaries Accounts**

- 14.1 The Project Subsidiaries Accounts have been prepared in accordance with generally accepted accounting principles applied on a basis consistent with prior periods (except as disclosed in such financial statements) and present fairly the financial condition and position of the Project Subsidiaries as at their respective dates, and such financial statements contain no misrepresentation.

15. **Changes Since the Accounts Date**

Since the Accounts Date, except as specifically contemplated by the Agreement:

- (A) the Project Entities have conducted their business in the ordinary course of business and consistent with past practice;
- (B) no change has occurred in the accounting methods, principles or practices applied by the Project Entities;
- (C) there has been no material adverse change in the financial or trading position of the Project Entities;
- (D) there has not been a Material Adverse Effect that is continuing;
- (E) there has been no damage, destruction or loss in an amount exceeding \$1,000,000 whether or not covered by insurance, affecting the assets, Properties or business of the Project Entities, including the Projects;
- (F) no Project Entity has amended its constituent documents;
- (G) no Project Entity has sold, transferred or disposed of any of its assets, including any right under any lease or Contract or any proprietary right or other intangible asset, in excess of \$100,000;
- (H) no Project Entity has waived, released, canceled, settled or compromised any debt or right in excess of \$100,000;
- (I) no Project Entity has failed to pay any material liabilities when due;
- (J) no Project Entity has settled or compromised any pending or threatened Claim in excess of \$100,000; and
- (K) no Project Entity has agreed or committed to do any of the foregoing.

16. **Public Disclosure Documents**

- 16.1 Capstone has filed or furnished, as applicable, all forms, statements, certifications, reports, contracts and documents required to be filed or furnished by it on SEDAR+ pursuant to Securities Laws since January 1, 2024, including (i) Capstone's Annual Information Form for the fiscal year ended December 31, 2024 (the "2024 AIF") and (ii) Capstone's Management's Discussion and Analysis and Condensed Interim Financial Statements (unaudited) for the three-month and six-months ended June 30, 2025 (the "2025 MD&A and Financial Statements") (the forms, statements, certifications, reports and documents filed or furnished since January 1, 2024, including any amendments thereto, the "Public Disclosure Documents"). Each of the Public Disclosure Documents, at the time of its filing or being furnished complied or, if not yet filed or furnished, will comply in all material respects with the applicable requirements of Securities Laws, and any rules and regulations

promulgated thereunder, applicable to the Public Disclosure Documents. As of their respective dates (or, if amended prior to Effective Date, as of the date of such amendment), the Public Disclosure Documents did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

- 16.2 The consolidated balance sheets, and related statements of income, cash flow and shareholder's equity, included in the 2024 AIF, were prepared in accordance with IFRS, and fairly present in all material respects the financial positions and results of operations of Capstone and its Subsidiaries at the dates and for the periods indicated. The consolidated balance sheets, and related statements of income, cash flow and shareholder's equity, included in the 2025 MD&A and Financial Statements, were prepared in accordance with IFRS, and fairly present in all material respects the financial positions and results of operations of Capstone and its Subsidiaries at the dates and for the periods indicated. Since filing of the 2024 AIF, (i) except as disclosed in the Public Disclosure Documents, there has been no change in the condition (financial or otherwise) of Capstone and its Subsidiaries, taken as a whole, that could reasonably be expected to individually or in the aggregate have a Material Adverse Effect and (ii) since December 31, 2024, other than in connection with the transactions contemplated by this Agreement, Capstone and its Subsidiaries have, in all material respects, conducted their respective businesses only in, and have not engaged in any material transaction other than in accordance with, the ordinary and usual course of such business.

17. **Indebtedness**

- 17.1 Since the Accounts Date no material Indebtedness has been incurred by any Project Entity.

18. **Properties and Assets**

- 18.1 The Properties are accurately described in the Public Disclosure Documents. The Project Entities own or otherwise possess the lawful, valid, exclusive and irrevocable right to the peaceful and undisturbed use and possession of all Properties necessary for the development, construction and operation of the Business, in all material respects. The existing third parties holding mining concessions over facilities necessary for the operation of the Business have not initiated any judicial actions or to Capstone's knowledge, threatened to initiate any action that could reasonably result in the suspension of works and activities carried out by Project Entities, or to claim any kind of compensation in their favor.
- 18.2 The Properties comprise all of the premises and land currently owned, occupied (including leasehold land) or otherwise used by the Project Entities or in which the Project Entities have an interest in respect of the Projects.
- 18.3 Except as Disclosed, the Project Entities have not received written notice of and Capstone is not aware of any material dispute, claim, demand, action, notice or complaint relating to any of the Properties, including where a Property is held under a lease, tenancy or licence, any dispute between the Project Entities and the relevant landlord.

- 18.4 All mineral tenures, mining concessions and mineral property claims to the Properties which the Project Entities have an interest or right, have been validly located, granted, acquired, staked, registered to the name of Project Entities in the relevant custodians of mines (*Conservador de Minas*), recorded and maintained in accordance with all Laws and are valid, in good standing, subsisting and, except as listed in Section 18.4 of the Disclosure Letter, with preferential rights to explore and exploit minerals within their boundaries, and not overlap with, nor are they overlapped by, any third party rights which grant or may grant such third party mining preference in the overlapping area. The Project Entities have the right to use each Property in accordance with its current use. The Project Entities have not received written notice from a third party disputing the Project Entities' right to occupy any of the Properties.
- 18.5 The real property interests, mineral claims, mineral leases, mineral tenures, concessions, interest, water rights, maritime concessions (granted or in process of being granted), mining easements (granted or in process of being granted), surface rights and other assets of the Project Entities, including the Properties comprise all of the rights, properties and assets necessary for the development, construction, and operation of the Business, and are sufficient in terms of spatial extension and purpose for such activities.
- 18.6 Capstone is in compliance in all material respects with the provisions of NI 43-101 in respect of the Projects, has filed all technical reports required thereby in respect of the Projects, and there has been no change of which Capstone is aware in respect of the Santo Domingo Project that would disaffirm or change any material aspect of the Existing Technical Report that would require the filing of a new technical report under NI 43-101.
- 18.7 Each Project Entity is the owner or the lawful possessor of or is entitled under governmental licenses or agreements with third parties to use each of its respective material assets. The Completion shall not adversely affect any Project Entity's rights to use or possess their respective assets or create any Encumbrances over such assets.
- 18.8 Except as would not, individually or in the aggregate, be material to the Project Entities, each Project Entity owns good, valid and marketable title to, or holds a valid leasehold interest in, all of the material tangible property used by them in the stage of development and operation of the Business. Such tangible property is in normal operating condition in all material respects for similar facilities of a similar age and in state of reasonable maintenance and repair suitable for the purposes for which it is being used in the conduct of the Business of the Project Entities. The Project Entities own or are validly entitled to use all the assets required for the operation of the Business as currently conducted and are free and clear of all Encumbrances except for the Encumbrances granted in connection with the Wheaton PMPA.
- 18.9 The Properties are free and clear of all Encumbrances, except as contained in Section 18.9 of the Disclosure Letter.
- 18.10 The Project Entities are not in default of any material overdue payment obligations relating to mining licenses, compensation, rents or rates applicable to mining properties, maritime concessions, easements and land occupation rights.

19. **Employment Matters**

- 19.1 Each Project Entity has, in relation to its Employees, complied in all material respects with applicable Laws. To the knowledge of Capstone, no labour dispute (including any strike, lock-out or work slow-down or stoppage), complaint, grievance or other conflict with the current or former Employees or consultants of the Project Entities currently exists or is pending, or to the knowledge of Capstone, is threatened and the labour relations of the Project Entities.

20. **Tax**

20.1 **Payment of Tax**

Each Project Entity has duly and punctually paid all material Taxes which it has become liable to pay, including any Tax which it has become liable to pay by way of deduction from any payment to any person, including any payment to employees, independent contractors, creditors, shareholders, or other third parties.

20.2 **Returns**

Each Project Entity has timely filed all material Tax Returns required to be filed by it with the relevant Tax Authority on or before the applicable due date and each such Tax Return was complete and correct in all material respects at the time of filing.

20.3 **Records**

Capstone or an Affiliate maintains complete records, tax registries, accounting books, invoices and other information in relation to Taxation that meet all legal requirements and enable the Taxation liabilities of the Project Entities to be calculated accurately in all material respects.

20.4 **Tax disputes and proceedings**

To Capstone's knowledge, (a) there is not currently, and has not been in the last three years, any material dispute between the Project Entities and any Tax Authority concerning the amount of any Tax liability of the Project Entities nor are there any circumstances in existence which are likely to give rise to any such dispute, and (b) none of the Project Entities (i) has received from any Tax Authority written notice of a deficiency, assessment, resolution or proposed adjustment of any amount of Tax, (ii) has requested or obtained a Tax ruling from a Tax Authority, (iii) is a party to any action, audit, claim, appeal, or proceeding for the assessment or collection of Tax, or (iv) has entered into any agreement, arrangement, waiver or objection for an extension of time within which to file, lodge or submit any Tax Return or with respect to any assessment, re-assessment or payment of any Tax.

20.5 Liens

There are no liens on the assets of each Project Entity relating or attributable to Taxes other than statutory liens for Taxes that are not yet due and payable or liens for Taxes being contested in good faith by any appropriate proceedings for which adequate reserves have been established.

20.6 Tax loss and attributes

All Tax deductions, tax basis in the assets and investments, costs, and expenses the Project Entities, including Tax losses, net operating losses or carry forward losses, Tax attributes, as well as Tax credits and Tax refunds, including but not limited to exporter value added Tax refunds, have been duly and properly determined and claimed or deducted in accordance with the applicable Tax Law and are duly supported with sufficient documentation in accordance with the applicable Tax Law, except to the extent that such failure or omission would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

20.7 Tax depreciation

The Project Entities have accurately determined the value of their fixed assets (including expenses treated as organization and start-up expenses under the relevant Tax Law), depreciation allowances and useful lives of assets for income tax purposes and have maintained the tax ledger for fixed assets in accordance with applicable Tax Law. The Project Entities possess supporting documentation evidencing ownership of assets subject to depreciation or amortization, as required by applicable Tax Law, except to the extent that such failure or omission would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

20.8 Transfer pricing

The Project Entities have complied in all respects with all applicable intercompany transfer pricing provisions and have maintained, with respect to transfer pricing, proper intercompany agreements and concurrent supporting documentation, as required under applicable Tax Law. The Tax Returns in connection with transfer pricing matters have been duly filed and are consistent with such supporting documentation.

20.9 Related party transactions

The terms and conditions of all transactions and other dealings between the Project Entities and related parties for the purposes of the Tax Law, do not differ from those that would have been made between persons dealing at arm's length for the purposes of applicable Tax Laws.

20.10 Reorganizations

All Taxes arising from any reorganization involving the Project Entities, including mergers, demergers, spin-offs, divisions, contributions, dissolution, liquidation or absorption of a

Project Entity, and also including direct or indirect sale or transfers of the Project Subsidiaries, have been duly filed and paid.

20.11 **Tax treaties**

The Project Entities have fully complied with all applicable requirements to obtain tax treaty benefits, including, but not limited to, securing the certificate of residence and the sworn statement required by Article 74 No. 4 of Chilean Law Decree No. 824 of 1974, in order to apply a reduced withholding tax rate to payments made to persons abroad.

20.12 **Tax invariability**

The requirements for maintaining the tax invariability regime granted to Santo Domingo Project under Article 11 ter of DL600, as set forth in the foreign investment agreement between Capstone Mining Corp. and the State of Chile dated February 7, 2014, assigned to Far West Mining Limited on July 2, 2021 (the “DL600 Agreement”), have been satisfied. This includes, but is not limited to, the requirements set forth in Clause 7 of the DL600 Agreement, which consists of (i) submitting the annual financial statements of Minera Santo Domingo SCM to external audits; and (ii) timely submitting individual and consolidated quarterly and annual financial statements, and an annual report with information on the ownership of Minera Santo Domingo SCM to the required Governmental Authority.

21. **Insolvency**

21.1 No Insolvency Event has occurred in relation to the Project Entities and, so far as Capstone is aware, no events have occurred which, under applicable Laws, would give rise to an Insolvency Event.

21.2 So far as Capstone is aware, no steps have been taken to enforce any security over any assets of the Project Entities and no event has occurred to give rise to any rights to enforce such security.

22. **Anti-Corruption Laws and Sanctions**

22.1 Capstone and the Project Entities are in compliance with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws, and Sanctions and have instituted and maintained policies and procedures reasonably designed to promote and achieve compliance with such Laws.

22.2 None of Capstone, the Project Entities or any of their respective Representatives has, within the past ten (10) years, violated or is in violation of any provision of any Anti-Corruption Laws, any Anti-Money Laundering Laws, and/or any applicable Sanctions.

22.3 None of Capstone, the Project Entities or any of their respective Representatives will use the proceeds of the Subscription in violation of any applicable Anti-Corruption Laws, applicable Sanctions, or applicable Anti-Money Laundering Laws

- 22.4 None of Capstone, the Project Entities or any of their respective Representatives is currently the target of any Sanctions. None of Capstone, the Project Entities, or any of their respective Representatives has engaged in any dealings or transactions in or with a target of any Sanctions or is otherwise in violation of applicable Sanctions.
- 22.5 None of Capstone, the Project Entities, or any of their respective Representatives are located, organised or reside in a Sanctioned Territory.
23. **Insurance**
- 23.1 The Project Entities, taken as a whole, are insured by insurers who are, to the knowledge of Capstone, of recognized financial responsibility; the Project Entities, taken as a whole, are insured against such losses and risks and in such amounts that are appropriate to the operations, properties and assets of the Project Entities, in such amounts and against such risks as are customarily carried and insured against by owners of comparable businesses, properties and assets; all policies of insurance and fidelity or surety bonds insuring the Project Entities and their collective business, assets, employees, officers and directors (collectively, the “Insurance Policies”) are in full force and effect; and the Project Entities are in compliance with the terms of the Insurance Policies and instruments in all material respects, including with respect to the premiums due and payable on such Insurance Policies.

SCHEDULE 4 : LIMITATIONS

1. Financial Limits

1.1 Aggregate Limit

- (A) The maximum aggregate liability of any party in connection with this Agreement shall be limited to the Completion Payment plus the subscription price of the Concurrent Private Placement, unless any or all of the Contingent Payments are received by Capstone, in which case this amount shall be increased by the amount of the Contingent Payments actually made.
- (B) The maximum aggregate liability of Capstone in respect of all Warranty Claims (save for Warranty Claims in relation to the Fundamental Warranties) shall be limited to an amount equal to 15 % of the amount referred to in sub-clause (A) above.
- (C) The maximum aggregate liability of Orion in respect of all Warranty Claims shall be limited to an amount equal to 15 % of the amount referred to in sub-clause (A) above.

1.2 Thresholds

- (A) No party shall be liable in respect of a Warranty Claim:
 - (1) unless, for any individual Warranty Claim, the liability of such party in respect of that Warranty Claim exceeds \$100,000 (the “de minimis”); and
 - (2) until the aggregate liability of such party in respect of all Warranty Claims (including any amounts below the de minimis threshold) exceeds \$750,000 (the “Tipping Basket”), in which case such party shall be liable for the entire amount of Losses, as if the Tipping Basket did not exist, including the de minimis, from the first dollar.

2. Time Limits

2.1 Notice of Warranty Claim

If a party becomes aware of a matter or circumstance which is likely to give rise to a Warranty Claim, such party shall, as soon as reasonably practicable after becoming aware of it, give notice in writing to the relevant warrantor specifying brief particulars of the matter which gives rise to the Warranty Claim insofar as it is known to such party. Any failure by a party to give notice as contemplated by this paragraph 2.1 in relation to any matter or circumstance does not, for the avoidance of doubt, prevent such party from making any Warranty Claim arising from that matter or circumstance; *provided* that such notice is given prior to the expiration of the longest applicable survival period with respect to the Warranties that are the subject of such Warranty Claim.

3. **External Claims**

3.1 **Notification**

If any party becomes aware of any actual or threatened claim, demand or proceeding by any person other than any party or its Affiliates that may give rise to a Warranty Claim (an “External Claim”), or of any fact or matter which may give rise to an External Claim then as soon as reasonably practicable after becoming aware of the External Claim, the relevant party shall notify each other party in writing specifying in reasonable detail (having regard to the facts of which the relevant party is actually aware) the matters or circumstances giving rise to that External Claim. Any failure by a party to give notice as contemplated by this paragraph 3.1 in relation to any matter or circumstance does not, for the avoidance of doubt, prevent such party from making any Warranty Claim arising from that matter or circumstance.

3.2 **Conduct of External Claims**

(A) The party from whom indemnification is sought (the “Indemnifying Party”) may, but need not, defend or participate in the defense of any External Claims at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel; *provided, however*, that the Indemnifying Party shall promptly (and, in any event within sixty (60) days of the Indemnifying Party’s receipt of notice of such External Claims) notify in writing the other party (the “Indemnified Party”) whether the Indemnifying Party will or will not defend or participate in the defense of such External Claims, in which case the Indemnified Party may defend such External Claims, in accordance with this paragraph 3.2(A); provided, further, that the Indemnifying Party shall not be entitled to assume the defense of any External Claims (and, subject to the limitations of paragraph 3.2, shall be liable for the reasonable fees and expenses of counsel retained by the Indemnified Party (including any local counsel) in defending such External Claims) if (i) the Indemnifying Party fails to timely assume the defense of the External Claims in accordance with this paragraph 3.2(A), (ii) to the extent (but only to the extent) the External Claims seeks an injunction or other equitable relief solely against the Indemnified Party, (iii) there are issues identified in writing by independent outside counsel which raise actual or potential conflicts of interest between the Indemnifying Party and the Indemnified Party such that defense of the External Claims by the Indemnifying Party would be inappropriate, or that the External Claims is made by a Governmental Authority against the Indemnified Party and the Indemnified Party is prohibited by Law from notifying the Indemnifying Party of (or otherwise disclosing the existence, facts or circumstances of) such External Claims or (iv) to the extent the External Claims relates to a criminal proceeding or indictment against the Indemnified Party. If the Indemnifying Party assumes the defense of a External Claims subject to the terms of this paragraph 3.2(A), then the Indemnifying Party shall be entitled to take all steps necessary in the defense thereof; *provided, however*, that the Indemnified Party shall have the right, at its expense, to participate in (but not control) any such defense with the counsel of its choice (including any separate local counsel).

- (B) The Indemnifying Party must:
- (1) in conducting any dispute, defence, appeal, compromise or settlement of the External Claim and of any incidental negotiations at all times act reasonably and in good faith;
 - (2) keep the Indemnified Party promptly informed of the progress of the External Claim, including by giving the Indemnified Party copies of all correspondence and documents relating to the External Claim, informing the Indemnified Party of all material developments in relation to such External Claim by providing written quarterly reports containing such information as the Indemnified Party shall reasonably require and responding to reasonable enquiries and requests for further information from the Indemnified Party in respect of the External Claim as soon as practicable; and
 - (3) not avoid, dispute, resist, settle, compromise, cease to defend, appeal or make any admission of liability or agreement in relation to, the External Claim without the prior written consent of the Indemnified Party.
- (C) If the Indemnifying Party does not assume or settle the defense of any claim of a third party that might give rise to a right of indemnification hereunder (a “Third-Party Claim”) in accordance with paragraph 3.2(A), then the Indemnified Party may defend against such Third-Party Claim. The Indemnifying Party shall pay the reasonable cost of such defense, including reasonable and documented attorney’s fees and expenses. The Indemnified Party and the Indemnifying Party shall use their commercially reasonable efforts to cooperate, without prejudice to any rights they may have against each other, in the compromise or defense of any actual or threatened Third-Party Claim.
- (D) Subject to paragraph 3.2(E), the Indemnified Party shall use commercially reasonable efforts to give to the Indemnifying Party all such reasonable information and assistance as the Indemnifying Party may reasonably require for any purpose referred to in paragraph 3.2(B).
- (E) Subject to paragraph 1, the Indemnifying Party indemnifies the Indemnified Party against, and must pay to the Indemnified Party on demand an amount equal to all Losses which the Indemnified Party or its Affiliates and Representatives may suffer or incur in, or as a result of taking, any such action pursuant to this paragraph 3.2.

3.3 **Provision of Information**

- (A) Nothing in paragraphs 3.1 and 3.2 requires any person to provide any information to the extent that to do so would contravene any Law or regulation or would breach any duty of confidentiality owed to any third party.

(B) Subject to paragraph 3.3(A), if any person is required to provide information (the “Provider”) to any other person (the “Recipient”) pursuant to paragraphs 3.1 and 3.2:

- (1) that information must only be used by the Recipient in connection with the External Claim and clause 14 applies in all other respects to that information; and
- (2) to the extent that information is privileged:
 - (a) the Provider need not provide the information to the Recipient if to do so would result in a waiver of that privilege; and
 - (b) if a third party requests disclosure by the Recipient in relation to that information, if the Recipient is a member of the Capstone Group or a member of the Orion Group, the Recipient must promptly notify the Provider and, to the extent it can do so, itself assert privilege in opposition to that disclosure request.

4. **Recovery from Third Parties**

4.1 **Accounting**

If an Indemnifying Party or an Affiliate has made a payment to, or for the benefit of, an Indemnified Party or any of its Affiliates in respect of any Warranty Claim and an Indemnified Party or any of its Affiliates subsequently receives from any other person any payment or benefit (“Third-Party Payment”) in respect of the fact, matter or circumstance that gave rise to such Warranty Claim, then the Indemnified Party shall repay to the Indemnifying Party an amount equal to the lesser of:

- (A) the amount of the payment or benefit received from the Indemnifying Party or its Affiliate; and
- (B) the Third-Party Payment, less any costs and expenses incurred in connection with the recovery or receipt of that payment, including (to the extent the Third-Party Payment is from an insurer) increased premiums.

5. **No Duplication of Recovery**

No party shall be entitled to recover damages or otherwise obtain reimbursement or restitution more than once in respect of the same loss.

6. **Accounting Bases**

- 6.1 No warrantor shall be liable in respect of any Warranty Claim to the extent that the matter or circumstance giving rise to that claim would not have arisen but for a change after the date of this Agreement in the accounting bases, policies, practices or methods applied in

preparing any accounts or valuing any assets or liabilities of the party asserting the Warranty Claim.

7. **Acts of Orion**

- 7.1 Liability in respect of any Warranty Claim shall be reduced or extinguished (as the case may be) to the extent that the Warranty Claim has arisen as a result of or is attributable (in whole or in part) to (i) any action expressly required pursuant to the terms of this Agreement, or (ii) any action specifically consented to in writing by Orion, pursuant to the terms of this Agreement (each of (i) and (ii), an “Excused Action”); provided however, the party taking such Excused Action shall notify the other party in writing in advance that such Excused Action constitutes or would reasonably be expected to lead to a breach of a specified warranty or covenant.

8. **Mitigation**

Each party shall take and shall procure that all other Affiliates shall take all reasonable steps to mitigate any loss or liability which is or might become the subject of a Claim under this Agreement.

9. **Fraud and Bad Faith**

Nothing in this Schedule 4 shall operate as to limit the liability of a party in circumstances of fraud, intentional misrepresentation or omission, or bad faith by that party.

10. **Indemnification Procedures**

- (A) Indemnifiable Losses shall be payable within five (5) Business Days after the determination that such amounts are due either by mutual agreement of the Indemnifying Party and Indemnified Party or as finally determined by a court of competent jurisdiction (in each case, an “Indemnification Payment Date”) by wire transfer in immediately available funds to an account or accounts designated by the Indemnified Party.
- (B) Indemnifiable Losses shall be nonrefundable and not subject to set-off or counterclaim. Any indemnifiable Losses not fully paid as of any applicable Indemnification Payment Date shall accrue interest from and including the applicable Indemnification Payment Date, at a rate equal to twelve (12%) per annum. Such interest shall be compounding and shall be calculated daily on the basis of a 360-day year and the actual number of days elapsed.
- (C) All indemnification payments made under this Agreement (i) shall be treated as an adjustment to the Subscription for Tax purposes, unless otherwise required by Law and (ii) shall not be treated as a distribution or redemption for any purposes.

SCHEDULE 5 : ORION WARRANTIES

1. **Capacity and Authority**

- 1.1 Orion is duly formed and validly existing and in good standing under the laws of its jurisdiction of formation with full power, authority and legal capacity to complete the transactions to be completed by it as contemplated in this Agreement. The Concurrent Private Placement Subscriber is validly incorporated, in existence and duly registered under the laws of its jurisdiction of formation, with full power, authority and legal capacity to own or to hold the Capstone Shares and to complete the Concurrent Private Placement. Orion is validly incorporated, in existence and duly registered under the laws of its jurisdiction of formation, with full power, authority and legal capacity to own or to hold the Subscription Shares and to complete the transactions to be completed by it as contemplated in this Agreement.
- 1.2 Orion has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of the investment in the Capstone Shares and the Subscription Shares.
- 1.3 Orion has the requisite power to execute and deliver, and to perform its obligations under, this Agreement and each of the other Transaction Documents to which it is or will be a party and it has taken all necessary corporate action to authorise such execution and delivery and the performance of such obligations, and has the financial resources available to it to enable it to meet its obligations under this Agreement.
- 1.4 Orion's obligations under this Agreement are, and its obligations under each of the other Transaction Documents to which it is or will be a party are, or will on execution of those Transaction Documents be, legal, valid, binding and enforceable in accordance with their terms.
- 1.5 The execution and delivery by Orion of this Agreement and of each of the other Transaction Documents to which it is or will be a party and the performance of its obligations under each of them do not and will not conflict with or constitute a default under any provision of:
 - (A) any agreement or instrument to which it is a party;
 - (B) its constitutional documents (if any); or
 - (C) any law, order, judgment, award, injunction, decree, rule or regulation by which it is bound.
- 1.6 No Insolvency Event has occurred in relation to any member of the Orion Group.

2. **Subscription**

- 2.1 At the time the Subscription Shares are subscribed for by Orion, Orion will not be subscribing on behalf of another person and, on Completion, Orion will have the full beneficial interest in the Subscription Shares.
- 2.2 Orion is and, at the Completion, will be, entitled to subscribe for the Subscription Shares under the Laws of all relevant jurisdictions which apply to it and it has fully observed such Laws and obtained all such governmental and other consents, approvals and permissions which may be required thereunder and complied with all necessary formalities and it has not taken any action or omitted to take any action which will or may result in Capstone or the Project Entities, or any of their directors, officers, agents, employees or advisers acting in breach of the legal or regulatory requirements of any jurisdiction in connection with the Subscription.
- 2.3 The Subscription Shares have not been and will not be registered or qualified by the Company as a public offer under the securities laws of any jurisdiction.
- 2.4 Orion has, on the Effective Date, the financial capability and sufficient cash on hand to make Completion Payment in accordance with the terms and subject to the conditions set forth herein. Orion affirms that it is not a condition to Completion or to any of its obligations under this Agreement that any member of the Orion Group obtain financing. As of the date hereof and as of the Completion Date, Orion together with its direct and indirect equity holders, has access to and will have access to sufficient capital to satisfy its obligations to timely make the Completion Payment pursuant to the terms hereof.

3. **Anti-Corruption Laws and Sanctions**

- 3.1 Orion is in compliance with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws, and Sanctions and has instituted and maintained policies and procedures reasonably designed to promote and achieve compliance with such Laws.
- 3.2 None of Orion or any of its Representatives or agents or any person acting on their behalf in connection with this Agreement has, within the past ten (10) years, violated or is in violation of any provision of any Anti-Corruption Laws, any Anti-Money Laundering Laws, and/or any applicable Sanctions.
- 3.3 None of Orion or any of its Representatives is currently the target of any Sanctions. None of Orion or any of its Representatives has engaged in any dealings or transactions in or with a target of any Sanctions or is otherwise in violation of applicable Sanctions.
- 3.4 None of Orion or any of its Representatives are located, organised or reside in a Sanctioned Territory.

SCHEDULE 6 : CAPSTONE EXPANDED INVESTMENT STRUCTURE

[Redacted – Commercially Sensitive Information]

SCHEDULE 7 : RESERVED

SCHEDULE 8 : OFFTAKE TERM SHEETS

[Redacted – Commercially Sensitive Information]

SCHEDULE 9 : SHAREHOLDERS AGREEMENT

[Redacted – Commercially Sensitive Information]

Exhibit A: Illustrative Example of Actual Cash and Actual Indebtedness

[Redacted – Commercially Sensitive Information]

Annex 1: Material Permits

[Redacted – Commercially Sensitive Information]

Annex 2: Initial Business Plan & Budget

[Redacted – Commercially Sensitive Information]