

# ENTERED



COURT FILE NUMBER 2101-05160  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF/APPLICANT POLARIS FINANCIAL MANAGEMENT LIMITED  
DEFENDANT/RESPONDENT AUVERT MINING GROUP INC.  
DOCUMENT **AFFIDAVIT**  
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**McMillan LLP**  
#1700, 421 – 7<sup>th</sup> Ave SW  
Calgary, AB T2P 4K9

**Attention: Jeffrey Levine/Preet Saini**  
Telephone: (416) 865.7791/ (403) 531.4716  
Fax: (403) 531.4720  
Email: jeffrey.levine@mcmillan.ca/  
preet.saini@mcmillan.ca  
File No. 277148

## AFFIDAVIT OF NICOLAS FERON

**Sworn on June 8, 2021**

I, Nicolas Feron, of Morschach, Switzerland, SWEAR AND SAY THAT:

1. I am an investment advisor to the applicant, Polaris Financial Management Limited (formerly Capella Financial Management Limited, “Polaris”). I am authorized to make this affidavit on behalf of Polaris and have knowledge of the facts hereinafter deposed. Where I have relied on information from others, I state the source of my information and believe it to be true.

## Parties and Overview

2. Polaris is a British Virgin Islands corporation.
3. AuVert Mining Group Inc. (“**AuVert**”) is an Alberta corporation. A corporate profile for AuVert is attached as Exhibit “**A**.”
4. Between December 2018 and June 2019, Polaris loaned funds to AuVert for use in an alluvial mining business located in Colombia. Alluvial mining is the mining of stream beds for mineral deposits.
5. In addition, Polaris took assignments of loans made by Fernhope Limited U.K. (“**Fernhope**”) to AuVert. Fernhope is an English limited company and was an initial investor in AuVert.
6. AuVert has failed to repay Polaris even though the loans have come due and are payable.
7. AuVert has also committed other events of default under its loan and security agreements with Polaris. Among other things, AuVert purported to transfer all of its material assets to a company owned by AuVert’s majority shareholder in response to a Polaris demand for repayment.
8. I swear this affidavit in support of an application by Polaris for the appointment of a receiver and manager over all present and after-acquired properties, assets, and undertakings of AuVert (collectively, the “**Property**”).

## The Fernhope Loans

9. Fernhope loaned USD\$380,000 to AuVert evidenced by a promissory note made by AuVert dated October 29, 2018 (the “**First Fernhope Loan**”). The First Fernhope Loan had an outside maturity date of February 26, 2019. A copy of the promissory note is attached as Exhibit “**B**”.
10. Fernhope then loaned a further USD\$100,000 to AuVert evidenced by a promissory note made by AuVert dated November 19, 2018 (the “**Second Fernhope Loan**” and together with the First Fernhope Loan, the “**Fernhope Loans**”). The Second Fernhope Loan had

an outside maturity date of March 19, 2019. A copy of the promissory note is attached as Exhibit “C”.

11. The Fernhope Loans were made on the following terms, among others:
  - (a) Interest is calculated on the outstanding principal amount at a rate of five percent per annum, payable when the principal is due;
  - (b) In the event that principal and interest is not paid when due, interest shall accrue thereafter on unpaid amounts at a rate of seven percent per annum until paid;
  - (c) An event of default occurs where, among others things, AuVert fails to make payment of any amount due and payable, whether principal, interest, or fees; and
  - (d) AuVert agrees to pay all costs of collecting or attempting to collect any of the indebtedness, including, without limitation, court costs, litigation expenses, and reasonable attorneys’ fees actually incurred.

### **The First Capella Loan**

12. Capella Financial Management Limited (“**Capella**”) loaned CAD\$1,500,000 to AuVert (“**First Capella Loan**”) evidenced by a promissory note made by AuVert dated December 7, 2018. Absent any default, the First Capella Loan matures on the earlier of AuVert attracting outside investment of at least CAD\$5 million or December 7, 2021. A copy of the promissory note is attached as Exhibit “D”.
13. The First Capella Loan was made on the following terms, among others:
  - (a) Interest is calculated on the outstanding principal amount at a rate of fifteen percent per annum, payable annually on December 7 each year;
  - (b) In the event that principal and interest is not paid when due, interest shall accrue thereafter on unpaid amounts at a rate of seventeen percent per annum until paid;
  - (c) An event of default occurs where, among other things, AuVert fails to make payment of any amount due and payable, whether principal, interest, or fees;

- (d) Upon an event of default, all unpaid amounts of outstanding principal and all accrued interest shall become immediately payable at the option of Capella; and
  - (e) AuVert agrees to pay all costs of collecting or attempting to collect any of the indebtedness, including, without limitation, court costs, litigation expenses, and reasonable attorneys' fees actually incurred.
14. Capella made a further advance of CAD\$250,000 pursuant to an amendment dated April 26, 2019, to the promissory note evidencing the First Capella Loan. A copy of the amendment to the promissory note is attached as Exhibit “E”.

### **The Assignment of the Fernhope Loans**

15. Contemporaneous with the First Capella Loan, both AuVert and Capella entered into an agreement concerning loans and related matters dated December 7, 2018 (the “**Side Agreement**”). A copy of the Side Agreement is attached as Exhibit “F”.
16. The other parties to the Side Agreement included AuVert’s minority shareholder, Fernhope, and AuVert Mining Group Limited, an English limited company that was then AuVert’s parent corporation.
17. The Side Agreement provides that immediately upon funding, the proceeds of the First Capella Loan were to be used in part to repay the Fernhope Loans. However, AuVert did not pay the Fernhope Loans at the time the First Capella Loan was advanced.
18. On February 27, 2019, the parties to the Side Agreement entered into an agreement to extend the date for AuVert’s repayment of the Fernhope Loans to April 20, 2019. A copy of such agreement is attached as Exhibit “G”.
19. AuVert ultimately did not repay the Fernhope Loans using the proceeds of the First Capella Loan by April 20, 2019, or at all.
20. On May 21, 2019, Capella took an assignment, with AuVert’s consent on June 3, 2019, of the Fernhope Loans and Fernhope’s security in respect of the Fernhope Loans. Copies of the assignment and AuVert’s consent are attached as Exhibit “H”.

### Subsequent Loans by Capella

21. Capella loaned CAD\$140,000 (the “**Second Capella Loan**”) and 54,000,000 Colombian Pesos (the “**Third Capella Loan**”) to AuVert evidenced by separate promissory notes each dated June 3, 2019. The Second and Third Capella Loans matured on June 3, 2020. Copies of the promissory notes for the Second Capella Loan and Third Capella Loan are respectively attached as Exhibits “**I**” and “**J**”.
22. Capella then loaned an additional 340,000,000 Colombian Pesos to AuVert evidenced by a promissory note dated June 14, 2019 (the “**Fourth Capella Loan**” and collectively with the other Capella Loans and the Fernhope Loans, the “**Loans**”). The Fourth Capella Loan matured on June 14, 2020. A copy of the promissory note for the Fourth Capella Loan is attached as Exhibit “**K**”.
23. The Second, Third, and Fourth Capella Loans were made on the following terms, among others:
  - (a) Interest is calculated on the outstanding principal amount at a rate of fifteen percent per annum, payable when the principal is due;
  - (b) In the event that principal and interest is not paid when due, interest shall accrue thereafter on unpaid amounts at a rate of seventeen percent per annum until paid;
  - (c) An event of default occurs where, among others things, AuVert fails to make payment of any amount due and payable, whether principal, interest, or fees; and
  - (d) AuVert agrees to pay all costs of collecting or attempting to collect any of the indebtedness, including, without limitation, court costs, litigation expenses, and reasonable attorneys’ fees actually incurred.
24. On December 10, 2019, Capella changed its name to Polaris.

## The Indebtedness

25. As of June 7, 2021, AuVert is indebted to Polaris in the amount of \$3,590,915.25 for outstanding principal and interest owing on the Loans, exclusive of legal fees, costs, and enforcement expenses (the “**Outstanding Principal and Interest**”).
26. The Outstanding Principal and Interest is calculated as follows:
  - (a) First Fernhope Loan in the principal amount of USD\$380,000, plus interest thereon to June 7, 2021 in the amount of USD\$66,867.76;
  - (b) Second Fernhope Loan in the principal amount of USD\$100,000, plus interest thereon to June 7, 2021 in the amount of USD\$17,281.93;
  - (c) First Capella Loan, as amended, in the principal amount of CAD\$1,750,000, plus interest thereon to June 7, 2021 in the amount of CAD\$747,368.92;
  - (d) Second Capella Loan in the principal amount of CAD\$140,000 plus interest thereon to June 7, 2021 in the amount of CAD\$48,180.64;
  - (e) Third Capella Loan in the principal amount of 54,000,000 Colombian Pesos plus interest thereon to June 7, 2021 in the amount of 18,420,867.28; and
  - (f) Fourth Capella Loan in the principal amount of 340,000,000 Colombian Pesos plus interest thereon to June 7, 2021 in the amount of 114,946,588.55 Colombian Pesos.
27. Polaris has incurred approximately \$483,690.15 in legal fees, costs and enforcement expenses to date in relation to the Loans in connection with legal proceedings described below (the “**Outstanding Enforcement Costs**” and together with the Outstanding Principal and Interest, the “**Indebtedness**”).
28. In total, the Indebtedness is \$4,074,605.40 as of June 7, 2021.

## The Security

29. The First Capella Loan was secured by a general security agreement over AuVert's assets dated December 7, 2018 (the "**Capella GSA**"). A copy of the Capella GSA is attached as Exhibit "**L**".
30. The Capella GSA was amended on April 26, 2019, and June 3, 2019, to secure subsequent advances and any present or future obligations and indebtedness of AuVert to Capella. Copies of the amendments to the Capella GSA are attached as Exhibit "**M**".
31. The Fernhope Loans were secured by a general security agreement over AuVert's assets dated October 29, 2018 (the "**Fernhope GSA**" and together with the Capella GSA and promissory notes evidencing the Loans, the "**Loan and Security Agreements**"). A copy of the Fernhope GSA is attached as Exhibit "**N**". As noted above, Capella took an assignment of the Fernhope GSA.
32. The Capella GSA and Fernhope GSA grant security interests in all present and after-acquired personal property of AuVert, together with all proceeds thereof, as general and continuing security for the payment and performance of AuVert's obligations to Polaris.
33. The security interests created pursuant to the Capella GSA and Fernhope GSA have been perfected by way of registration of security interests in the Alberta Personal Property Registry. Attached as Exhibit "**O**" is a copy of an Alberta Personal Property Registry search of AuVert.
34. Pursuant to the Fernhope GSA and Capella GSA, AuVert agreed:
  - (a) to maintain, preserve, and protect the secured collateral;
  - (b) to keep the secured collateral free and clear of all encumbrances and adverse claims;
  - (c) not to sell, dispose, convey or otherwise transfer the secured collateral and the rights thereunder;

- (d) to notify Polaris of the details of any material acquisition of the secured collateral; and
- (e) to continue to conduct its business in the manner agreed to by the parties.

### **Demand for Repayment and the Improper Sale**

- 35. The mining operations in Colombia never generated sufficient revenue to cover its costs. Around the end of 2019 or beginning of 2020, AuVert capital from existing equity and debt financing had been substantially exhausted.
- 36. AuVert management sought additional funding from various sources, including from Polaris, to permit operations to continue. For example, an email from Matthew Slade, AuVert's Vice President of Product Design and an AuVert director, to me of February 6, 2020 asking for ideas on keeping the company alive while efforts for outside financing were explored is attached as Exhibit "P".
- 37. By June 14, 2020:
  - (a) AuVert had failed to pay its annual interest when due as required under the terms of the First Capella Loan; and
  - (b) All other Loans made to AuVert had matured and were owing to Polaris.
- 38. AuVert had no means to satisfy its obligations to Polaris from liquid assets.
- 39. On June 15, 2020, Polaris, served on AuVert a demand letter (the "**Demand Letter**") in respect of all of the indebtedness then due and owing to Polaris, and a notice of intention to enforce on security under section 244 of the *Bankruptcy and Insolvency Act* (Canada). A copy of the Demand Letter is attached as Exhibit "Q".
- 40. AuVert has failed to pay Polaris in response to the Demand Letter.
- 41. Until July 10, 2020, substantially all of AuVert's assets were shares in two Colombian mining companies, AuVert Colombia S.A.S. ("**AuVert Colombia**") and Ulloa Recursos

Naturales S.A.S. (“**Ulloa**” and together with AuVert Colombia, the “**Colombian Subsidiaries**”).

42. AuVert has two shareholders: a majority shareholder and a minority shareholder. At the direction of those members of AuVert’s board of directors appointed by AuVert’s majority shareholder, AuVert purported to sell substantially all of AuVert’s assets to a corporation controlled by the majority shareholder (the “**Improper Sale**”) on July 10, 2020.
43. Polaris and AuVert’s minority shareholder commenced an action on November 13, 2020 to, among other things, reverse the Improper Sale as a remedy for oppression (the “**Oppression Action**”). The Oppression Action is proceeding in Court of Queen’s Bench of Alberta Court File Number 2001-13883 but has not yet concluded. A copy of the pleadings in the Oppression Action are attached as Exhibit “**R**”.
44. Irrespective of the result of the Oppression Action, I have no reason to believe that AuVert now has, or at any time in the foreseeable future will have the means to repay the Indebtedness. At the time of the Improper Sale, AuVert had no cash, and the Colombian Subsidiaries were not generating any net revenue to distribute to AuVert that AuVert might use to repay Polaris. Since the Improper Sale, my understanding based on correspondence from counsel to AuVert is that the Colombian Subsidiaries are still not generating any material revenue.
45. Under the Improper Sale, the buyer was supposed to make quarterly payments of US\$175,000 beginning December 30, 2020. Further to correspondence from counsel for AuVert attached as Exhibit “**S**”, as at January 11, 2021 no payments had been made because no material revenue had yet been generated from the mining operation in Colombia. I am not aware of anything having changed in this regard since January 11, 2021.
46. A copy of the agreement in respect of the Improper Sale is attached as Exhibit “**T**”.

**Events of Default**

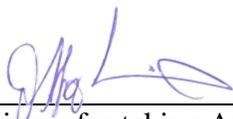
47. AuVert has committed events of default under the Loan and Security Agreements, including by:
- (a) failing to repay Polaris on or before the maturity dates applicable to the Loans;
  - (b) failing to pay annual interest when due under the terms of the First Capella Loan;
  - (c) ceasing to conduct its business substantially in the manner agreed to under the Fernhope GSA and Capella GSA;
  - (d) failing to maintain, preserve, and protect the secured collateral;
  - (e) failing to keep the secured collateral free and clear of all encumbrances and adverse claims;
  - (f) selling, disposing, conveying or otherwise transferring the secured collateral and the rights thereunder without the prior consent of Polaris; and
  - (g) failing to notify Polaris of the details of any material acquisition of the secured collateral.
48. Under the terms of the Fernhope GSA and Capella GSA, upon the occurrence of any event of default, Polaris is entitled to exercise various remedies, one of which is the appointment of a receiver or a receiver manager.

**Appointment of a Receiver**

49. BDO Canada Limited has consented to act as receiver of the Property. A copy of a consent to act signed by the proposed Receiver is attached as Exhibit “U”.
50. I believe that it is just, convenient, and appropriate for the Receiver to be appointed over AuVert and the Property.

51. In the event that Polaris is successful in its Oppression Action and the Improper Sale is reversed, the appointment of a Receiver is necessary to preserve, protect, and realize on the Property.
52. In the event that Polaris is not successful in its Oppression Action, there is no practical alternative to attempting to realize upon the Property other than through the appointment of a Receiver.

**VIRTUALLY SWORN BEFORE ME** in accordance with Ontario Regulation 431/20, with the deponent in Morschach, Switzerland and the Commissioner in the City of Toronto, in the Province of Ontario, on June 8, 2021.



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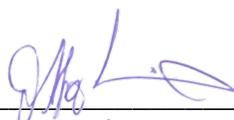
A Commissioner for taking Affidavits  
**Jeffrey Levine, Barrister and Solicitor**  
**LSO # 55582H**



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Nicolas Feron

This is Exhibit "A" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2020/12/01  
 Time of Search: 02:03 PM  
 Search provided by: MCMILLAN LLP  
 Service Request Number: 34476643  
 Customer Reference Number: 277148

**Corporate Access Number:** 2020801607

**Business Number:**

**Legal Entity Name:** AUVERT MINING GROUP INC.

## Name History:

Previous Legal Entity Name	Date of Name Change (YYYY/MM/DD)
2080160 ALBERTA LTD.	2018/01/05

**Legal Entity Status:** Amalgamated  
**Alberta Corporation Type:** Named Alberta Corporation  
**Amalgamation Date:** 2019/01/01 YYYY/MM/DD  
**Registration Date:** 2017/11/14 YYYY/MM/DD

## Registered Office:

**Street:** 3000, 700 - 9TH AVENUE S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2P3V4

## Records Address:

**Street:** 3000, 700 - 9TH AVENUE S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T2P3V4

## Directors:

**Last Name:** SLADE

**First Name:** MATTHEW  
**Middle Name:** ALEXANDER  
**Street/Box Number:** 6729 LEESON COURT S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T3E6B5

**Last Name:** SLADE  
**First Name:** JAMES  
**Middle Name:** EDWARD  
**Street/Box Number:** 6729 LEESON COURT S.W.  
**City:** CALGARY  
**Province:** ALBERTA  
**Postal Code:** T3E6B5

### Details From Current Articles:

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** SEE SCHEDULE  
**Share Transfers Restrictions:** SEE SCHEDULE  
**Min Number Of Directors:** 1  
**Max Number Of Directors:** 7  
**Business Restricted To:** NONE  
**Business Restricted From:** NONE  
**Other Provisions:** SEE SCHEDULE

### Other Information:

#### Amalgamation Successor:

Corporate Access Number	Business Number	Legal Entity Name
2021637588	772233714	AUVERT MINING GROUP INC.

### Filing History:

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List Date (YYYY/MM/DD)	Type of Filing
2017/11/14	Incorporate Alberta Corporation
2018/01/05	Name Change Alberta Corporation
2018/02/08	Capture Microfilm/Electronic Attachments
2019/01/01	Amalgamate Alberta Corporation

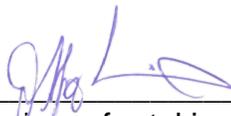
**Attachments:**

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
<a href="#">Share Structure</a>	ELECTRONIC	2017/11/14
<a href="#">Restrictions on Share Transfers</a>	ELECTRONIC	2017/11/14
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2017/11/14
Consent and Undertaking	10000407128030374	2018/01/05

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is Exhibit "B" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**PROMISSORY NOTE**

US \$380,000

October 29, 2018

**FOR VALUE RECEIVED, AUVERT MINING GROUP INC.**, a corporation incorporated under the laws of the Province of Alberta, Canada (the "**Borrower**"), promises to pay as provided below to the order of **FERNHOPE LIMITED U.K.**, an English limited company (the "**Company**"), at the office of Company at 1610 Frank Akers Road, Anniston, Alabama 36201, or at such other place as Company may designate to Borrower in writing from time to time, the aggregate amount of **Three Hundred Eighty Thousand U.S. Dollars (US \$380,000)**, together with interest, on so much thereof as is outstanding hereunder from time to time, at the interest rate set forth below, with such principal and interest to be due and payable as stated below.

**1. Interest Rate; Payment Schedule.**

(a) The outstanding principal balance under this Promissory Note (the "**Note**") shall bear interest at a rate per annum equal to five percent (5%), unless adjusted in accordance with Section 3 below. Interest shall accrue hereunder and shall be payable when principal is due hereunder.

(b) The principal balance of this Note shall be due and payable upon the sooner to occur of the following dates (as applicable, the "**Maturity Date**"): (i) the date that Borrower or any of its Affiliates (other than the Company or Telluris Holdings Limited) first raises a cumulative amount of at least CDN \$1 million (or the equivalent) in debt or equity capital or achieves cumulative revenues of at least the same amount; or (ii) the date that is one hundred twenty (120) days from the date of this Note. Upon the Maturity Date all then unpaid principal and accrued interest shall be due and payable in full. "**Affiliate**" means any entity that is controlled by or under common control with Borrower, and includes, without limitation, Quincy Frost Investments, Inc., AuVert Mining Group Limited, AuVert Colombia S.A.S and Ullo Recursos Naturales S.A.S.; for this definition "control" or "controlled" shall mean the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through ownership of Capital Stock, by contract or otherwise (and includes, without limitation, the ownership of at least 10% of the equity ownership interests of the relevant entity or the ability to appoint or direct any member(s) of the Board or other management of the relevant entity).

**2. Use of Proceeds.** Borrower represents and agrees that the proceeds under this Note will be used solely for the Borrower's general business purposes.

**3. Default Rate.** If any payment of interest or the principal amount outstanding under this Note is not paid when due, Borrower agrees to pay interest thereafter at a rate of two percent (2%) per annum above the regular rate hereunder or the maximum legal rate, if lower, on the amount past due under this Note.

**4. Maximum Rate of Interest.** If, at any time, the rate or amount of interest, attorneys' fees or any other charge payable under this Note should exceed the maximum rate or amount permitted by applicable law, then for such time as such rate or amount would be excessive, its application will be suspended and there will be charged instead the maximum rate or amount permitted under such law, and any excess interest or other charge paid by Borrower or collected by Company will be refunded to Borrower or credited against the principal amount of this Note, at the election of Company or as required by applicable law.



SGR/104133179

5. **Default.** The occurrence of any one or more of the following events will constitute an Event of Default under this Note:

(a) Failure of Borrower to punctually make payment of any amount payable, whether principal, interest, or fees, with respect to any of the obligations after the same becomes due and payable, whether at maturity, by acceleration or otherwise, and such failure to pay has not been cured after 30 days written notice thereof from the Company.

(b) Failure of Borrower punctually and fully to perform, observe, discharge or comply with any of the covenants set forth in this Note or that certain Security Agreement, dated on or about the date hereof, made by Borrower in favor of the Company (the "Security Agreement"), which failure has not been cured after 30 days written notice thereof from the Company.

(c) If Borrower becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, insolvency, receivership, reorganization, arrangement, readjustment of debt, dissolution, liquidation or debtor relief law or statute of any jurisdiction, whether now or hereafter in effect or other similar proceeding, or if any trustee, receiver, conservator or other custodian for Borrower or its assets is appointed in any voluntary or involuntary bankruptcy, insolvency, receivership or other similar proceeding under any applicable federal, state or other law (but, in the case of any involuntary proceeding described above, such proceeding must be consented to or acquiesced in by the same (as applicable) or not be dismissed within 60 days after the date on which it is originally brought).

(d) If Borrower seeks to terminate or repudiate its liability for any of its obligations under this Note or the Security Agreement.

6. **Remedies.** If any Event of Default should occur, all unpaid amounts of any or all of the principal amount outstanding hereunder and all accrued but unpaid interest thereon will, at the option of Company and without notice or demand, become immediately due and payable and Company will have and be entitled to exercise, from time to time, all the rights and remedies available to it as provided elsewhere in this Note, in any other agreement or contract between Borrower and Company and under applicable law. All of Company's rights and remedies will be cumulative, and any failure of Company to exercise any such right or remedy will not be construed as a waiver of the right to exercise the same or any other right or remedy at any time and from time to time thereafter.

7. **Waiver.** With respect to the obligations of Borrower under this Note, to the extent permitted by applicable law, Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold Borrower liable on this Note; (2) all statutory provisions and requirements for the benefit of Borrower (including notice requirements), now or hereafter in force (except to the extent provided for in any other contract or agreement between Borrower and Company); and (3) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which Company and Borrower will be adverse parties.

8. **Notices.** All notices, demands and communications required or permitted hereunder will be deemed to have been sufficiently given or served for all purposes if in a writing delivered personally to a party or to an officer of the party to whom the same is directed, or if sent by first class or certified mail, postage and charges prepaid, or by overnight delivery or courier service, addressed to such party at its respective address as follows, or to such other address as will be furnished in writing by a party to the other pursuant to the provisions hereof:



If to Borrower: AuVert Mining Group Inc.  
c/o Miller Thomson LLP  
Calgary, Alberta, Canada  
T2P 3V4  
Attention: Rhea Solis

If to Company: Fernhope Limited U.K.  
1610 Frank Akers Road  
Anniston, Alabama 36201  
Attention: James Allen

Any such notice will be deemed given as of the date so delivered personally, or by overnight delivery service, or by overnight delivery service, or three days after the date on which the same was deposited, first class or certified postage prepaid, in a regularly maintained receptacle for the deposit of postal mail, addressed as provided above.

9. **Expenses and Collection Costs.** Borrower agrees to pay all fees and taxes in connection with this Note and all costs of collecting or attempting to collect any of the indebtedness evidenced by this Note, including, without limitation, court costs, litigation expenses and reasonable attorneys' fees actually incurred (including all collection, trial, appellate and bankruptcy proceedings), and all accrued but unpaid interest thereon, if this Note is referred to an attorney for collection. If attorneys' fees in such amount would be prohibited by applicable law, then Borrower agrees to pay reasonable attorneys' fees not to exceed the maximum amount allowed by law.

10. **Miscellaneous.** No delay by Company in enforcing its rights hereunder will prejudice Company's rights to enforce this Note. No waiver by Company will be effective unless made in writing by a duly authorized officer or agent of Company, and no waiver by Company of any right or remedy will constitute a waiver of any other or future right or remedy. This Note will inure to the benefit of Company, its successors and assigns, and will be binding upon Borrower, and its successors and assigns; provided, (i) that Borrower will have no right to assign its rights or obligations hereunder to any person or entity, and (ii) Company may assign this Note and its rights hereunder to any affiliate of the Company, and in the event of any such assignment such assignee shall have all rights of Company hereunder. This Note will be governed, construed and enforced in accordance with the substantive laws of England and Wales, without regard to its principles of conflict of laws.

11. **Headings.** The headings of the paragraphs set forth in this Note are for convenience of reference only, and are not to be considered a part hereof and will not limit or otherwise affect any of the terms hereof.

12. **Time of Essence.** Time is of the essence of the payment and performance of this Note.

[Signatures Appear on Following Page]

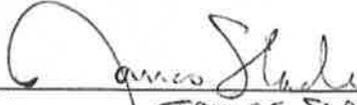


SAR/10413312 2

IN WITNESS WHEREOF, Borrower has executed this Note, and the Company has accepted this Note, each under seal as of the date first above written.

**AUVERT MINING GROUP INC.**

[SEAL]

By:   
Name: JAMES SLADE  
Title: CEO

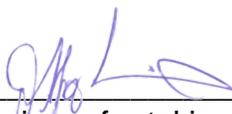
Accepted by Company:

**FERNHOPE LIMITED U.K.**

[SEAL]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

This is Exhibit "C" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

## PROMISSORY NOTE

US \$100,000

November 19, 2018

**FOR VALUE RECEIVED, AUVERT MINING GROUP INC.**, a corporation incorporated under the laws of the Province of Alberta, Canada (the "Borrower"), promises to pay as provided below to the order of **FERNHOPE LIMITED U.K.**, an English limited company (the "Company"), at the office of Company at 1610 Frank Akers Road, Anniston, Alabama 36201, or at such other place as Company may designate to Borrower in writing from time to time, the aggregate amount of **One Hundred Thousand U.S. Dollars (US \$100,000)**, together with interest, on so much thereof as is outstanding hereunder from time to time, at the interest rate set forth below, with such principal and interest to be due and payable as stated below.

**1. Interest Rate; Payment Schedule.**

(a) The outstanding principal balance under this Promissory Note (the "Note") shall bear interest at a rate per annum equal to five percent (5%), unless adjusted in accordance with Section 3 below. Interest shall accrue hereunder and shall be payable when principal is due hereunder.

(b) The principal balance of this Note shall be due and payable upon the sooner to occur of the following dates (as applicable, the "Maturity Date"): (i) the date that Borrower or any of its Affiliates (other than the Company or Telluris Holdings Limited) first raises a cumulative amount of at least CDN \$1 million (or the equivalent) in debt or equity capital or achieves cumulative revenues of at least the same amount; (ii) the date that is one hundred twenty (120) days from the date of this Note; or (iii) the date hereafter that Borrower consummates a loan with The Capella Trust (or another affiliated entity of the Company). Upon the Maturity Date all then unpaid principal and accrued interest shall be due and payable in full. "Affiliate" means any entity that is controlled by or under common control with Borrower, and includes, without limitation, Quincy Frost Investments, Inc., AuVert Mining Group Limited, AuVert Colombia S.A.S and Ullo Recursos Naturales S.A.S.; for this definition "control" or "controlled" shall mean the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through ownership of Capital Stock, by contract or otherwise (and includes, without limitation, the ownership of at least 10% of the equity ownership interests of the relevant entity or the ability to appoint or direct any member(s) of the Board or other management of the relevant entity).

**2. Use of Proceeds.** Borrower represents and agrees that the proceeds under this Note will be used solely for the Borrower's general business purposes.

**3. Default Rate.** If any payment of interest or the principal amount outstanding under this Note is not paid when due, Borrower agrees to pay interest thereafter at a rate of two percent (2%) per annum above the regular rate hereunder or the maximum legal rate, if lower, on the amount past due under this Note.

**4. Maximum Rate of Interest.** If, at any time, the rate or amount of interest, attorneys' fees or any other charge payable under this Note should exceed the maximum rate or amount permitted by applicable law, then for such time as such rate or amount would be excessive, its application will be suspended and there will be charged instead the maximum rate or amount permitted under such law, and any excess interest or other charge paid by Borrower or collected by Company will be refunded to Borrower or credited against the principal amount of this Note, at the election of Company or as required by applicable law.

**5. Default.** The occurrence of any one or more of the following events will constitute an

Event of Default under this Note:

(a) Failure of Borrower to punctually make payment of any amount payable, whether principal, interest, or fees, with respect to any of the obligations after the same becomes due and payable, whether at maturity, by acceleration or otherwise, and such failure to pay has not been cured after 30 days written notice thereof from the Company.

(b) Failure of Borrower punctually and fully to perform, observe, discharge or comply with any of the covenants set forth in this Note or that certain Security Agreement, dated on or about the date hereof, made by Borrower in favor of the Company (the "Security Agreement"), which failure has not been cured after 30 days written notice thereof from the Company.

(c) If Borrower becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, insolvency, receivership, reorganization, arrangement, readjustment of debt, dissolution, liquidation or debtor relief law or statute of any jurisdiction, whether now or hereafter in effect or other similar proceeding, or if any trustee, receiver, conservator or other custodian for Borrower or its assets is appointed in any voluntary or involuntary bankruptcy, insolvency, receivership or other similar proceeding under any applicable federal, state or other law (but, in the case of any involuntary proceeding described above, such proceeding must be consented to or acquiesced in by the same (as applicable) or not be dismissed within 60 days after the date on which it is originally brought).

(d) If Borrower seeks to terminate or repudiate its liability for any of its obligations under this Note or the Security Agreement.

6. **Remedies.** If any Event of Default should occur, all unpaid amounts of any or all of the principal amount outstanding hereunder and all accrued but unpaid interest thereon will, at the option of Company and without notice or demand, become immediately due and payable and Company will have and be entitled to exercise, from time to time, all the rights and remedies available to it as provided elsewhere in this Note, in any other agreement or contract between Borrower and Company and under applicable law. All of Company's rights and remedies will be cumulative, and any failure of Company to exercise any such right or remedy will not be construed as a waiver of the right to exercise the same or any other right or remedy at any time and from time to time thereafter.

7. **Waiver.** With respect to the obligations of Borrower under this Note, to the extent permitted by applicable law, Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold Borrower liable on this Note; (2) all statutory provisions and requirements for the benefit of Borrower (including notice requirements), now or hereafter in force (except to the extent provided for in any other contract or agreement between Borrower and Company); and (3) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which Company and Borrower will be adverse parties.

8. **Notices.** All notices, demands and communications required or permitted hereunder will be deemed to have been sufficiently given or served for all purposes if in a writing delivered personally to a party or to an officer of the party to whom the same is directed, or if sent by first class or certified mail, postage and charges prepaid, or by overnight delivery or courier service, addressed to such party at its respective address as follows, or to such other address as will be furnished in writing by a party to the other pursuant to the provisions hereof:

If to Borrower: AuVert Mining Group Inc.  
c/o Miller Thomson LLP  
Calgary, Alberta, Canada  
T2P 3V4

Attention: Rhea Solis

If to Company: Fernhope Limited U.K.  
1610 Frank Akers Road  
Anniston, Alabama 36201  
Attention: James Allen

Any such notice will be deemed given as of the date so delivered personally, or by overnight delivery service, or by overnight delivery service, or three days after the date on which the same was deposited, first class or certified postage prepaid, in a regularly maintained receptacle for the deposit of postal mail, addressed as provided above.

9. **Expenses and Collection Costs.** Borrower agrees to pay all fees and taxes in connection with this Note and all costs of collecting or attempting to collect any of the indebtedness evidenced by this Note, including, without limitation, court costs, litigation expenses and reasonable attorneys' fees actually incurred (including all collection, trial, appellate and bankruptcy proceedings), and all accrued but unpaid interest thereon, if this Note is referred to an attorney for collection. If attorneys' fees in such amount would be prohibited by applicable law, then Borrower agrees to pay reasonable attorneys' fees not to exceed the maximum amount allowed by law.

10. **Miscellaneous.** No delay by Company in enforcing its rights hereunder will prejudice Company's rights to enforce this Note. No waiver by Company will be effective unless made in writing by a duly authorized officer or agent of Company, and no waiver by Company of any right or remedy will constitute a waiver of any other or future right or remedy. This Note will inure to the benefit of Company, its successors and assigns, and will be binding upon Borrower, and its successors and assigns; provided, (i) that Borrower will have no right to assign its rights or obligations hereunder to any person or entity, and (ii) Company may assign this Note and its rights hereunder to any affiliate of the Company, and in the event of any such assignment such assignee shall have all rights of Company hereunder. This Note will be governed, construed and enforced in accordance with the substantive laws of England and Wales, without regard to its principles of conflict of laws.

11. **Headings.** The headings of the paragraphs set forth in this Note are for convenience of reference only, and are not to be considered a part hereof and will not limit or otherwise affect any of the terms hereof.

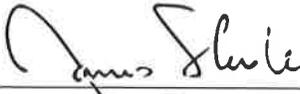
12. **Time of Essence.** Time is of the essence of the payment and performance of this Note.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, Borrower has executed this Note, and the Company has accepted this Note, each under seal as of the date first above written.

**AUVERT MINING GROUP INC.**

[SEAL]

By:   
Name: \_\_\_\_\_ James Slade  
Title: \_\_\_\_\_ CEO

Accepted by Company:

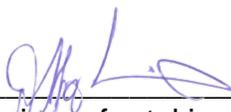
**FERNHOPE LIMITED U.K.**

[SEAL]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



This is Exhibit "D" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**PROMISSORY NOTE**

CAD \$1,500,000

December 7, 2018

FOR VALUE RECEIVED, AUVERT MINING GROUP INC., a corporation incorporated under the laws of the Province of Alberta, Canada (the "Borrower"), promises to pay as provided below to the order of CAPELLA FINANCIAL MANAGEMENT LIMITED, a business company organized under the laws of the British Virgin Islands (the "Lender"), at the office of Lender at c/o 1610 Frank Akers Road, Anniston, Alabama 36201, or at such other place as Lender may designate to Borrower in writing from time to time, the aggregate amount of **One Million Five Hundred Thousand Canadian Dollars (CAD \$1,500,000)**, together with interest, on so much thereof as is outstanding hereunder from time to time, at the interest rate set forth below, with such principal and interest to be due and payable as stated below.

1. **Interest Rate; Payment Schedule.**

(a) The outstanding principal balance under this Promissory Note (the "Note") shall bear simple interest at a rate per annum equal to fifteen percent (15%), unless adjusted in accordance with Section 3 below. Interest shall accrue daily and be payable hereunder annually on each anniversary date of this Note and at the Maturity Date (as to any then unpaid interest due).

(b) The principal balance of this Note shall be due and payable upon the sooner to occur of the following dates (as applicable, the "Maturity Date"): (i) the date that Borrower or any of its Affiliates (other than the Lender or Telluris Holdings Limited) first raises a cumulative amount of at least CAD \$5 million (or the equivalent) in debt or equity capital or achieves cumulative revenues of at least the same amount; or (ii) the date that is three (3) years from the date of this Note. Upon the Maturity Date all then unpaid principal and any then unpaid interest shall be due and payable in full. "Affiliate" means any entity that is controlled by or under common control with Borrower, and includes, without limitation, AuVert Mining Group Limited, AuVert Colombia S.A.S and Ulloa Recursos Naturales S.A.S.; for this definition "control" or "controlled" shall mean the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through ownership of capital stock, by contract or otherwise (and includes, without limitation, the ownership of at least 51% of the equity ownership interests of the relevant entity or the ability to appoint or direct any member(s) of the Board or other management of the relevant entity).

2. **Prepayment.** The Borrower shall have the right, in its sole discretion, to prepay the whole or any part of the Note without notice, bonus or penalty. In the event that the Borrower has pre-paid a portion of the Note, the Lender shall release their security interest in such percentage as represent the percentage of the Note that has been pre-paid by the Borrower.

3. **Use of Proceeds.** Borrower represents and agrees that the proceeds under this Note will be used solely for the Borrower's general business purposes.

4. **Default Rate.** If any payment of interest or the principal amount outstanding under this Note is not paid when due, Borrower agrees to pay interest thereafter at a rate of two percent (2%) per annum above the regular rate hereunder or the maximum legal rate, if lower, on the amount past due under this Note.

5. **Maximum Rate of Interest.** If, at any time, the rate or amount of interest, attorneys' fees or any other charge payable under this Note should exceed the maximum rate or amount permitted by applicable law, then for such time as such rate or amount would be excessive, its application will be suspended and there will be charged instead the maximum rate or amount permitted under such law, and any excess interest or other charge paid by Borrower or collected by Lender will be refunded to Borrower or credited against the principal amount of this Note, at the election of Lender or as required by applicable law.

6. **Default.** The occurrence of any one or more of the following events that have not been cured by the Borrower within sixty (60) days of occurrence of the event will constitute an Event of Default under this Note:

(a) Failure of Borrower to punctually make payment of any amount payable, whether principal, interest, or fees, with respect to any of the obligations after the same becomes due and payable, whether at maturity, by acceleration or otherwise.

(b) Failure of Borrower punctually and fully to perform, observe, discharge or comply with any of the covenants set forth in this Note, that certain Security Agreement, dated on or about the date hereof, made by Borrower in favor of the Lender (the "Security Agreement"), or that certain Agreement Concerning Loans and Related Matters, dated on or about the date hereof, among Borrower, Lender and certain other parties thereto (the "Side Agreement").

(c) If Borrower becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, insolvency, receivership, reorganization, arrangement, readjustment of debt, dissolution, liquidation or debtor relief law or statute of any jurisdiction, whether now or hereafter in effect or other similar proceeding, or if any trustee, receiver, conservator or other custodian for Borrower or its assets is appointed in any voluntary or involuntary bankruptcy, insolvency, receivership or other similar proceeding under any applicable federal, state or other law (but, in the case of any involuntary proceeding described above, such proceeding must be consented to or acquiesced in by the same (as applicable) or not be dismissed within 60 days after the date on which it is originally brought).

(d) If Borrower seeks to terminate or repudiate its liability for any of its obligations under this Note or the Security Agreement.

7. **Remedies.** If any Event of Default should occur, all unpaid amounts of any or all of the principal amount outstanding hereunder and all accrued but unpaid interest thereon will, at the option of Lender and without notice or demand, become immediately due and payable and Lender will have and be entitled to exercise, from time to time, all the rights and remedies available to it as provided elsewhere in this Note, in any other agreement or contract between Borrower and Lender and under applicable law. All of Lender's rights and remedies will be cumulative, and any failure of Lender to exercise any such right or remedy will not be construed as a waiver of the right to exercise the same or any other right or

remedy at any time and from time to time thereafter.

8. **Waiver.** With respect to the obligations of Borrower under this Note, to the extent permitted by applicable law, Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold Borrower liable on this Note; (2) all statutory provisions and requirements for the benefit of Borrower (including notice requirements), now or hereafter in force (except to the extent provided for in any other contract or agreement between Borrower and Lender); and (3) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which Lender and Borrower will be adverse parties.

9. **Notices.** All notices, demands and communications required or permitted hereunder will be deemed to have been sufficiently given or served for all purposes if in a writing delivered personally to a party or to an officer of the party to whom the same is directed, or if sent by first class or certified mail, postage and charges prepaid, or by overnight delivery or courier service, addressed to such party at its respective address as follows, or to such other address as will be furnished in writing by a party to the other pursuant to the provisions hereof:

If to Borrower: AuVert Mining Group Inc.,  
c/o Miller Thomson LLP  
Calgary, Alberta, Canada  
T2P 3V4  
Attention: Rhea Solis

If to Lender: Capella Financial Management Limited  
c/o CW Partners  
23 Grand Rue  
1204 Geneva  
Switzerland  
Attention: Frederic Cuguen

and

Telluris Holdings Limited  
c/o 1610 Frank Akers Road  
Anniston, Alabama 36201  
Attention: James Allen

Any such notice will be deemed given as of the date so delivered personally, or by overnight delivery service, or by overnight delivery service, or three days after the date on which the same was deposited, first class or certified postage prepaid, in a regularly maintained receptacle for the deposit of postal mail, addressed as provided above.

10. **Expenses and Collection Costs.** Borrower agrees to pay all fees and taxes in connection with this Note and all costs of collecting or attempting to collect any of the indebtedness evidenced by this Note, including, without limitation, court costs, litigation expenses and reasonable attorneys' fees actually incurred (including all collection, trial, appellate and bankruptcy proceedings), and all accrued but unpaid interest thereon, if this Note is referred to an attorney for collection. If attorneys' fees in such amount would be prohibited by applicable law, then Borrower agrees to pay reasonable attorneys' fees not to exceed the maximum amount allowed by law.

11. **Miscellaneous.** No delay by Lender in enforcing its rights hereunder will prejudice Lender's rights to enforce this Note. No waiver by Lender will be effective unless made in writing by a duly authorized officer or agent of Lender, and no waiver by Lender of any right or remedy will constitute a waiver of any other or future right or remedy. This Note will inure to the benefit of Lender, its successors and assigns, and will be binding upon Borrower, and its successors and assigns; provided, (i) that Borrower will have no right to assign its rights or obligations hereunder to any person or entity, and (ii) Lender may assign this Note and its rights hereunder to any affiliate of the Lender, and in the event of any such assignment such assignee shall have all rights of Lender hereunder. This Note will be governed, construed and enforced in accordance with the substantive laws of England and Wales, without regard to its principles of conflict of laws. This Note replaces and supersedes the Promissory Note, dated as of the date hereof, in the original principal amount of CAD \$1,500,000, executed by the Borrower in favor of The Capella Trust.

12. **Headings.** The headings of the paragraphs set forth in this Note are for convenience of reference only, and are not to be considered a part hereof and will not limit or otherwise affect any of the terms hereof.

13. **Time of Essence.** Time is of the essence of the payment and performance of this Note.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, Borrower has executed this Note, and the Lender has accepted this Note, each under seal as of the date first above written.

**AUVERT MINING GROUP INC:**

[SEAL]

By:   
 Name: \_\_\_\_\_ JAMES SLADE  
 Title: \_\_\_\_\_ CEO

Accepted by Lender:

**CAPELLA FINANCIAL MANAGEMENT LIMITED**

[SEAL]

By: **CW GROUP SERVICES LIMITED, Its Corporate Director**

By: \_\_\_\_\_  
Frederic Cuguen, Director

IN WITNESS WHEREOF, Borrower has executed this Note, and the Lender has accepted this Note, each under seal as of the date first above written.

**AUVERT MINING GROUP INC:**

[SEAL]

By:   
Name: JAMES SLADE  
Title: CEO

Accepted by Lender:

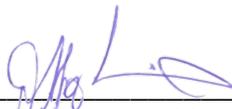
**CAPELLA FINANCIAL MANAGEMENT LIMITED**

[SEAL]

By: **CW GROUP SERVICES LIMITED, Its Corporate Director**

By:   
Frederic Caguen, Director

This is Exhibit "E" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

## AMENDMENT TO PROMISSORY NOTE

April 26, 2019

BETWEEN **AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Borrower**"), and **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Lender**"). Borrower and lender are each sometimes referred to as a "**Party**" and collectively as the "**Parties**".

**WHEREAS** the Parties entered into a promissory note dated December 8, 2018 (the "**Promissory Note**") whereby the Borrower promised to pay to the order of the Lender the aggregate amount of One Million Five Hundred Thousand Canadian Dollars (CDN \$1,500,000), together with interest, on so much thereof as is outstanding thereunder from time to time, at the interest rate and with such principal and interest due and payable as stated in the Promissory Note; and

**WHEREAS** the Parties wish to amend the Promissory Note upon and subject to the terms and conditions set forth in this Amendment to Promissory Note (this "**Amendment**");

**NOW THEREFORE**, in consideration of the payment of Two Dollars (\$2.00) made by each party to the other, the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

1. **Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Promissory Note.
2. **Recitals.** The Parties hereby acknowledge, confirm and agree that the recitals to this Amendment set forth above are true in substance and fact and that the recitals form an integral part of this Amendment.
3. **Amendments to the Promissory Note.** The Promissory Note is hereby amended by increasing the amount loaned thereunder to be One Million Seven Hundred Fifty Thousand Canadian Dollars (CAD \$1,750,000), and in accordance therewith:
  - (i) each reference in the Promissory Note to "CAD \$1,500,000" shall be amended to be a reference to "CAD \$1,750,000"; and
  - (ii) the reference in the Promissory Note to "One Million Five Hundred Thousand Canadian Dollars" shall be amended to be a reference to "One Million Seven Hundred Fifty Thousand Canadian Dollars".
4. **No Other Changes.** The Parties hereby ratify and confirm the provisions of the Promissory Note, and acknowledge and agree that the Promissory Note remains in full force and effect as amended in accordance with this Amendment.



- 2 -

IN WITNESS WHEREOF, Borrower and Lender have each executed and accepted this Amendment, each under seal as of the date first above written.

**AUVERT MINING GROUP INC.**

Per:



James Slade, Director

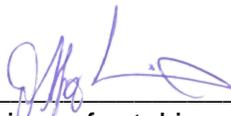
**CAPELLA FINANCIAL MANAGEMENT LIMITED**

Per: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**



Per: Frederic Cuguen, Director

This is Exhibit "F" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**AGREEMENT CONCERNING LOANS AND RELATED MATTERS**

**THIS AGREEMENT CONCERNING LOANS AND RELATED MATTERS** is made and entered into as of the 7<sup>th</sup> day of December 2018, among **TELLURIS HOLDINGS LIMITED**, an English limited company ("**Telluris**"), **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Capella**"), **FERNHOPE LIMITED U.K.** an English limited company ("**Fernhope**"), **AUVERT MINING GROUP LIMITED**, an English limited company ("**AuVert U.K.**"), and **AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**AuVert Canada**").

**Background Statement**

AuVert U.K. is the direct or indirect parent company of each of AuVert Canada, AuVert Colombia S.A.S., a Colombian company ("**AuVert Colombia**"), and Ulloa Recursos Naturales S.A.S. ("**Ulloa**"). AuVert Canada has requested that Telluris arrange for one or more of Telluris' affiliates to provide a CAD \$1,500,000 loan (the "**New Loan**") to AuVert Canada and Telluris has arranged for its affiliate, Capella, to extend such loan subject to the terms and conditions of this Agreement.

Accordingly, for consideration, the receipt and sufficiency of which are acknowledged by each of the parties hereto, the parties hereto agree as follows:

1. **Extension of New Loan and Related Agreements and Undertakings.** Telluris shall arrange to have Capella make the New Loan to AuVert Canada subject to the following agreements and undertakings by AuVert Canada and AuVert U.K. and each of them causing such agreements and undertakings to be fulfilled:

- (i) AuVert Canada shall execute in favor of Capella a Promissory Note evidencing the New Loan, which Promissory Note shall be in form and substance acceptable to AuVert Canada, Telluris and Capella;
- (ii) AuVert Canada shall execute in favor of Capella a General Security Agreement providing for a security interest in all present and after-acquired personal property of AuVert Canada as security for the New Loan and all other obligations in connection therewith, which Security Agreement shall be in form and substance acceptable to AuVert Canada, Telluris and Capella;
- (iii) Immediately upon the funding of the New Loan, AuVert Canada will pay from the proceeds of the New Loan, the amount of US \$480,000 to Telluris' affiliate, Fernhope, in repayment and full satisfaction of the two separate loans (one for US \$100,000 and the other for US \$380,000) totaling such amount that are owed at present by AuVert Canada to Fernhope (the "**Fernhope Debt**");
- (iv) Immediately upon repayment of the Fernhope Debt, Fernhope agrees to cancel the promissory notes evidencing the Fernhope Debt and discharge all security interests in relation thereto; and

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- (v) On or before the earlier of the following dates (the "Additional Documentation Date") (a) December 31, 2018 or (b) the date of the consummation of the share exchange that is presently contemplated with respect to the share capital of AuVert U.K. and 2158616 Alberta Inc., a corporation organized under the laws of the Province of Alberta ("Alberta Holdco"), documentation (the "Additional Documentation") shall be put into place, in form and substance satisfactory to Telluris, AuVert Canada and Capella, that accomplishes the following arrangements:
- a. Capella shall be granted a security interest in all present and after-acquired personal property of AuVert Colombia and Ulloa as security for all obligations in connection with the New Loan;
  - b. Telluris is granted a right to receive royalty payments (the "Main Royalty") in perpetuity of two percent (2%) from any operations connected to the mining concessions and land titles commonly referred to as: FKJ-083; HCA-082; RJ4-11431X; RJ4-11431; and SJD-08002 (collectively the "Titles");
  - c. In addition to the Main Royalty, for so long as any obligations in connection with the New Loan are outstanding and unpaid, Telluris is granted a right to receive an additional royalty payments (the "Loan Royalty") of one-half percent (0.5%) from the Titles;
  - d. In the event AuVert Canada or any of its affiliates (or any of their successors and assigns) stops operating on the Titles for a period of six (6) consecutive months, then Telluris shall have the option to notify in writing AuVert Canada or any of its affiliates (or any of their successors and assigns) that the Main Royalty and the Loan Royalty shall be terminated and that the New Royalty in clause 1(v) e. shall be applicable in place of the Main Royalty and the Loan Royalty and effective from the date of such written notice from Telluris; and
  - e. In the event the Main Royalty and the Loan Royalty are terminated by written notice from Telluris as a result of the option under clause 1(v) d., AuVert Canada (or its successors and assigns) will grant Telluris a royalty payment of two percent (2%) from its net revenues until the amount of CAD \$5,000,000, less the amounts that Telluris has then received for the Main Royalty and Loan Royalty has been paid (the "New Royalty"), at which point the New Royalty shall terminate.

Notwithstanding clauses 1(v) a. through e. above, if for any reason the Additional Documentation is not put into place by the Additional Documentation Date, each of Telluris and Capella may enforce their respective rights addressed in such above clauses as if such Additional Documentation had been put into place in a form and in substance satisfactory to each of Telluris and Capella without waiver of any other rights or remedies that either Telluris or Capella may have hereunder or under applicable law or at equity.

2. **Breaches and Remedies.** Once the New Loan has been funded by Capella as provided for in Section 1(iii) above, the failure of any of the other agreements and undertakings to be satisfied shall be considered to be a breach of this Agreement and an event of default with respect to the New Loan. In the event of any such breach or event of default, Capella and Telluris shall each be entitled to pursue any and all rights and remedies available to it or them under law or in equity and without the need to post any security therefor.

### 3. Notice

(a) Any notice, direction or other communication required or contemplated by any provision of this Agreement (a "Notice") will be in writing and given by personal delivery, by registered mail or by overnight courier and addressed:

- (i) in the case of a Notice to Fernhope, Capella or Telluris, at:

Capella Financial Management Limited  
 c/o CW Partners  
 23 Grand Rue  
 1204 Geneva  
 Switzerland  
 Attention: Frederic Cuguen

and

Telluris Holdings Limited  
 c/o 1610 Frank Akers Road  
 Anniston, Alabama 36201  
 Attention: James Allen

- (ii) in the case of a Notice to AuVert U.K. or AuVert Canada, at:

c/o Miller Thomson LLP  
 3000, 700 - 9<sup>th</sup> Ave. SW  
 Calgary, Alberta, Canada  
 T2P 3V4  
 Attention: Rhea Solis

- (b) Any Notice:

- (i) delivered before 4:30 p.m. local time on a business day will be deemed to have been received on the date of delivery and any Notice delivered after 4:30 p.m. local time on a business day or delivered on a day other than a business day, will be deemed to have been received on the next Business Day.
- (ii) mailed will be deemed to have been received 72 hours after the date it is postmarked, provided that if the day on which the Notice is deemed to have been received is not a business day, then the Notice will be deemed to have been received on the next business day.

(c) If the party sending the Notice knows or might reasonably be expected to know that, at the time of sending or within 72 hours thereafter, normal mail service has been disrupted, then the Notice may only be sent (or re-sent) by delivery or overnight courier.

(d) Any party may change its address for service or the name of the individual to the attention of whom a Notice is to be sent by written notice given to the other party in accordance with this Section 3.

4. Assignment. Neither this Agreement nor any of the rights or obligations under this Agreement are assignable by the parties hereto without the prior written consent of the other parties hereto.

*Nk*  


5. **Benefit of Agreement.** This Agreement replaces and supersedes the Side Agreement, dated as of the date hereof, among The Capella Trust, AuVert U.K., AuVert Canada, Telluris and Fernhope. This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

6. **Further Assurances.** Each party agrees that upon the reasonable written request of the other party, at any time, it will perform all acts and execute all documents, including financing statements and schedules, as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement.

7. **Severability.** If any provision of this Agreement is determined to be invalid, illegal or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement, and the remaining provisions will remain in full force and effect.

8. **Governing Law.** This Agreement is governed by and will be construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

9. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts (and by electronic means, including by facsimile or PDF signatures), each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

[Signatures Appear on Following Page]

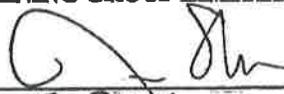
Handwritten initials 'MK' and 'OP' in black ink, located in the lower right quadrant of the page.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal by their duly authorized representatives on or as of the date first above written.

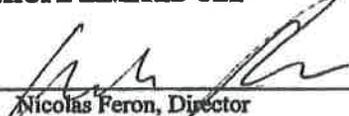
**AUVERT MINING GROUP INC.**

By:   
Name: J. SLACK  
Title: CEO

**AUVERT MINING GROUP LIMITED**

By:   
Name: J. SLACK  
Title: CEO

**FERNHOPE LIMITED U.K.**

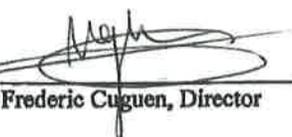
By:   
Nicolas Feron, Director

**TELLURIS HOLDINGS LIMITED**

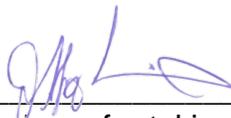
By:   
Nicolas Feron, Director

**CAPELLA FINANCIAL MANAGEMENT LIMITED**

By: **CW GROUP SERVICES LIMITED, its Corporate Director**

By:   
Frederic Cuguen, Director

This is Exhibit "G" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**AGREEMENT CONCERNING LOANS AND RELATED MATTERS AMENDING  
AGREEMENT AND WAIVER**

**THIS AGREEMENT** is made as of the 27th day of February, 2019.

AMONG **TELLURIS HOLDINGS LIMITED**, an English limited company ("**Telluris**"), **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Capella**"), **FERNHOPE LIMITED U.K.**, an English limited company ("**Fernhope**"), **AUVERT MINING GROUP LIMITED**, an English limited company ("**AuVert U.K.**"), and **AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**AuVert Canada**").

**WHEREAS** the Parties entered in an agreement entitled "Agreement Concerning Loans And Related Matters" dated December 7, 2018, as amended (the "**Side Agreement**") whereby AuVert Canada requested that Telluris arrange for one or more of Telluris' affiliates or another party to provide a CAD \$1,500,000 loan (the "**New Loan**") to AuVert Canada and Telluris arranged for Capella to extend such loan subject to the terms and conditions of the Side Agreement; and

**WHEREAS** the Parties wish to amend the Side Agreement upon and subject to the terms and conditions set forth in this Agreement Concerning Loans And Related Matters Amending Agreement and Waiver (this "**Agreement**");

**NOW THEREFORE**, in consideration of the payment of Two Dollars (\$2.00) made by each party to the other, the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

1. **Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Side Agreement.
2. **Recitals.** The Parties hereby acknowledge, confirm and agree that the recitals to this Agreement set forth above are true in substance and fact and that the recitals form an integral part of this Agreement.
3. **Amendments to the Side Agreement.**
  - (a) Section 1(iii) of the Side Agreement is hereby deleted in its entirety and replaced with the following:

**Section 1 (iii)**

No later than April 20, 2019, AuVert Canada will pay from the proceeds of the New Loan, the amount of US \$480,000 to Telluris' affiliate, Fernhope, in repayment and full satisfaction of the two separate loans (one for US \$100,000 and the other for US \$380,000) totaling such amount that are owed at present by AuVert Canada to Fernhope (the "**Fernhope Debt**")."

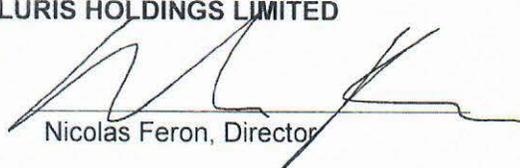
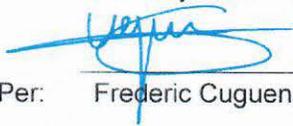
- 2 -

4. **No Other Changes.** The Parties hereby ratify and confirm the provisions of the Side Agreement, and acknowledge and agree that the Side Agreement remains in full force and effect as amended in accordance with this Agreement.
5. **Waiver.** Telluris, Capella and Fernhope acknowledge that, notwithstanding the terms of the Side Agreement, as a result of this Agreement the Fernhope Debt is not now payable and waives any default under the Side Agreement as of the date of this Agreement.

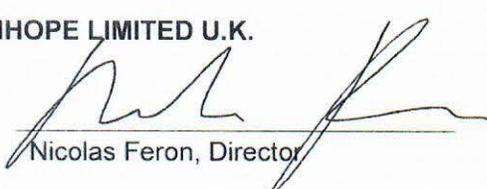
**IN WITNESS WHEREOF**, this Agreement has been executed by the parties hereto on the date set forth above.

**TELLURIS HOLDINGS LIMITED**

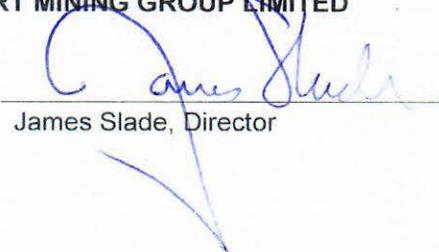
Per:

  
\_\_\_\_\_  
Nicolas Feron, Director**CAPELLA FINANCIAL MANAGEMENT LIMITED**By: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**  
\_\_\_\_\_  
Per: Frederic Cuguen, Director**FERNHOPE LIMITED U.K.**

Per:

  
\_\_\_\_\_  
Nicolas Feron, Director**AUVERT MINING GROUP LIMITED**

Per:

  
\_\_\_\_\_  
James Slade, Director

- 3 -

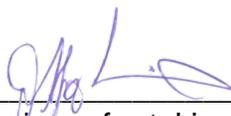
AUVERT MINING GROUP INC.

Per:



James Slade, Director

This is Exhibit "H" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

## DEED OF ASSIGNMENT

**THIS DEED OF ASSIGNMENT** (this “**Assignment**”) is made as of the 21st day of May, 2019,

BETWEEN **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands (“**Capella**”), and **FERNHOPE LIMITED U.K.**, an English limited company (“**Fernhope**”).

**WHEREAS** Fernhope extended a loan in the amount of US \$380,000 to AuVert Mining Group, Inc., a corporation organized under the laws of the Province of Alberta, Canada (“**AuVert**”), which loan is evidenced by that certain Promissory Note, dated October 29, 2018, executed by AuVert in favor of Fernhope in the original principal amount of US \$380,000, as amended through the date hereof (the “**October 2018 Note**”);

**WHEREAS** Fernhope extended an additional loan in the amount of US \$100,000 to AuVert, which loan is evidenced by that certain Promissory Note, dated November 19, 2018, executed by AuVert in favor of Fernhope in the original principal amount of US \$100,000, as amended through the date hereof (the “**November 2018 Note**” and collectively with the October 2018 Note, the “**AuVert 2018 Notes**”);

**WHEREAS** as security for the loans evidenced by the AuVert 2018 Notes, AuVert granted to Fernhope a security interest in all of AuVert’s present and after-acquired personal property, together with all proceeds thereof, pursuant to that General Security Agreement, dated October 29, 2018, made by AuVert in favour of Fernhope (as amended, the “**Security Agreement**”);

**WHEREAS** Fernhope has certain rights and obligations related to the AuVert 2018 Notes pursuant to that certain Agreement Concerning Loans and Related Matters, dated as of December 7, 2018 (as amended, the “**Side Agreement**”), among AuVert, Fernhope, Capella, Telluris Holdings Limited, and AuVert Mining Group Limited; and

**WHEREAS** Fernhope desires to assign to Capella all of Fernhope’s rights in and under the AuVert 2018 Notes, the loans evidenced thereby and all security interests, liens and related registrations concerning and securing such loans, including, without limitation, all rights and obligations under the Security Agreement and Side Agreement, and Capella desires to acquire all of such rights and assume all such obligations from Fernhope;

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties hereby agree as follows:

1. **Recitals.** The parties hereby acknowledge, confirm and agree that the recitals to this Assignment set forth above are true in substance and fact and that the recitals form an integral part of this Assignment.
2. **Assignments.**
  - (a) In accordance with the terms of this Assignment, (i) Fernhope hereby sells, transfers and assigns and to Capella all of Fernhope’s rights, title and

- 2 -

interest in and under the AuVert 2018 Notes, the loans evidenced thereby, all rights to interest accrued and accruable thereunder, and all related agreements, security interests, liens and related registrations to Capella, including, without limitation, all rights and obligations under the Security Agreement and Side Agreement, and (ii) Capella hereby acquires, accepts and assumes all of Fernhope's rights, title and interest in and under the AuVert 2018 Notes, the loans evidenced thereby, all rights to interest accrued and accruable thereunder, and all related agreements, security interests, liens and related registrations to Capella, including, without limitation, all rights and obligations under the Security Agreement and Side Agreement.

- (b) As further consideration for the assignments of the interests made under this Assignment, Capella agrees to pay to Fernhope upon the execution and delivery of this Assignment the amount of US \$480,000, with such amount to be paid to Fernhope by wire transfer in accordance with separate written instructions to be provided by Fernhope to Capella.
- 3. **Further Assurances.** If requested by Capella, Fernhope agrees to take such further actions and to execute such additional agreements, instruments and other documents as requested from time to time hereafter by Capella to assist Capella to carry into effect the sales, assignments and transfers and other transactions contemplated by this Assignment.
- 4. **Counterparts.** This Assignment may be executed by two or more counterparts and by electronic means (including, without limitation, by exchange of signatures by PDF), which when taken together shall constitute but one agreement.

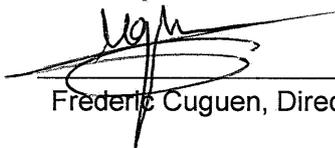
[Signatures Appear on Following Page]

- 3 -

**IN WITNESS WHEREOF**, this Assignment has been executed by the parties hereto on the date set forth above.

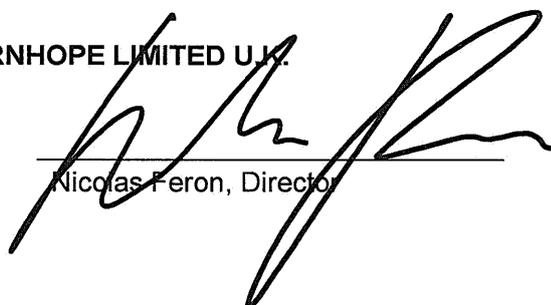
**CAPELLA FINANCIAL MANAGEMENT LIMITED**

Per: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**

  
Per: Frederic Cuguen, Director

**FERNHOPE LIMITED U.K.**

Per:

  
Nicolas Feron, Director

# Acknowledgement and consent re assignment Fernhope-Capella - 03.06.19-2

Thursday, June 6, 2019 13:30



Acknowledg  
ement and...

*OP*  
*5/21/19*  
**ACKNOWLEDGMENT AND CONSENT**

Effective as of ~~May 21~~ *May 21*, 2019, each of the undersigned, hereby:

1. Acknowledges that attached hereto as Exhibit A is a copy of a Deed of Assignment, dated on or about the date hereof (the "**Assignment**"), between Fernhope Limited U.K. ("**Fernhope**") and Capella Financial Management Limited ("**Capella**"), and that capitalized terms used herein and not defined herein shall have the meanings ascribed thereto in the Assignment; and
2. Consents to the sale, transfer and assignment by Fernhope pursuant to the Assignment, and the acquisition, acceptance and assumption thereunder by Capella, of all of Fernhope's rights, title and interest in and under the AuVert 2018 Notes, the loans evidenced thereby, all rights to interest accrued and accruable thereunder, and all related agreements, security interests, liens and related registrations to Capella, including, without limitation, all rights and obligations under the Security Agreement and Side Agreement.

[Signatures Appear on Following Page]

*OP*

SGR/21089146.1

- 2 -

**IN WITNESS WHEREOF**, this Acknowledgment and Consent has been executed by the undersigned parties as of the date first set forth above.

**TELLURIS HOLDINGS LIMITED**  
Per:   
Nicolas Feron, Director

**CAPELLA FINANCIAL MANAGEMENT LIMITED**  
Per: **CW GROUP SERVICES LIMITED, its Corporate Director**  
  
Per: Frederic Cuguen, Director

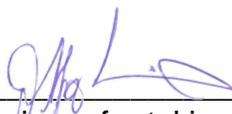
**FERNHOPE LIMITED U.K.**  
Per:   
Nicolas Feron, Director

**AUVERT MINING GROUP LIMITED**  
Per:   
James Slade, Director

**AUVERT MINING GROUP INC.**  
Per:   
James Slade, Director

SGR/21089146.1

This is Exhibit "I" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**PROMISSORY NOTE**

**CAD \$140,000**

Juv 3  
May 29, 2019



**BETWEEN AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Borrower**"), and **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Lender**"), the aggregate amount of **One Hundred Forty Thousand Canadian Dollars (CAD \$140,000)**, together with interest, on so much thereof as is outstanding hereunder from time to time, at the interest rate set forth below, with such principal and interest to be due and payable as stated below.

1. **Interest Rate; Payment Schedule.**

(a) The outstanding principal balance under this Promissory Note (the "Note") shall bear interest at a rate per annum equal to fifteen percent (15%), unless adjusted in accordance with Section 3 below. Interest shall accrue hereunder and shall be payable when principal is due hereunder.

(b) The principal balance of this Note shall be due and payable upon the sooner to occur of the following dates (as applicable, the "Maturity Date"): (i) the date that Borrower or any of its Affiliates (other than the Lender, Fernhope Limited or Telluris Holdings Limited) first raises a cumulative amount of at least CAD \$1 million (or the equivalent) in debt or equity capital or achieves cumulative revenues of at least the same amount; or (ii) the date that is one (1) year from the date of this Note. Upon the Maturity Date all then unpaid principal and any then unpaid interest shall be due and payable in full. "**Affiliate**" means any entity that is controlled by or under common control with Borrower, and includes, without limitation, AuVert Mining Group Limited, AuVert Colombia S.A.S and Ulloa Recursos Naturales S.A.S.; for this definition "control" or "controlled" shall mean the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through ownership of capital stock, by contract or otherwise (and includes, without limitation, the ownership of at least 10% of the equity ownership interests of the relevant entity or the ability to appoint or direct any member(s) of the Board or other management of the relevant entity).

2. **Use of Proceeds.** Borrower represents and agrees that the proceeds under this Note will be used solely for the Borrower's general business purposes.

3. **Default Rate.** If any payment of interest or the principal amount outstanding under this Note is not paid when due, Borrower agrees to pay interest thereafter at a rate of two percent (2%) per annum above the regular rate hereunder or the maximum legal rate, if lower, on the amount past due under this Note.

4. **Maximum Rate of Interest.** If, at any time, the rate or amount of interest, attorneys' fees or any other charge payable under this Note should exceed the maximum rate or amount permitted by applicable law, then for such time as such rate or amount would be excessive, its application will be suspended and there will be charged instead the maximum rate or amount permitted under such law, and any excess interest or other charge paid by Borrower or collected by Lender will be refunded to Borrower or credited against the principal amount of this Note, at the election of Lender or as required by applicable law.

5. **Default.** The occurrence of any one or more of the following events will constitute an Event of Default under this Note:

(a) Failure of Borrower to punctually make payment of any amount payable, whether principal, interest, or fees, with respect to any of the obligations after the same becomes due and payable.



whether at maturity, by acceleration or otherwise, and such failure to pay has not been cured after 30 days written notice thereof from the Lender.

(b) Failure of Borrower punctually and fully to perform, observe, discharge or comply with any of the covenants set forth in this Note or the General Security Agreement, dated on December 8, 2018, made by Borrower in favor of the Lender (as amended through the date hereof and hereafter amended from time to time, the "**Security Agreement**"), which failure has not been cured after 30 days written notice thereof from the Lender; or the Agreement Concerning Loans and Related Matters, dated on December 7, 2018, among Borrower, Lender and certain other parties thereto (as amended through the date hereof and hereafter amended from time to time, the "**Side Agreement**").

(c) If Borrower becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, insolvency, receivership, reorganization, arrangement, readjustment of debt, dissolution, liquidation or debtor relief law or statute of any jurisdiction, whether now or hereafter in effect or other similar proceeding, or if any trustee, receiver, conservator or other custodian for Borrower or its assets is appointed in any voluntary or involuntary bankruptcy, insolvency, receivership or other similar proceeding under any applicable federal, state or other law (but, in the case of any involuntary proceeding described above, such proceeding must be consented to or acquiesced in by the same (as applicable) or not be dismissed within 60 days after the date on which it is originally brought).

(d) If Borrower seeks to terminate or repudiate its liability for any of its obligations under this Note, the Security Agreement or the Side Agreement.

6. **Remedies.** If any Event of Default should occur, all unpaid amounts of any or all of the principal amount outstanding hereunder and all accrued but unpaid interest thereon will, at the option of Lender and without notice or demand, become immediately due and payable and Lender will have and be entitled to exercise, from time to time, all the rights and remedies available to it as provided elsewhere in this Note, in any other agreement or contract between Borrower and Lender and under applicable law. All of Lender's rights and remedies will be cumulative, and any failure of Lender to exercise any such right or remedy will not be construed as a waiver of the right to exercise the same or any other right or remedy at any time and from time to time thereafter.

7. **Waiver.** With respect to the obligations of Borrower under this Note, to the extent permitted by applicable law, Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold Borrower liable on this Note; (2) all statutory provisions and requirements for the benefit of Borrower (including notice requirements), now or hereafter in force (except to the extent provided for in any other contract or agreement between Borrower and Lender); and (3) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which Lender and Borrower will be adverse parties.

8. **Notices.** All notices, demands and communications required or permitted hereunder will be deemed to have been sufficiently given or served for all purposes if in a writing delivered personally to a party or to an officer of the party to whom the same is directed, or if sent by first class or certified mail, postage and charges prepaid, or by overnight delivery or courier service, addressed to such party at its respective address as follows, or to such other address as will be furnished in writing by a party to the other pursuant to the provisions hereof:

If to Borrower:	AuVert Mining Group Inc. c/o Miller Thomson LLP Calgary, Alberta, Canada T2P 3V4 Attention: Rhea Solis
-----------------	--

If to Lender: Capella Financial Management Limited  
 c/o CW Partners  
 Grand Rue, 23  
 1204 Geneva  
 Switzerland  
 Attention: Frederic Cuguen

Any such notice will be deemed given as of the date so delivered personally, or by overnight delivery service, or by overnight delivery service, or three days after the date on which the same was deposited, first class or certified postage prepaid, in a regularly maintained receptacle for the deposit of postal mail, addressed as provided above.

9. **Expenses and Collection Costs.** Borrower agrees to pay all fees and taxes in connection with this Note and all costs of collecting or attempting to collect any of the indebtedness evidenced by this Note, including, without limitation, court costs, litigation expenses and reasonable attorneys' fees actually incurred (including all collection, trial, appellate and bankruptcy proceedings), and all accrued but unpaid interest thereon, if this Note is referred to an attorney for collection. If attorneys' fees in such amount would be prohibited by applicable law, then Borrower agrees to pay reasonable attorneys' fees not to exceed the maximum amount allowed by law.

10. **Miscellaneous.** No delay by Lender in enforcing its rights hereunder will prejudice Lender's rights to enforce this Note. No waiver by Lender will be effective unless made in writing by a duly authorized officer or agent of Lender, and no waiver by Lender of any right or remedy will constitute a waiver of any other or future right or remedy. This Note will inure to the benefit of Lender, its successors and assigns, and will be binding upon Borrower, and its successors and assigns; provided, (i) that Borrower will have no right to assign its rights or obligations hereunder to any person or entity, and (ii) Lender may assign this Note and its rights hereunder to any affiliate of the Lender, and in the event of any such assignment such assignee shall have all rights of Lender hereunder. This Note will be governed, construed and enforced in accordance with the substantive laws of England and Wales, without regard to its principles of conflict of laws.

11. **Headings.** The headings of the paragraphs set forth in this Note are for convenience of reference only, and are not to be considered a part hereof and will not limit or otherwise affect any of the terms hereof.

12. **Time of Essence.** Time is of the essence of the payment and performance of this Note.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, Borrower has executed this Note, and the Lender has accepted this Note, each under seal as of the date first above written.

[SEAL]

**AUVERT MINING GROUP INC.**

By:   
Name: J. SHROE  
Title: CEO

Accepted by Lender:

**CAPELLA FINANCIAL MANAGEMENT LIMITED**

[SEAL]

By: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**

By:   
Frederic Cuyuen, Director

## DESIGNATION FOR DISBURSEMENT OF LOAN PROCEEDS

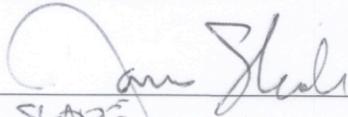
In connection with the loan (the "**Loan**") in the amount of One Hundred Forty Thousand Canadian Dollars (CAD \$140,000) to be made on or about the date hereof by **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Lender**"), to **AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Borrower**"), the Borrower hereby authorizes Lender to make disbursements on behalf of the Borrower of Loan proceeds to the below-designated payee entities (each a "**Payee**") in the respective disbursement amount set forth beside the name of the respective Payee, subject to Borrower or each respective Payee providing to Lender reasonable supporting documentation, as determined by Lender, for the applicable disbursement amount owed by Borrower to such Payee along with valid wiring or other payment instructions for each such Payee.

<u>Payee</u>	<u>Disbursement Amount</u>
Red-to-Black	CAD \$31,500.00
Holland and Knight	CAD \$42,000.00
Miller Thompson LLP	CAD \$24,740.04
AuVert Mining Group (CRS)	CAD \$39,130.32
AuVert Mining Group Inc.	<u>CAD \$2,629.64</u>

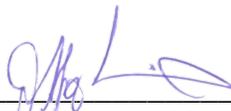
**Total** GP CAD \$140,000.00

Executed and agreed to as of <sup>row 3</sup> ~~May 29~~, 2019:

**AUVERT MINING GROUP INC**

By:   
 Name: J SLADE  
 Title: CEO

This is Exhibit "J" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**PROMISSORY NOTE**

**COP 54,000,000**

June <sup>3</sup>~~4~~ 2019 

**BETWEEN AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Borrower**"), and **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Lender**"), the aggregate amount of **Fifty-four million Colombian Pesos (COP 54,000,000)**, together with interest, on so much thereof as is outstanding hereunder from time to time, at the interest rate set forth below, with such principal and interest to be due and payable as stated below.

1. **Interest Rate; Payment Schedule.**

(a) The outstanding principal balance under this Promissory Note (the "Note") shall bear interest at a rate per annum equal to fifteen percent (15%), unless adjusted in accordance with Section 3 below. Interest shall accrue hereunder and shall be payable when principal is due hereunder.

(b) The principal balance of this Note shall be due and payable upon the sooner to occur of the following dates (as applicable, the "Maturity Date"): (i) the date that Borrower or any of its Affiliates (other than the Lender, Fernhope Limited or Telluris Holdings Limited) first raises a cumulative amount of at least CAD \$1 million (or the equivalent) in debt or equity capital or achieves cumulative revenues of at least the same amount; or (ii) the date that is one (1) year from the date of this Note. Upon the Maturity Date all then unpaid principal and any then unpaid interest shall be due and payable in full. "**Affiliate**" means any entity that is controlled by or under common control with Borrower, and includes, without limitation, AuVert Mining Group Limited, AuVert Colombia S.A.S and Ulloa Recursos Naturales S.A.S.; for this definition "control" or "controlled" shall mean the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through ownership of capital stock, by contract or otherwise (and includes, without limitation, the ownership of at least 10% of the equity ownership interests of the relevant entity or the ability to appoint or direct any member(s) of the Board or other management of the relevant entity).

2. **Use of Proceeds.** Borrower represents and agrees that the proceeds under this Note will be used solely for the Borrower's general business purposes.

3. **Default Rate.** If any payment of interest or the principal amount outstanding under this Note is not paid when due, Borrower agrees to pay interest thereafter at a rate of two percent (2%) per annum above the regular rate hereunder or the maximum legal rate, if lower, on the amount past due under this Note.

4. **Maximum Rate of Interest.** If, at any time, the rate or amount of interest, attorneys' fees or any other charge payable under this Note should exceed the maximum rate or amount permitted by applicable law, then for such time as such rate or amount would be excessive, its application will be suspended and there will be charged instead the maximum rate or amount permitted under such law, and any excess interest or other charge paid by Borrower or collected by Lender will be refunded to Borrower or credited against the principal amount of this Note, at the election of Lender or as required by applicable law.

5. **Default.** The occurrence of any one or more of the following events will constitute an Event of Default under this Note:

(a) Failure of Borrower to punctually make payment of any amount payable, whether principal, interest, or fees, with respect to any of the obligations after the same becomes due and payable.



whether at maturity, by acceleration or otherwise, and such failure to pay has not been cured after 30 days written notice thereof from the Lender.

(b) Failure of Borrower punctually and fully to perform, observe, discharge or comply with any of the covenants set forth in this Note or the General Security Agreement, dated on December 8, 2018, made by Borrower in favor of the Lender (as amended through the date hereof and hereafter amended from time to time, the "**Security Agreement**"), which failure has not been cured after 30 days written notice thereof from the Lender; or the Agreement Concerning Loans and Related Matters, dated on December 7, 2018, among Borrower, Lender and certain other parties thereto (as amended through the date hereof and hereafter amended from time to time, the "**Side Agreement**").

(c) If Borrower becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, insolvency, receivership, reorganization, arrangement, readjustment of debt, dissolution, liquidation or debtor relief law or statute of any jurisdiction, whether now or hereafter in effect or other similar proceeding, or if any trustee, receiver, conservator or other custodian for Borrower or its assets is appointed in any voluntary or involuntary bankruptcy, insolvency, receivership or other similar proceeding under any applicable federal, state or other law (but, in the case of any involuntary proceeding described above, such proceeding must be consented to or acquiesced in by the same (as applicable) or not be dismissed within 60 days after the date on which it is originally brought).

(d) If Borrower seeks to terminate or repudiate its liability for any of its obligations under this Note, the Security Agreement or the Side Agreement.

6. **Remedies.** If any Event of Default should occur, all unpaid amounts of any or all of the principal amount outstanding hereunder and all accrued but unpaid interest thereon will, at the option of Lender and without notice or demand, become immediately due and payable and Lender will have and be entitled to exercise, from time to time, all the rights and remedies available to it as provided elsewhere in this Note, in any other agreement or contract between Borrower and Lender and under applicable law. All of Lender's rights and remedies will be cumulative, and any failure of Lender to exercise any such right or remedy will not be construed as a waiver of the right to exercise the same or any other right or remedy at any time and from time to time thereafter.

7. **Waiver.** With respect to the obligations of Borrower under this Note, to the extent permitted by applicable law, Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold Borrower liable on this Note; (2) all statutory provisions and requirements for the benefit of Borrower (including notice requirements), now or hereafter in force (except to the extent provided for in any other contract or agreement between Borrower and Lender); and (3) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which Lender and Borrower will be adverse parties.

8. **Notices.** All notices, demands and communications required or permitted hereunder will be deemed to have been sufficiently given or served for all purposes if in a writing delivered personally to a party or to an officer of the party to whom the same is directed, or if sent by first class or certified mail, postage and charges prepaid, or by overnight delivery or courier service, addressed to such party at its respective address as follows, or to such other address as will be furnished in writing by a party to the other pursuant to the provisions hereof:

If to Borrower:	AuVert Mining Group Inc. c/o Miller Thomson LLP Calgary, Alberta, Canada T2P 3V4 Attention: Rhea Solis
-----------------	--

If to Lender: Capella Financial Management Limited  
 c/o CW Partners  
 Grand Rue, 23  
 1204 Geneva  
 Switzerland  
 Attention: Frederic Cuguen

Any such notice will be deemed given as of the date so delivered personally, or by overnight delivery service, or by overnight delivery service, or three days after the date on which the same was deposited, first class or certified postage prepaid, in a regularly maintained receptacle for the deposit of postal mail, addressed as provided above.

9. **Expenses and Collection Costs.** Borrower agrees to pay all fees and taxes in connection with this Note and all costs of collecting or attempting to collect any of the indebtedness evidenced by this Note, including, without limitation, court costs, litigation expenses and reasonable attorneys' fees actually incurred (including all collection, trial, appellate and bankruptcy proceedings), and all accrued but unpaid interest thereon, if this Note is referred to an attorney for collection. If attorneys' fees in such amount would be prohibited by applicable law, then Borrower agrees to pay reasonable attorneys' fees not to exceed the maximum amount allowed by law.

10. **Miscellaneous.** No delay by Lender in enforcing its rights hereunder will prejudice Lender's rights to enforce this Note. No waiver by Lender will be effective unless made in writing by a duly authorized officer or agent of Lender, and no waiver by Lender of any right or remedy will constitute a waiver of any other or future right or remedy. This Note will inure to the benefit of Lender, its successors and assigns, and will be binding upon Borrower, and its successors and assigns; provided, (i) that Borrower will have no right to assign its rights or obligations hereunder to any person or entity, and (ii) Lender may assign this Note and its rights hereunder to any affiliate of the Lender, and in the event of any such assignment such assignee shall have all rights of Lender hereunder. This Note will be governed, construed and enforced in accordance with the substantive laws of England and Wales, without regard to its principles of conflict of laws.

11. **Headings.** The headings of the paragraphs set forth in this Note are for convenience of reference only, and are not to be considered a part hereof and will not limit or otherwise affect any of the terms hereof.

12. **Time of Essence.** Time is of the essence of the payment and performance of this Note.

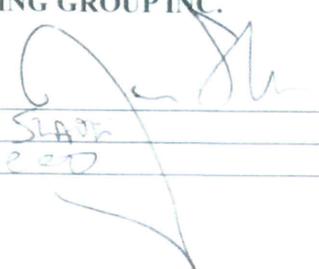
[Signatures Appear on Following Page]



IN WITNESS WHEREOF, Borrower has executed this Note, and the Lender has accepted this Note, each under seal as of the date first above written.

[SEAL]

**AUVERT MINING GROUP INC.**

By:   
Name: J SLADE  
Title: CEO

Accepted by Lender:

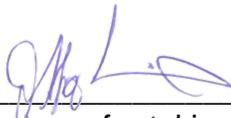
**CAPELLA FINANCIAL MANAGEMENT LIMITED**

[SEAL]

By: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**

By:   
Frederic C. Guen, Director

This is Exhibit "K" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**PROMISSORY NOTE**

**COP 340,000,000**

**June 14, 2019**

**BETWEEN AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Borrower**"), and **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized under the laws of the British Virgin Islands ("**Lender**"), the aggregate amount of **Three hundred forty million Colombian Pesos (COP 340,000,000.00)**, together with interest, on so much thereof as is outstanding hereunder from time to time, at the interest rate set forth below, with such principal and interest to be due and payable as stated below.

**1. Interest Rate; Payment Schedule.**

(a) The outstanding principal balance under this Promissory Note (the "Note") shall bear interest at a rate per annum equal to fifteen percent (15%), unless adjusted in accordance with Section 3 below. Interest shall accrue hereunder and shall be payable when principal is due hereunder.

(b) The principal balance of this Note shall be due and payable upon the sooner to occur of the following dates (as applicable, the "Maturity Date"): (i) the date that Borrower or any of its Affiliates (other than the Lender, Fernhope Limited or Telluris Holdings Limited) first raises a cumulative amount of at least CAD \$1 million (or the equivalent) in debt or equity capital or achieves cumulative revenues of at least the same amount; or (ii) the date that is one (1) year from the date of this Note. Upon the Maturity Date all then unpaid principal and any then unpaid interest shall be due and payable in full. "**Affiliate**" means any entity that is controlled by or under common control with Borrower, and includes, without limitation, AuVert Mining Group Limited, AuVert Colombia S.A.S and Ulloa Recursos Naturales S.A.S.; for this definition "control" or "controlled" shall mean the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through ownership of capital stock, by contract or otherwise (and includes, without limitation, the ownership of at least 10% of the equity ownership interests of the relevant entity or the ability to appoint or direct any member(s) of the Board or other management of the relevant entity).

**2. Use of Proceeds.** Borrower represents and agrees that the proceeds under this Note will be used solely for the Borrower's general business purposes.

**3. Default Rate.** If any payment of interest<sup>4</sup> or the principal amount outstanding under this Note is not paid when due, Borrower agrees to pay interest thereafter at a rate of two percent (2%) per annum above the regular rate hereunder or the maximum legal rate, if lower, on the amount past due under this Note.

**4. Maximum Rate of Interest.** If, at any time, the rate or amount of interest, attorneys' fees or any other charge payable under this Note should exceed the maximum rate or amount permitted by applicable law, then for such time as such rate or amount would be excessive, its application will be suspended and there will be charged instead the maximum rate or amount permitted under such law, and any excess interest or other charge paid by Borrower or collected by Lender will be refunded to Borrower or credited against the principal amount of this Note, at the election of Lender or as required by applicable law.

**5. Default.** The occurrence of any one or more of the following events will constitute an Event of Default under this Note:

(a) Failure of Borrower to punctually make payment of any amount payable, whether principal, interest, or fees, with respect to any of the obligations after the same becomes due and payable,

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whether at maturity, by acceleration or otherwise, and such failure to pay has not been cured after 30 days written notice thereof from the Lender.

(b) Failure of Borrower punctually and fully to perform, observe, discharge or comply with any of the covenants set forth in this Note or the General Security Agreement, dated on December 8, 2018, made by Borrower in favor of the Lender (as amended through the date hereof and hereafter amended from time to time, the "**Security Agreement**"), which failure has not been cured after 30 days written notice thereof from the Lender; or the Agreement Concerning Loans and Related Matters, dated on December 7, 2018, among Borrower, Lender and certain other parties thereto (as amended through the date hereof and hereafter amended from time to time, the "**Side Agreement**").

(c) If Borrower becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any voluntary or involuntary bankruptcy, insolvency, receivership, reorganization, arrangement, readjustment of debt, dissolution, liquidation or debtor relief law or statute of any jurisdiction, whether now or hereafter in effect or other similar proceeding, or if any trustee, receiver, conservator or other custodian for Borrower or its assets is appointed in any voluntary or involuntary bankruptcy, insolvency, receivership or other similar proceeding under any applicable federal, state or other law (but, in the case of any involuntary proceeding described above, such proceeding must be consented to or acquiesced in by the same (as applicable) or not be dismissed within 60 days after the date on which it is originally brought).

(d) If Borrower seeks to terminate or repudiate its liability for any of its obligations under this Note, the Security Agreement or the Side Agreement.

6. **Remedies.** If any Event of Default should occur, all unpaid amounts of any or all of the principal amount outstanding hereunder and all accrued but unpaid interest thereon will, at the option of Lender and without notice or demand, become immediately due and payable and Lender will have and be entitled to exercise, from time to time, all the rights and remedies available to it as provided elsewhere in this Note, in any other agreement or contract between Borrower and Lender and under applicable law. All of Lender's rights and remedies will be cumulative, and any failure of Lender to exercise any such right or remedy will not be construed as a waiver of the right to exercise the same or any other right or remedy at any time and from time to time thereafter.

7. **Waiver.** With respect to the obligations of Borrower under this Note, to the extent permitted by applicable law, Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold Borrower liable on this Note; (2) all statutory provisions and requirements for the benefit of Borrower (including notice requirements), now or hereafter in force (except to the extent provided for in any other contract or agreement between Borrower and Lender); and (3) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which Lender and Borrower will be adverse parties.

8. **Notices.** All notices, demands and communications required or permitted hereunder will be deemed to have been sufficiently given or served for all purposes if in a writing delivered personally to a party or to an officer of the party to whom the same is directed, or if sent by first class or certified mail, postage and charges prepaid, or by overnight delivery or courier service, addressed to such party at its respective address as follows, or to such other address as will be furnished in writing by a party to the other pursuant to the provisions hereof:

If to Borrower:                    AuVert Mining Group Inc.  
   c/o Miller Thomson LLP  
   Calgary, Alberta, Canada  
   T2P 3V4  
   Attention: Rhea Solis

If to Lender: Capella Financial Management Limited  
 c/o CW Partners  
 Grand Rue, 23  
 1204 Geneva  
 Switzerland  
 Attention: Frederic Cuguen

Any such notice will be deemed given as of the date so delivered personally, or by overnight delivery service, or by overnight delivery service, or three days after the date on which the same was deposited, first class or certified postage prepaid, in a regularly maintained receptacle for the deposit of postal mail, addressed as provided above.

9. **Expenses and Collection Costs.** Borrower agrees to pay all fees and taxes in connection with this Note and all costs of collecting or attempting to collect any of the indebtedness evidenced by this Note, including, without limitation, court costs, litigation expenses and reasonable attorneys' fees actually incurred (including all collection, trial, appellate and bankruptcy proceedings), and all accrued but unpaid interest thereon, if this Note is referred to an attorney for collection. If attorneys' fees in such amount would be prohibited by applicable law, then Borrower agrees to pay reasonable attorneys' fees not to exceed the maximum amount allowed by law.

10. **Miscellaneous.** No delay by Lender in enforcing its rights hereunder will prejudice Lender's rights to enforce this Note. No waiver by Lender will be effective unless made in writing by a duly authorized officer or agent of Lender, and no waiver by Lender of any right or remedy will constitute a waiver of any other or future right or remedy. This Note will inure to the benefit of Lender, its successors and assigns, and will be binding upon Borrower, and its successors and assigns; provided, (i) that Borrower will have no right to assign its rights or obligations hereunder to any person or entity, and (ii) Lender may assign this Note and its rights hereunder to any affiliate of the Lender, and in the event of any such assignment such assignee shall have all rights of Lender hereunder. This Note will be governed, construed and enforced in accordance with the substantive laws of England and Wales, without regard to its principles of conflict of laws.

11. **Headings.** The headings of the paragraphs set forth in this Note are for convenience of reference only, and are not to be considered a part hereof and will not limit or otherwise affect any of the terms hereof.

12. **Time of Essence.** Time is of the essence of the payment and performance of this Note.

[Signatures Appear on Following Page]

FC 

IN WITNESS WHEREOF, Borrower has executed this Note, and the Lender has accepted this Note, each under seal as of the date first above written.

[SEAL]

**AUVERT MINING GROUP INC.**

By:   
Name: J. SHADI  
Title: CEO

Accepted by Lender:

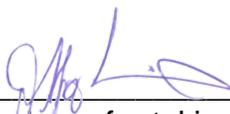
**CAPELLA FINANCIAL MANAGEMENT LIMITED**

[SEAL]

By: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**

By:   
Frederic Cuguen, Director

This is Exhibit "L" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**GENERAL SECURITY AGREEMENT**

**THIS AGREEMENT** made effective as of the 7<sup>th</sup> day of December, 2018,

**BY:**

**AUVERT MINING GROUP INC.**, a corporation incorporated pursuant to the laws of the Province of Alberta (the "**Debtor**"),

- in favour of-

**CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized pursuant to the laws of the British Virgin Islands (the "**Secured Party**").

**RECITALS:**

- A. The Debtor is indebted to the Secured Party; and
- B. To secure the payment and performance of the Obligations (as defined below), the Debtor has agreed to grant to the Secured Party a security interest in the Collateral (as defined below) in accordance with the terms of this Agreement.

**NOW THEREFORE**, for consideration, the receipt and sufficiency of which are acknowledged by the Debtor, the Debtor agrees with the Secured Party as follows:

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

"**Agreement**" means this Security Agreement, including the recitals and schedules hereto, as the same may be amended or replaced from time to time;

"**Applicable Law**" means all current constitutions, treaties, laws, statutes, codes, ordinances, official plans, orders, decrees, rules, regulations, and by-laws, whether domestic, foreign or international of any Governmental Authority, and the common law;

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binding on, affecting, relating or applicable to any Person, property or matter referred to in the context in which such word is used;

"**Business Day**" means any day other than a day which is a Saturday, Sunday or other day on which commercial banks are closed in the Province of Alberta;

"**Collateral**" has the meaning set out in Section 2.1;

"**Event of Default**" means an event set out in Section 6.1;

"**Force Majeure**" means acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labour disputes, or telecommunication breakdown or power outage;

"**GAAP**" means generally accepted accounting principles from time to time approved by the Chartered Professional Accountants of Canada, or any successor entity, consistently applied;

"**Governmental Authority**" means any national, multi-national, federal, provincial, state, municipal, local or other government, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government;

"**Note**" means that certain Promissory Note, dated on or about the date hereof, executed by Debtor in favor of Secured Party in the original principal amount of CAD \$1,500,000;

"**Obligations**" means any and all obligations, indebtedness and liability of the Debtor to the Secured Party (including interest thereon) due under the Note present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Debtor be bound alone or with another or others and whether as principal or surety;

"**Party**" means either the Secured Party or the Debtor, and "**Parties**" means both of them;

"**PPSA**" means the *Personal Property Security Act*, RSA 2000, c P-7; and

"**Side Agreement**" means that certain Agreement Concerning Loans and Related Matters, dated on or about the date hereof, among Secured Party, Debtor and certain other parties thereto.

## 1.2 Interpretation

In this Agreement:

- (a) Unless specified otherwise, reference to a statute includes any regulations under such statute and refers to that statute and such regulations as they may be amended or to any successor legislation.

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- (b) The division into articles, sections, paragraphs and schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The words "hereto", "herein", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular portion of it. References to a Article, Section, Paragraph or Schedule refer to the applicable article, section, paragraph or schedule of this Agreement.
- (c) Words in the singular include the plural and vice versa, words in one gender include all genders, and the words "including", "include" and "includes" mean "including (or include or includes) without limitation".
- (d) "Person" means an individual, a corporation, a limited liability company, an unlimited liability company, a partnership, a limited partnership, a trust, an unincorporated organization, a joint venture, a joint stock company and any Governmental Authority.
- (e) All the terms used in this Agreement without initial capitals, which are defined in the PPSA, have the same meanings in this Agreement as in the PPSA as applicable, and "Collateral" means the Collateral or any part thereof.

### 1.3 Schedules

The following are the Schedules to this Agreement:

Schedule "A" – Location of Collateral

### 1.4 Currency

All references in this Agreement to dollars or to "\$" are deemed to be references to US Dollar currency unless otherwise specifically indicated.

### 1.5 Accounting Terms

All accounting terms not specifically defined in this Agreement, and all accounting determinations and calculations, are to be interpreted and/or made in accordance with GAAP.

## ARTICLE 2 SECURITY INTEREST

### 2.1 Grant of Security Interest

As general and continuing security for the payment and performance of the Obligations, the Debtor hereby charges to the Secured Party as and by way of a fixed and specific charge, and hereby grants to the Secured Party a security interest (the "Security Interest") in, all right, title and interest which the Debtor now has or may hereafter have in the assets, property and undertaking of the kinds described below, including any such assets, property or undertaking acquired (by way of amalgamation or otherwise) after the date of this Agreement (collectively, the "Collateral"):

All present and after-acquired personal property, whether tangible or intangible, together with all proceeds thereof.

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## 2.2 Consent Required

The said charge and security interest will not extend or apply to any contract, right, license or other property of similar nature of the Debtor, if pursuant to the terms of such property: (i) such charge requires the consent of the other party thereto and such consent has not yet been obtained; and (ii) such property would automatically terminate if it was part of the Collateral without such consent having been obtained, or would be terminable at the option of the other party thereto. Should such charge and security interest become enforceable, the Debtor will stand possessed of such property and will hold it in trust to assign the same to any Person as requested by the Secured Party.

In order that the full value of all such property may be realized for the benefit of the Secured Party, the Debtor will make commercially reasonable efforts to obtain all necessary consents to the inclusion of such property in the Collateral.

## 2.3 Attachment

The security interest created by this Agreement will attach when this Agreement is signed by the Debtor with respect to all items of Collateral in which the Debtor has rights at that moment, and will attach to all other Collateral immediately upon the Debtor acquiring any rights therein and the Parties do not intend to postpone the attachment of any security interest granted under this Agreement.

## ARTICLE 3 REPRESENTATIONS & WARRANTIES

### 3.1 Representations and Warranties

The Debtor hereby represents and warrants to the Secured Party that:

- (a) Status: It is a corporation, duly incorporated, and validly existing under the laws of Alberta.
- (b) Authority: It has all necessary corporate power, authority, and capacity (i) to own its assets, including the Collateral; (ii) to carry on business as presently conducted; and (iii) to enter into and carry out its obligations under this Agreement and to grant the Security Interest.
- (c) Due Authorization, Etc.: This Agreement has been duly authorized by all necessary corporate action of the Debtor and constitutes a valid and legally binding obligation of the Debtor, enforceable against it in accordance with its terms except as may be limited by applicable bankruptcy, insolvency, moratorium, and other similar laws affecting creditors' rights generally and except that specific performance, injunctions and other equitable remedies may be granted only in the discretion of the court. The making and performance of this Agreement will not result in the breach of, constitute a default under, or result in the creation of any encumbrance or any other rights of others upon any property of the Debtor pursuant to, any agreement, indenture or other instrument to which the Debtor is a party or by which the Debtor or any of its property may be bound or affected.
- (d) Location of Chief Executive Office and Name: The chief executive office of the Debtor is at 402086 81 Street East, Aldersyde, Alberta T0L 0A0 and the full legal

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name of the Debtor is AuVert Mining Group Inc. The Debtor has no other name or trade name.

- (e) Title: All of the Collateral is, or when the Debtor acquires any right, title or interest therein, will be, the sole property of the Debtor, free and clear of all encumbrances and adverse claims.
- (f) Location of Collateral: All places of any Collateral that is tangible personal property is located at the locations specified in Schedule "A".

All representations and warranties of the Debtor made in this Agreement or in any certificate or other document delivered by or on behalf of the Debtor to or for the benefit of the Secured Party are material, shall survive and shall not merge upon the execution and delivery of this Agreement and shall continue in full force and effect. The Secured Party shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made by or on behalf of the Secured Party at any time.

#### ARTICLE 4 COVENANTS

##### 4.1 Covenants

The Debtor agrees with the Secured Party that it will:

- (a) (i) maintain its corporate or other existence in good standing under the laws of its jurisdiction of incorporation or organization; (ii) continue to conduct its business substantially as now conducted; and (iii) do, or cause to be done, all things necessary to keep in full force and effect all permits and all properties, rights, franchises, licenses and qualifications to carry on its business in all jurisdictions where such business is currently being carried on;
- (b) comply with all Applicable Law in the conduct of its business including those relating to quotas, licensing, privacy, employment and labour matters, pension and environmental laws and obtain all required permits and authorizations required in the conduct of its business and maintain them and all material contracts in good standing;
- (c) permit the Secured Party and its agents and representatives to examine the books of accounts, financial records and reports of the Debtor relating to the Collateral wherever and however such data may be stored and to have temporary custody of, make copies of and take extracts from such books, records and reports, and to examine the Collateral and review and copy any and all information and data relating to the Collateral, or to any related transactions, wherever and however such information and data may be stored and to make enquiries regarding all of the same, and any expenses of the Secured Party incurred in so doing will be added to the Obligations pursuant to Section 4.1(n);
- (d) maintain, use and operate the Collateral so as to preserve and protect the Collateral and the incomes and profits thereof, ordinary wear and tear excepted;
- (e) keep proper books of account and records, with respect to its business and the Collateral, in accordance with GAAP;



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- (f) keep the Collateral free and clear of all encumbrances and adverse claims, whether ranking in priority to, pari passu with or subsequent to the charge and security interest granted by this Agreement;
- (g) bear the sole risk of any loss, damage, destruction or confiscation of or to the Collateral during the Debtor's possession of the Collateral or otherwise. The Debtor shall maintain insurance on all of the Collateral with reputable insurers, including all-risk property insurance, and with such coverage and against such loss or damage to the full insurable value of such property. All such policies of insurance shall provide that such insurance coverage shall not be changed or cancelled except on at least thirty (30) days' prior written notice to the Secured Party.
- (h) immediately notify the Secured Party of:
  - (i) the details of any claim or litigation affecting the Debtor or the Collateral, including the right of any Person to go into, collect or seize possession of the Collateral by means of any legal process;
  - (ii) the details of any material acquisition of Collateral;
  - (iii) any loss of or damage to Collateral;
  - (iv) any material change in the Collateral listed in Schedule "A";
 and the Debtor will, at its own expense, defend the Collateral against any and all such claims;
- (i) not sell, dispose of, assign, convey or otherwise transfer any of the Collateral, or any rights thereunder.
- (k) deliver to the Secured Party promptly upon request:
  - (i) the originals of any chattel paper, negotiable documents, instruments and documents of title relating to the Collateral (duly endorsed in blank, if so requested);
  - (ii) all policies and certificates of insurance relating to the Collateral; and
  - (iii) copies of all contracts and all other agreements, licenses, permits and consents relating to the Collateral;
- (m) pay all rents, taxes, rates, assessments and other charges lawfully imposed on the Debtor or the Collateral when the same are due and payable;
- (n) reimburse the Secured Party for all costs and expenses, including receiver's costs and expenses, and including reasonable legal fees and expenses incurred by the Secured Party or any receiver in connection with the enforcement of this Agreement, including those arising in connection with the realization, disposition of, retention, protection or collection of Collateral, and any such costs and expenses will be added to the Obligations; and
- (o) not, without giving at least 30 days' prior written notice to the Secured Party, (i) change its name as it appears in official filings in the jurisdiction of its

- 7 -

organization; (ii) change the jurisdiction in which its registered office or chief executive office is located, or the location of its books and records; (iii) change the type of entity that it is; (iv) change its jurisdiction of formation or organization; or (v) change the location of any of the Collateral from the location set out in Schedule "A".

## ARTICLE 5 RIGHTS & OBLIGATIONS OF THE PARTIES

### 5.1 Payment Notification; Proceeds Held in Trust

Upon the occurrence of an Event of Default:

- (a) the Secured Party may notify any parties obligated on any of the Collateral to make payment to the Secured Party of any amounts due thereunder; and
- (b) any payment or other proceeds received by the Debtor from any party obligated on any of the Collateral will be received by the Debtor in trust for the Secured Party, must be segregated from other property of the Debtor, and must be paid over or delivered to the Secured Party.

### 5.2 Performance of Duties

Notwithstanding any provision of this Agreement, the Debtor will remain liable to observe and perform all obligations under or relating to any of the Collateral, and the Secured Party will have no such obligations. Upon the Debtor's failure to perform any of its duties hereunder or with respect to the Collateral the Secured Party may, but will not be obliged to, perform any or all of such duties, without waiving any rights to enforce this Agreement, and the costs and expenses incurred by the Secured Party in so doing will be added to the Obligations pursuant to Section 4.1(n).

## ARTICLE 6 EVENTS OF DEFAULT & REMEDIES

### 6.1 Events of Default

The happening of any of the following events that have not been cured by the Debtor within sixty (60) days of occurrence of the event constitutes an event of default hereunder:

- (a) the non-payment when due of all or any part of the Obligations;
- (b) any representation or warranty made by the Debtor under this Agreement is false or misleading in any material respect as of the date made;
- (c) any breach by the Debtor of any term of this Agreement, the Note or the Side Agreement (or any breach of any of the terms of the Side Agreement by any of the other parties thereto (other than Telluris Holdings Limited or Fernhope U.K. Limited));
- (d) the Debtor is an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or commits or threatens to commit any act of bankruptcy;

- 8 -

- (e) commencement of any proceeding or the taking of any step by or against the Debtor for any relief under Applicable Law relating to bankruptcy, insolvency, reorganization, arrangement, or for the appointment of one or more of a trustee, receiver, receiver and manager, custodian, liquidator or any other Person with similar powers with respect to the Debtor or the Collateral or any part thereof;
- (f) the Collateral or any part thereof is seized or otherwise attached by anyone pursuant to any legal process, and the same is not released within the shorter of a period of 15 days and 10 days less than such period as would permit such property or any part thereof to be sold pursuant thereto;
- (g) the institution by or against the Debtor of any formal or informal proceeding for the dissolution or liquidation or settlement of claims against or winding up of affairs of the Debtor;
- (h) if the Debtor defaults under any agreement with respect to any obligation to any Persons other than the Secured Party, if such default has resulted, or may result with notice or lapse of time or both, in the acceleration of any such obligation or the right of such Person to realize upon any Collateral;
- (i) if the Secured Party has commercially reasonable grounds for believing that the prospect of payment or performance of the Obligations is or is about to be impaired or that the Collateral is in danger of being lost, damaged or confiscated, or of being encumbered by the Debtor or seized or otherwise attached by any Person pursuant to any legal process; or
- (j) if, other than as result of a Force Majeure, the Debtor ceases to carry on business for a period of sixty (60) consecutive days. For clarity, the Debtor shall not have the obligation to cure a default as a result of this Section 6.1(j) until after the period of sixty (60) days of cessation of business has occurred.

## 6.2 Remedies

Upon the occurrence of an Event of Default, the security hereby granted will immediately become enforceable, the obligation, if any, of the Secured Party to extend further credit to the Debtor will cease, and the Secured Party may, in its sole discretion, forthwith or at any time thereafter: (i) declare any or all of the Obligations not then due and payable to be immediately due and payable and, in such event, such Obligations will be forthwith due and payable without notice, presentment, protest, demand, notice of dishonour or any other demand or notice, all of which are expressly waived; and (ii) exercise any right or remedy provided by law or by equity, including any one or more of the following rights and remedies:

- (a) require the Debtor, at the Debtor's expense, to assemble the Collateral and deliver or make the Collateral available at a place or places designated by the Secured Party;
- (b) enter any premises where the Collateral may be situate and take possession of the Collateral by any method permitted by Applicable Law;
- (c) repair, process, modify, complete, lease or otherwise deal with the Collateral and prepare for the disposition of the Collateral, whether on the premises of the Debtor or otherwise and take such steps as it considers desirable to maintain, preserve or protect the Collateral;

- (d) sell and dispose of any or all of the Collateral at public auction, by public or private tender, by private sale or by lease at such time and on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, and as to method of payment whether by way of deferred payment or otherwise, as the Secured Party in its sole discretion determines;
- (e) file such proofs of claim or other documents as may be necessary or desirable to have its claim lodged in any bankruptcy, winding-up, liquidation, dissolution or other proceedings (voluntary or otherwise) relating to the Debtor;
- (f) pay or discharge any charge, encumbrance, lien, adverse claim or security interest claim in the Collateral or pay any claim to prior payment by any Person and the amount so paid will be added to the Obligations pursuant to Section 4.1(n);
- (g) exercise any of the powers or rights incident to ownership of the Collateral; or
- (h) at its option, and to the extent and in the manner provided by Applicable Law, retain all or any part of the Collateral in satisfaction of the Obligations or any part thereof.

### **6.3 Appointment of Receiver**

If the Secured Party is entitled to exercise its rights and remedies in accordance with Section 6.2 hereof, it may take proceedings in any court of competent jurisdiction for the appointment of a receiver (which term will include an interim receiver and a receiver and manager) of the Collateral or may by appointment in writing appoint any Person to be a receiver of the Collateral and may remove any receiver so appointed and appoint another in his stead; and any such receiver (whether court appointed or appointed in writing by the Secured Party) will have all the powers of the Secured Party set out in Section 6.2. Any such receiver will be deemed the agent of the Debtor and the Secured Party will not be in any way responsible for any misconduct or negligence of any such receiver.

### **6.4 Proceeds of Disposition**

Any proceeds of any disposition of any Collateral may be applied by the Secured Party towards the payment of the Obligations in such order of application as the Secured Party may from time to time elect. If the disposition of the Collateral fails to satisfy the Obligations, the Debtor will be liable to pay any deficiency to the Secured Party on demand.

### **6.5 Appointment as Attorney**

The Debtor hereby irrevocably constitutes and appoints the Secured Party and each of its officers holding office from time to time as the true and lawful attorney of the Debtor, with power of substitution in the name of the Debtor, such appointment to become effective upon the occurrence of an Event of Default, to perform all acts and execute all documents as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement with the right to use the name of the Debtor wherever and whenever it may be necessary or expedient.

The Debtor hereby acknowledges that the power of attorney granted pursuant to this section is irrevocable (until discharge of the security interest hereunder) and constitutes a power coupled with an interest. The Debtor hereby ratifies and agrees to ratify all acts of any such attorney done in accordance with this section.



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**ARTICLE 7  
GENERAL**

**7.1 Notice**

(a) Any notice, direction or other communication required or contemplated by any provision of this Agreement (a "Notice") will be in writing and given by personal delivery, by registered mail or by overnight courier and addressed:

(i) In the case of a Notice to the Secured Party, at:

Capella Financial Management Limited  
c/o CW Partners  
23 Grand Rue  
1204 Geneva  
Switzerland  
Attention: Frederic Cuguen

and

Telluris Holdings Limited  
c/o 1610 Frank Akers Road  
Anniston, Alabama 36201  
Attention: James Allen

(ii) In the case of a Notice to the Debtor, at:

AuVert Mining Group Inc.  
c/o Miller Thomson LLP  
3000, 700 – 9<sup>th</sup> Ave. SW  
Calgary, Alberta, Canada  
T2P 3V4  
Attention: Rhea Solis

(b) Any Notice:

(i) delivered before 4:30 p.m. local time on a Business Day will be deemed to have been received on the date of delivery and any Notice delivered after 4:30 p.m. local time on a Business Day or delivered on a day other than a Business Day, will be deemed to have been received on the next Business Day.

(ii) mailed will be deemed to have been received 72 hours after the date it is postmarked, provided that if the day on which the Notice is deemed to have been received is not a Business Day, then the Notice will be deemed to have been received on the next Business Day.

(c) If the Party sending the Notice knows or might reasonably be expected to know that, at the time of sending or within 72 hours thereafter, normal mail service has been disrupted, then the Notice may only be sent (or re-sent) by delivery or overnight courier.

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- (d) Any Party may change its address for service or the name of the individual to the attention of whom a Notice is to be sent by written notice given to the other Party in accordance with this Section 7.1.

## **7.2 Discharge**

This Agreement and the charge and security interest granted hereby will be satisfied and discharged by the Secured Party, in whole or in part, by payment of all or part of the Obligations.

## **7.3 Care of Collateral**

In the holding of the Collateral, the Secured Party is only bound to exercise the same degree of care as it would exercise with respect to similar property of its own of similar value held in the same place. The Secured Party will be deemed to have exercised reasonable care with respect to the custody and preservation of the Collateral if it takes such action for that purpose as the Debtor reasonably requests in writing, but failure of the Secured Party to comply with any such request will not of itself be deemed a failure to exercise reasonable care.

## **7.4 Amendment and Waiver**

This Agreement may only be amended by written agreement signed by each Party hereto. Any waiver of any provision of this Agreement will be effective only if it is in writing and signed by the Party to be bound thereby, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right will preclude any further or other exercise of such right.

## **7.5 Waiver by Debtor**

For the purposes of this Agreement, and to the extent permitted by Applicable Law, the Debtor hereby waives the benefit of all provisions of any Applicable Law which, now or in the future, would in any manner restrict or limit the rights of the Secured Party.

## **7.6 Entire Agreement**

This Agreement, the Note and the Side Agreement (and any other instrument evidencing debt owed by the Debtor to the Secured Party) constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, understandings and discussions, whether oral or written. There are no representations, warranties, conditions, covenants or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth herein. This Agreement replaces and supersedes the General Security Agreement, dated as of the date hereof, executed by the Debtor in favor of The Capella Trust.

## **7.7 Assignment**

Neither this Agreement nor any of the rights or obligations under this Agreement are assignable by the Debtor without the prior written consent of the Secured Party.

## **7.8 Benefit of Agreement**

This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

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**7.9 Further Assurances**

Each Party agrees that upon the reasonable written request of the other Party, at any time, it will perform all acts and execute all documents, including financing statements and schedules, as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement.

**7.10 Remedies**

The rights and remedies of the Secured Party under this Agreement are cumulative and are in addition to, and not in substitution for, any rights or remedies provided by law or by equity, and any single or partial exercise by the Secured Party of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement does not waive, alter, affect or prejudice any other right or remedy or other rights or remedies to which the Secured Party may be entitled for such default or breach.

**7.11 Severability**

If any provision of this Agreement is determined to be invalid, illegal or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement, and the remaining provisions will remain in full force and effect.

**7.12 Time of Essence**

Time is of the essence in this Agreement.

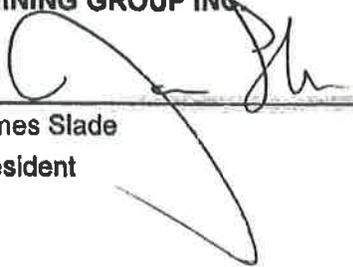
**7.13 Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

**7.14 Copy of Agreement**

The Debtor acknowledges having received an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives any right it may have to receive a financing statement, financing change statement or verification statement, or copy thereof, relating to it.

IN WITNESS WHEREOF the Debtor has executed this Agreement.

**AUVERT MINING GROUP INC.**Per: 

James Slade  
President

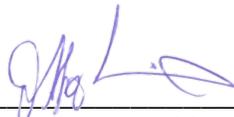
**SCHEDULE "A"**

**Location of the Collateral**

- 402086 81 Street East, Aldersyde, Alberta, Canada T0L 0A0
- Republic of Colombia, South America



This is Exhibit "M" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

## AMENDMENT TO GENERAL SECURITY AGREEMENT

April 26, 2019

BETWEEN **AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Debtor**") and **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized pursuant to the laws of the British Virgin Islands ("**Secured Party**").

**WHEREAS** the Parties entered into a General Security Agreement dated December 8, 2018 (the "**Security Agreement**") whereby Debtor granted to Secured Party a security interest in all present and after-acquired personal property, whether tangible or intangible, together with all proceeds thereof; and

**WHEREAS** the Parties wish to amend the Security Agreement upon and subject to the terms and conditions set forth in this Amendment to General Security Agreement (this "**Amendment**");

**NOW THEREFORE**, in consideration of the payment of Two Dollars (\$2.00) made by each party to the other, the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

1. **Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Security Agreement.
2. **Recitals.** The Parties hereby acknowledge, confirm and agree that the recitals to this Amendment set forth above are true in substance and fact and that the recitals form an integral part of this Amendment.
3. **Amendments to the Security Agreement.**
  - (a) Section 1.1 of the Security Agreement is hereby amended by deleting in its entirety the present definition for "Note" in such Section 1.1 and replacing it with the following new definition:

"**Note**" means that certain Promissory Note, dated on or about December 8, 2018, executed by Debtor in favor of Secured Party in the original principal amount of CAD \$1,750,000, as the same may have been amended or may be amended from time to time;"
  - (b) Section 1.1 of the Security Agreement is hereby further amended by deleting in its entirety the present definition for "Obligations" in such Section 1.1 and replacing it with the following new definition:

"**Obligations**" means any and all obligations, indebtedness and liability of the Debtor to the Secured Party (including interest thereon) due under the Note present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased, or entirely extinguished and

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thereafter incurred again, or otherwise increased or reduced, and whether the Debtor be bound alone or with another or others and whether as principal or surety;”

- (c) Section 1.1 of the Security Agreement is hereby further amended by deleting in its entirety the present definition for “Side Agreement” in such Section 1.1 and replacing it with the following new definition:

“**Side Agreement**” means that certain Agreement Concerning Loans and Related Matters, dated December 8, 2018, as among Secured Party, Debtor and certain other parties thereto, as the same may have been amended or may be amended from time to time.”

4. **No Other Changes.** The Parties hereby ratify and confirm the provisions of the Security Agreement, and acknowledge and agree that the Security Agreement remains in full force and effect as amended in accordance with this Amendment.

IN WITNESS WHEREOF, Debtor and the Secured Party have each executed and accepted this Amendment, each under seal as of the date first above written.

**AUVERT MINING GROUP INC.**

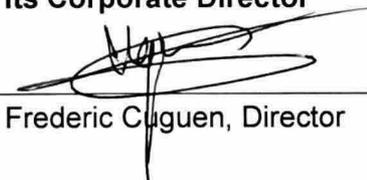
Per:



James Slade, President

**CAPELLA FINANCIAL MANAGEMENT LIMITED**

Per: **CW GROUP SERVICES LIMITED,  
Its Corporate Director**



Per: Frederic Cuguen, Director

GP  
 SWS3  
 May 21, 2019

## SECOND AMENDMENT TO GENERAL SECURITY AGREEMENT

BETWEEN **AUVERT MINING GROUP INC.**, a corporation organized under the laws of the Province of Alberta ("**Debtor**") and **CAPELLA FINANCIAL MANAGEMENT LIMITED**, a business company organized pursuant to the laws of the British Virgin Islands ("**Secured Party**").

**WHEREAS** the Parties entered into a General Security Agreement dated December 8, 2018 (the "**Security Agreement**"), whereby Debtor granted to Secured Party a security interest in all present and after-acquired personal property, whether tangible or intangible, together with all proceeds thereof, and which Security Agreement was amended by that certain Amendment to General Security Agreement, dated as of April 26, 2019 (the "**First Amendment**"); and

**WHEREAS** the Parties wish to further amend the Security Agreement, as amended by the First Amendment, upon and subject to the terms and conditions set forth in this Second Amendment to General Security Agreement (this "**Second Amendment**");

**NOW THEREFORE**, in consideration of the payment of Two Dollars (\$2.00) made by each party to the other, the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

1. **Definitions.** Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Security Agreement, as amended by the First Amendment.
2. **Recitals.** The Parties hereby acknowledge, confirm and agree that the recitals to this Second Amendment set forth above are true in substance and fact and that the recitals form an integral part of this Second Amendment.
3. **Amendments to the Security Agreement.**
  - (a) Section 1.1 of the Security Agreement, as amended by the First Amendment, is hereby amended by adding thereto a definition for "Assigned Fernhope Notes", which definition shall be inserted in alphabetical order immediately following the present definition for "Applicable Law" and which definition for "Assigned Fernhope Notes" shall be as follows:

"**Assigned Fernhope Notes**" means each of the following promissory notes and the loans evidenced thereby, all of which have been assigned as of May 21, 2019, by Fernhope Limited U.K. ("**Fernhope**") to Secured Party, and which assignment has been consented to by Debtor: (i) that certain Promissory Note, dated October 29, 2018, executed by Debtor in favor of Fernhope, in the original principal amount of US \$380,000, as amended, and (ii) that certain Promissory Note, dated November 19, 2018, executed by Debtor in favor of Fernhope in the original principal amount of US \$100,000, as amended;"

GP

- (b) Section 1.1 of the Security Agreement, as amended by the First Amendment, is hereby further amended by deleting in its entirety the present definition for "Obligations" in such Section 1.1 and replacing it with the following new definition:

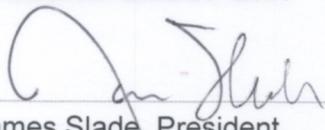
**"Obligations"** means any and all obligations, indebtedness and liability of the Debtor to the Secured Party (including interest thereon) present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased, or entirely extinguished and thereafter incurred again, or otherwise increased or reduced, and whether the Debtor be bound alone or with another or others and whether as principal or surety, and including, without limitation, all indebtedness due (i) under the Note, (ii) under the Assigned Fernhope Notes, and (iii) all other loans (and the related promissory notes and other instruments evidencing such loans) extended by Secured Party to Debtor;"

4. **No Other Changes.** The Parties hereby ratify and confirm the provisions of the Security Agreement, as amended by the First Amendment, and acknowledge and agree that the Security Agreement, as amended by the First Amendment, remains in full force and effect as further amended in accordance with this Second Amendment.

IN WITNESS WHEREOF, Debtor and the Secured Party have each executed and accepted this Second Amendment, each under seal as of the date first above written.

**AUVERT MINING GROUP INC.**

Per:

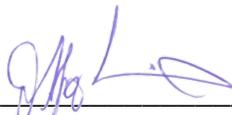
  
James Slade, President

**CAPELLA FINANCIAL  
MANAGEMENT LIMITED**

Per: **CW GROUP SERVICES  
LIMITED, Its Corporate  
Director**

Per: Frederic Cuguen, Director

This is Exhibit "N" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

## GENERAL SECURITY AGREEMENT

THIS AGREEMENT made effective as of the 29th day of October, 2018,

BY:

**AUVERT MINING GROUP INC.**, a corporation incorporated pursuant to the laws of the Province of Alberta (the "**Debtor**"),

- in favour of-

**FERNHOPE LIMITED U.K.**, an English limited company (the "**Secured Party**")

### RECITALS:

- A. The Debtor is indebted to the Secured Party; and
- B. To secure the payment and performance of the Obligations (as defined below), the Debtor has agreed to grant to the Secured Party a security interest in the Collateral (as defined below) in accordance with the terms of this Agreement.

NOW THEREFORE, for consideration, the receipt and sufficiency of which are acknowledged by the Debtor, the Debtor agrees with the Secured Party as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

"**Agreement**" means this Security Agreement, including the recitals and schedules hereto, as the same may be amended or replaced from time to time;

"**Applicable Law**" means all current constitutions, treaties, laws, statutes, codes, ordinances, official plans, orders, decrees, rules, regulations, and by-laws, whether domestic, foreign or international of any Governmental Authority, and the common law, binding on, affecting, relating or applicable to any Person, property or matter referred to in the context in which such word is used;

"**Business Day**" means any day other than a day which is a Saturday, Sunday or other day on which commercial banks are closed in the Province of Alberta;

"**Collateral**" has the meaning set out in Section 2.1;

"**Event of Default**" means an event set out in Section 6.1;

"**GAAP**" means generally accepted accounting principles from time to time approved by the Chartered Professional Accountants of Canada, or any successor entity, consistently applied;

**"Governmental Authority"** means any national, multi-national, federal, provincial, state, municipal, local or other government, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government;

**"Note"** means that certain Promissory Note, dated on or about the date hereof, executed by Debtor in favor of Secured Party in the original principal amount of US \$380,000;

**"Obligations"** means any and all obligations, indebtedness and liability of the Debtor to the Secured Party (including interest thereon) present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred and any ultimate unpaid balance thereof and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether the Debtor be bound alone or with another or others and whether as principal or surety, and including, without limitation, all indebtedness or amounts due under the Note;

**"Party"** means either the Secured Party or the Debtor, and **"Parties"** means both of them; and

**"PPSA"** means the *Personal Property Security Act*, RSA 2000, c P-7.

## 1.2 Interpretation

In this Agreement:

- (a) Unless specified otherwise, reference to a statute includes any regulations under such statute and refers to that statute and such regulations as they may be amended or to any successor legislation.
- (b) The division into articles, sections, paragraphs and schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The words "hereto", "herein", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular portion of it. References to a Article, Section, Paragraph or Schedule refer to the applicable article, section, paragraph or schedule of this Agreement.
- (c) Words in the singular include the plural and vice versa, words in one gender include all genders, and the words "including", "include" and "includes" mean "including (or include or includes) without limitation".
- (d) **"Person"** means an individual, a corporation, a limited liability company, an unlimited liability company, a partnership, a limited partnership, a trust, an unincorporated organization, a joint venture, a joint stock company and any Governmental Authority.
- (e) All the terms used in this Agreement without initial capitals, which are defined in the PPSA, have the same meanings in this Agreement as in the PPSA as applicable, and **"Collateral"** means the Collateral or any part thereof.



### 1.3 Schedules

The following are the Schedules to this Agreement:

Schedule "A" – Location of Collateral

### 1.4 Currency

All references in this Agreement to dollars or to "\$" are deemed to be references to US Dollar currency unless otherwise specifically indicated.

### 1.5 Accounting Terms

All accounting terms not specifically defined in this Agreement, and all accounting determinations and calculations, are to be interpreted and/or made in accordance with GAAP.

## ARTICLE 2 SECURITY INTEREST

### 2.1 Grant of Security Interest

As general and continuing security for the payment and performance of the Obligations, the Debtor hereby charges to the Secured Party as and by way of a fixed and specific charge, and hereby grants to the Secured Party a security interest (the "Security Interest") in, all right, title and interest which the Debtor now has or may hereafter have in the assets, property and undertaking of the kinds described below, including any such assets, property or undertaking acquired (by way of amalgamation or otherwise) after the date of this Agreement (collectively, the "Collateral"):

All present and after-acquired personal property, together with all proceeds thereof.

### 2.2 Consent Required

The said charge and security interest will not extend or apply to any contract, right, license or other property of similar nature of the Debtor, if pursuant to the terms of such property: (i) such charge requires the consent of the other party thereto and such consent has not yet been obtained; and (ii) such property would automatically terminate if it was part of the Collateral without such consent having been obtained, or would be terminable at the option of the other party thereto. Should such charge and security interest become enforceable, the Debtor will stand possessed of such property and will hold it in trust to assign the same to any Person as requested by the Secured Party.

In order that the full value of all such property may be realized for the benefit of the Secured Party, the Debtor will make commercially reasonable efforts to obtain all necessary consents to the inclusion of such property in the Collateral.

### 2.3 Attachment

The security interest created by this Agreement will attach when this Agreement is signed by the Debtor with respect to all items of Collateral in which the Debtor has rights at that moment, and will attach to all other Collateral immediately upon the Debtor acquiring any rights therein and the Parties do not intend to postpone the attachment of any security interest granted under this Agreement.



**ARTICLE 3  
REPRESENTATIONS & WARRANTIES**

**3.1 Representations and Warranties**

The Debtor hereby represents and warrants to the Secured Party that:

- (a) Status: It is a corporation, duly incorporated, and validly existing under the laws of Alberta.
- (b) Authority: It has all necessary corporate power, authority, and capacity (i) to own its assets, including the Collateral; (ii) to carry on business as presently conducted; and (iii) to enter into and carry out its obligations under this Agreement and to grant the Security Interest.
- (c) Due Authorization, Etc.: This Agreement has been duly authorized by all necessary corporate action of the Debtor and constitutes a valid and legally binding obligation of the Debtor, enforceable against it in accordance with its terms except as may be limited by applicable bankruptcy, insolvency, moratorium, and other similar laws affecting creditors' rights generally and except that specific performance, injunctions and other equitable remedies may be granted only in the discretion of the court. The making and performance of this Agreement will not result in the breach of, constitute a default under, or result in the creation of any encumbrance or any other rights of others upon any property of the Debtor pursuant to, any agreement, indenture or other instrument to which the Debtor is a party or by which the Debtor or any of its property may be bound or affected.
- (d) Location of Chief Executive Office and Name: The chief executive office of the Debtor is at 402086 81 Street East, Aldersyde, Alberta T0L 0A0 and the full legal name of the Debtor is AuVert Mining Group Inc. The Debtor has no other name or trade name.
- (e) Title: All of the Collateral is, or when the Debtor acquires any right, title or interest therein, will be, the sole property of the Debtor, free and clear of all encumbrances and adverse claims.
- (f) Location of Collateral: All places of any Collateral that is tangible personal property is located at the locations specified in Schedule "A".

All representations and warranties of the Debtor made in this Agreement or in any certificate or other document delivered by or on behalf of the Debtor to or for the benefit of the Secured Party

are material, shall survive and shall not merge upon the execution and delivery of this Agreement and shall continue in full force and effect. The Secured Party shall be deemed to have relied upon such representations and warranties notwithstanding any investigation made by or on behalf of the Secured Party at any time.



## ARTICLE 4 COVENANTS

### 4.1 Covenants

The Debtor agrees with the Secured Party that it will:

- (a) (i) maintain its corporate or other existence in good standing under the laws of its jurisdiction of incorporation or organization; (ii) continue to conduct its business substantially as now conducted; and (iii) do, or cause to be done, all things necessary to keep in full force and effect all permits and all properties, rights, franchises, licenses and qualifications to carry on its business in all jurisdictions where such business is currently being carried on;
- (b) comply with all Applicable Law in the conduct of its business including those relating to quotas, licensing, privacy, employment and labour matters, pension and environmental laws and obtain all required permits and authorizations required in the conduct of its business and maintain them and all material contracts in good standing;
- (c) permit the Secured Party and its agents and representatives to examine the books of accounts, financial records and reports of the Debtor wherever and however such data may be stored and to have temporary custody of, make copies of and take extracts from such books, records and reports, and to examine the Collateral and review and copy any and all information and data relating to the Collateral, or to any related transactions, wherever and however such information and data may be stored and to make enquiries regarding all of the same, and any expenses of the Secured Party incurred in so doing will be added to the Obligations pursuant to Section 4.1(n);
- (d) maintain, use and operate the Collateral so as to preserve and protect the Collateral and the incomes and profits thereof, ordinary wear and tear excepted;
- (e) keep proper books of account and records, with respect to its business and the Collateral, in accordance with GAAP;
- (f) keep the Collateral free and clear of all encumbrances and adverse claims, whether ranking in priority to, pari passu with or subsequent to the charge and security interest granted by this Agreement;
- (g) bear the sole risk of any loss, damage, destruction or confiscation of or to the Collateral during the Debtor's possession of the Collateral or otherwise. The Debtor shall maintain insurance on all of the Collateral with reputable insurers, including all-risk property insurance, and with such coverage and against such loss or damage to the full insurable value of such property. All such policies of insurance shall provide that such insurance coverage shall not be charged or cancelled except on at least thirty (30) days' prior written notice to the Secured Party.
- (h) immediately notify the Secured Party of:
  - (i) the details of any claim or litigation affecting the Debtor or the Collateral, including the right of any Person to go into, collect or seize possession of the Collateral by means of any legal process;



- 6 -

- (ii) the details of any material acquisition of Collateral;
- (iii) any loss of or damage to Collateral;
- (iv) any material change in the Collateral listed in Schedule "A";

and the Debtor will, at its own expense, defend the Collateral against any and all such claims;

- (i) not sell, dispose of, assign, convey or otherwise transfer any of the Collateral, or any rights thereunder.
- (k) deliver to the Secured Party promptly upon request:
  - (i) the originals of any chattel paper, negotiable documents, instruments and documents of title relating to the Collateral (duly endorsed in blank, if so requested);
  - (ii) all policies and certificates of insurance relating to the Collateral; and
  - (iii) copies of all contracts and all other agreements, licenses, permits and consents relating to the Collateral;
- (m) pay all rents, taxes, rates, assessments and other charges lawfully imposed on the Debtor or the Collateral when the same are due and payable;
- (n) reimburse the Secured Party for all costs and expenses, including receiver's costs and expenses, and including reasonable legal fees and expenses incurred by the Secured Party or any receiver in connection with the enforcement of this Agreement, including those arising in connection with the realization, disposition of, retention, protection or collection of Collateral, and any such costs and expenses will be added to the Obligations; and
- (o) not, without giving at least 30 days' prior written notice to the Secured Party, (i) change its name as it appears in official filings in the jurisdiction of its organization; (ii) change the jurisdiction in which its registered office or chief executive office is located, or the location of its books and records; (iii) change the type of entity that it is; (iv) change its jurisdiction of formation or organization; or (v) change the location of any of the Collateral from the location set out in Schedule "A".

## ARTICLE 5 RIGHTS & OBLIGATIONS OF THE PARTIES

### 5.1 Payment Notification; Proceeds Held in Trust

Upon the occurrence of an Event of Default:

- (a) the Secured Party may notify any parties obligated on any of the Collateral to make payment to the Secured Party of any amounts due thereunder; and
- (b) any payment or other proceeds received by the Debtor from any party obligated on any of the Collateral will be received by the Debtor in trust for the Secured



Party, must be segregated from other property of the Debtor, and must be paid over or delivered to the Secured Party.

## 5.2 Performance of Duties

Notwithstanding any provision of this Agreement, the Debtor will remain liable to observe and perform all obligations under or relating to any of the Collateral, and the Secured Party will have no such obligations. Upon the Debtor's failure to perform any of its duties hereunder or with respect to the Collateral the Secured Party may, but will not be obliged to, perform any or all of such duties, without waiving any rights to enforce this Agreement, and the costs and expenses incurred by the Secured Party in so doing will be added to the Obligations pursuant to Section 4.1(n).

## ARTICLE 6 EVENTS OF DEFAULT & REMEDIES

### 6.1 Events of Default

The happening of any of the following events constitutes an event of default hereunder:

- (a) the non-payment when due of all or any part of the Obligations;
- (b) any representation or warranty made by the Debtor under this Agreement is false or misleading in any material respect as of the date made;
- (c) any breach by the Debtor of any term of this Agreement or the Note;
- (d) the Debtor is an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or commits or threatens to commit any act of bankruptcy;
- (e) commencement of any proceeding or the taking of any step by or against the Debtor for any relief under Applicable Law relating to bankruptcy, insolvency, reorganization, arrangement, or for the appointment of one or more of a trustee, receiver, receiver and manager, custodian, liquidator or any other Person with similar powers with respect to the Debtor or the Collateral or any part thereof;
- (f) the Collateral or any part thereof is seized or otherwise attached by anyone pursuant to any legal process, and the same is not released within the shorter of a period of 15 days and 10 days less than such period as would permit such property or any part thereof to be sold pursuant thereto;
- (g) the institution by or against the Debtor of any formal or informal proceeding for the dissolution or liquidation or settlement of claims against or winding up of affairs of the Debtor;
- (h) if the Debtor ceases or threatens to cease to carry on business or makes or agrees to make a bulk sale of assets without complying with Applicable Law;
- (i) if the Debtor defaults under any agreement with respect to any obligation to any Persons other than the Secured Party, if such default has resulted, or may result with notice or lapse of time or both, in the acceleration of any such obligation or the right of such Person to realize upon any Collateral; or

- (j) if the Secured Party has commercially reasonable grounds for believing that the prospect of payment or performance of the Obligations is or is about to be impaired or that the Collateral is in danger of being lost, damaged or confiscated, or of being encumbered by the Debtor or seized or otherwise attached by any Person pursuant to any legal process.

## 6.2 Remedies

Upon the occurrence of an Event of Default, the security hereby granted will immediately become enforceable, the obligation, if any, of the Secured Party to extend further credit to the Debtor will cease, and the Secured Party may, in its sole discretion, forthwith or at any time thereafter: (i) declare any or all of the Obligations not then due and payable to be immediately due and payable and, in such event, such Obligations will be forthwith due and payable without notice, presentment, protest, demand, notice of dishonour or any other demand or notice, all of which are expressly waived; and (ii) exercise any right or remedy provided by law or by equity, including any one or more of the following rights and remedies:

- (a) require the Debtor, at the Debtor's expense, to assemble the Collateral and deliver or make the Collateral available at a place or places designated by the Secured Party;
- (b) enter any premises where the Collateral may be situated and take possession of the Collateral by any method permitted by Applicable Law;
- (c) repair, process, modify, complete, lease or otherwise deal with the Collateral and prepare for the disposition of the Collateral, whether on the premises of the Debtor or otherwise and take such steps as it considers desirable to maintain, preserve or protect the Collateral;
- (d) sell and dispose of any or all of the Collateral at public auction, by public or private tender, by private sale or by lease at such time and on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price, and as to method of payment whether by way of deferred payment or otherwise, as the Secured Party in its sole discretion determines;
- (e) file such proofs of claim or other documents as may be necessary or desirable to have its claim lodged in any bankruptcy, winding-up, liquidation, dissolution or other proceedings (voluntary or otherwise) relating to the Debtor;
- (f) pay or discharge any charge, encumbrance, lien, adverse claim or security interest claim in the Collateral or pay any claim to prior payment by any Person and the amount so paid will be added to the Obligations pursuant to Section 4.1(n);
- (g) exercise any of the powers or rights incident to ownership of the Collateral; or
- (h) at its option, and to the extent and in the manner provided by Applicable Law, retain all or any part of the Collateral in satisfaction of the Obligations or any part thereof.

## 6.3 Appointment of Receiver

If the Secured Party is entitled to exercise its rights and remedies in accordance with Section 6.2 hereof, it may take proceedings in any court of competent jurisdiction for the

appointment of a receiver (which term will include an interim receiver and a receiver and manager) of the Collateral or may by appointment in writing appoint any Person to be a receiver of the Collateral and may remove any receiver so appointed and appoint another in his stead; and any such receiver (whether court appointed or appointed in writing by the Secured Party) will have all the powers of the Secured Party set out in Section 6.2. Any such receiver will be deemed the agent of the Debtor and the Secured Party will not be in any way responsible for any misconduct or negligence of any such receiver.

#### 6.4 Proceeds of Disposition

Any proceeds of any disposition of any Collateral may be applied by the Secured Party towards the payment of the Obligations in such order of application as the Secured Party may from time to time elect. If the disposition of the Collateral fails to satisfy the Obligations, the Debtor will be liable to pay any deficiency to the Secured Party on demand.

#### 6.5 Appointment as Attorney

The Debtor hereby irrevocably constitutes and appoints the Secured Party and each of its officers holding office from time to time as the true and lawful attorney of the Debtor, with power of substitution in the name of the Debtor, such appointment to become effective upon the occurrence of an Event of Default, to perform all acts and execute all documents as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement with the right to use the name of the Debtor wherever and whenever it may be necessary or expedient.

The Debtor hereby acknowledges that the power of attorney granted pursuant to this section is irrevocable (until discharge of the security interest hereunder) and constitutes a power coupled with an interest. The Debtor hereby ratifies and agrees to ratify all acts of any such attorney done in accordance with this section.

### ARTICLE 7 GENERAL

#### 7.1 Notice

- (a) Any notice, direction or other communication required or contemplated by any provision of this Agreement (a "Notice") will be in writing and given by personal delivery, by registered mail or by overnight courier and addressed:

- (i) in the case of a Notice to the Secured Party, at:

Fernhope Limited U.K.  
1610 Frank Akers Road  
Anniston, Alabama 36201  
Attention: James Allen

- (ii) in the case of a Notice to the Debtor, at:

AuVert Mining Group Inc.  
c/o Miller Thomson LLP  
3000, 700 – 9<sup>th</sup> Ave. SW  
Calgary, Alberta, Canada  
T2P 3V4

Attention: Rhea Solis

- (b) Any Notice:
- (i) delivered before 4:30 p.m. local time on a Business Day will be deemed to have been received on the date of delivery and any Notice delivered after 4:30 p.m. local time on a Business Day or delivered on a day other than a Business Day, will be deemed to have been received on the next Business Day.
  - (ii) mailed will be deemed to have been received 72 hours after the date it is postmarked, provided that if the day on which the Notice is deemed to have been received is not a Business Day, then the Notice will be deemed to have been received on the next Business Day.
- (c) If the Party sending the Notice knows or might reasonably be expected to know that, at the time of sending or within 72 hours thereafter, normal mail service has been disrupted, then the Notice may only be sent (or re-sent) by delivery or overnight courier.
- (d) Any Party may change its address for service or the name of the individual to the attention of whom a Notice is to be sent by written notice given to the other Party in accordance with this Section 7.1.

## 7.2 Discharge

This Agreement and the charge and security interest granted hereby will be satisfied and discharged by the Secured Party, in whole or in part, by payment of all or part of the Obligations.

## 7.3 Care of Collateral

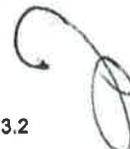
In the holding of the Collateral, the Secured Party is only bound to exercise the same degree of care as it would exercise with respect to similar property of its own of similar value held in the same place. The Secured Party will be deemed to have exercised reasonable care with respect to the custody and preservation of the Collateral if it takes such action for that purpose as the Debtor reasonably requests in writing, but failure of the Secured Party to comply with any such request will not of itself be deemed a failure to exercise reasonable care.

## 7.4 Amendment and Waiver

This Agreement may only be amended by written agreement signed by each Party hereto. Any waiver of any provision of this Agreement will be effective only if it is in writing and signed by the Party to be bound thereby, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right will preclude any further or other exercise of such right.

## 7.5 Waiver by Debtor

For the purposes of this Agreement, and to the extent permitted by Applicable Law, the Debtor hereby waives the benefit of all provisions of any Applicable Law which, now or in the future, would in any manner restrict or limit the rights of the Secured Party.



## **7.6 Entire Agreement**

This Agreement (and any instrument evidencing debt owed by the Debtor to the Secured Party) constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, understandings and discussions, whether oral or written. There are no representations, warranties, conditions, covenants or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth herein.

## **7.7 Assignment**

Neither this Agreement nor any of the rights or obligations under this Agreement are assignable by the Debtor without the prior written consent of the Secured Party.

## **7.8 Benefit of Agreement**

This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

## **7.9 Further Assurances**

Each Party agrees that upon the reasonable written request of the other Party, at any time, it will perform all acts and execute all documents, including financing statements and schedules, as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement.

## **7.10 Remedies**

The rights and remedies of the Secured Party under this Agreement are cumulative and are in addition to, and not in substitution for, any rights or remedies provided by law or by equity, and any single or partial exercise by the Secured Party of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement does not waive, alter, affect or prejudice any other right or remedy or other rights or remedies to which the Secured Party may be entitled for such default or breach.

## **7.11 Severability**

If any provision of this Agreement is determined to be invalid, illegal or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement, and the remaining provisions will remain in full force and effect.

## **7.12 Time of Essence**

Time is of the essence in this Agreement.

## **7.13 Governing Law**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

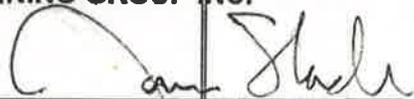
**7.14 Copy of Agreement**

The Debtor acknowledges having received an executed copy of this Agreement and, to the extent permitted by Applicable Law, waives any right it may have to receive a financing statement, financing change statement or verification statement, or copy thereof, relating to it.

IN WITNESS WHEREOF the Debtor has executed this Agreement.

**AUVERT MINING GROUP INC.**

Per:

  
\_\_\_\_\_  
James Slade  
President

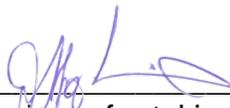
**SCHEDULE "A"**

**Location of the Collateral**

- 402086 81 Street East, Aldersyde, Alberta, Canada T0L 0A0
- Republic of Colombia, South America

A handwritten mark or signature, possibly a stylized '2' or a similar symbol, located at the bottom right of the page.

This is Exhibit "O" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

Search ID #: Z13382674

**Transmitting Party**

MCMILLAN LLP

1700, 421 - 7TH AVENUE SW  
CALGARY, AB T2P 4K9

Party Code: 60001912  
Phone #: 403 231 8378  
Reference #: 277148

Search ID #: Z13382674

Date of Search: 2020-Dec-23

Time of Search: 14:32:44

**Business Debtor Search For:**

AUVERT MINING GROUP INC.

Exact Result(s) Only Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.  
Be sure to read the reports carefully.



Search ID #: Z13382674

**Business Debtor Search For:**

AUVERT MINING GROUP INC.

Search ID #: Z13382674

Date of Search: 2020-Dec-23

Time of Search: 14:32:44

Registration Number: 19012307726

Registration Type: SECURITY AGREEMENT

Registration Date: 2019-Jan-23

Registration Status: Current

Expiry Date: 2029-Jan-23 23:59:59

Exact Match on: Debtor No: 1

Exact Match on: Debtor No: 2

**Amendments to Registration**

20122322482

Amendment

2020-Dec-23

**Debtor(s)****Block****Status**

Current

1 AUVERT MINING GROUP INC.  
402086 81 STREET EAST  
ALDERSYDE, AB T0L 0A0

**Block****Status**

Current

2 AUVERT MINING GROUP INC.  
3000, 700-9TH AVE. SW  
CALGARY, AB T2P 3V4

**Secured Party / Parties****Block****Status**Deleted by  
20122322482

1 CAPELLA FINANCIAL MANAGEMENT LIMITED  
23 GRAND RUE 1204  
GENEVA, XX

**Block****Status**Deleted by  
20122322482

2 CAPELLA FINANCIAL MANAGEMENT LIMITED  
1610 FRANK AKERS ROAD  
ANNISTON, AL 36201

Search ID #: Z13382674

**Block**

3 POLARIS FINANCIAL MANAGEMENT LIMITED  
23 GRAND RUE 1204  
GENEVA, XX  
Email: cw@cw.partners

**Status**

Current by  
20122322482

**Block**

4 POLARIS FINANCIAL MANAGEMENT LIMITED  
1610 FRANK AKERS ROAD  
ANNISTON, AL 36201  
Email: cw@cw.partners

**Status**

Current by  
20122322482

**Collateral: General****Block****Description**

1 All present and after-acquired personal property, whether tangible or intangible, together with all proceeds thereof.

**Status**

Current

**Particulars****Block****Additional Information**

1 The full name and address of the Debtor in Block 2 is as follows:  
AuVert Mining Group Inc.  
C/O Miller Thomson LLP  
3000, 700-9th Ave. SW  
Calgary, AB T2P 3V4

**Status**

Current

**Block****Additional Information**

2 The full name and address of the Secured Party in Block 1 is as follows:  
Capella Financial Management Limited  
c/o CW Partners  
23 Grand Rue  
1204 Geneva  
Switzerland

**Status**

Deleted By  
20122322482

**Block****Additional Information**

3 The full name and address of the Secured Party in Block 2 is as follows:  
Capella Financial Management Limited  
c/o Telluris Holdings Limited  
1610 Frank Akers Road  
Anniston, Alabama 36201

**Status**

Deleted By  
20122322482

**Block****Additional Information**

4 The full name and address of the Secured Party in Block 3 is as follows:  
Polaris Financial Management Limited  
c/o CW Partners  
23 Grand Rue  
1204 Geneva  
Switzerland

**Status**

Current By  
20122322482

Search ID #: Z13382674

<b><u>Block</u></b>	<b><u>Additional Information</u></b>	<b><u>Status</u></b>
5	The full name and address of the Secured Party in Block 4 is as follows: Polaris Financial Management Limited c/o Telluris Holdings Limited 1610 Frank Akers Road Anniston, Alabama 36201	Current By 20122322482

Search ID #: Z13382674

**Business Debtor Search For:**

AUVERT MINING GROUP INC.

Search ID #: Z13382674

Date of Search: 2020-Dec-23

Time of Search: 14:32:44

Registration Number: 19020708087

Registration Date: 2019-Feb-07

Registration Type: SECURITY AGREEMENT

Registration Status: Current

Expiry Date: 2029-Feb-07 23:59:59

Exact Match on: Debtor No: 1

Exact Match on: Debtor No: 2

**Debtor(s)**

**Block**

**Status**

1 AUVERT MINING GROUP INC.  
402086 81 STREET EAST  
ALDERSYDE, AB T0L 0A0

Current

**Block**

**Status**

2 AUVERT MINING GROUP INC.  
3000, 700-9TH AVE. SW  
CALGARY, AB T2P 3V4

Current

**Secured Party / Parties**

**Block**

**Status**

1 FERNHOPE LIMITED U.K.  
1610 FRANK AKERS ROAD  
ANNISTON, AL 36201

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 All of the Debtor's present and after-acquired personal property.

Current

**Particulars**

**Block**

**Additional Information**

**Status**

1 The full name and address of the Debtor in Block 2 is as follows:  
AuVert Mining Group Inc.  
c/o Miller Thomson LLP  
3000, 700-9th Ave. SW  
Calgary, AB T2P 3V4

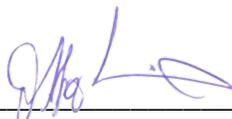
Current

**Personal Property Registry  
Search Results Report**

**Search ID #: Z13382674**

Result Complete

This is Exhibit "P" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**From:** Nicolas Feron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7B15EEEB63A64BBD8064A01E8E226C4F-NICHOLAS.FE]  
**Sent:** 2/10/2020 6:47:01 AM  
**To:** Matthew Slade [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c6ba0dfbffd4691b5455f847a477a21-matthew.sla]  
**CC:** James Slade [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=16d8c602d54248b7ac12a558ecbb0d44-mailbox1]; Jim Allen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=43c5aac928914eefa855e5bd3253d84d-jim.allen]; Nathan Medlock [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a9e8ec210a941329300aafad39e9746-Nathan.Medl]; Patrice Feron [p.feron@vergeris.com]  
**Subject:** Re: Telluris' terms for potential investors in AMG

Hi Matt,

In order to properly address your funding and loan enquiries I would need the following:

- Sonic Drill encumbrance documents with Eijelkamp
- AuVert Canada's CAD and USD monthly bank statements from Jan '18 to Jan '20
- List of all the debt held by AMG (including Auvert Canada, Colombia, Ulloa)
- QF loan documents

Thanks,

Nic

> On Feb 6, 2020, at 20:48, Matthew Slade <matthew.slade@auvert.ca> wrote:

>

> Nic,

>

> Thank you for getting those to us in writing. The only other thing discussed was the outstanding loan from Capella/Telluris and how that should be addressed.

>

> While we wait to hear back from our potential investors, have you put any thought into how to keep the company alive while we work through the due diligence process? Any comments or potential options you may have would be welcome.

>

> With the timing we have been given and assuming no stumbling blocks, we may be able to close funding by the end of March at the earliest. So funding until April will need to be secured or there won't be much to invest in.

>

> Regards,

>

> Matthew Slade

>

>

>

>

>

>>>> On Feb 3, 2020, at 8:20 PM, Nicolas Feron <nicolas.feron@auvert.ca> wrote:

>> Hi Jim,

>> The following terms have been approved by Telluris fo you to present to any potential investor:

>> - Minimum valuation for the group: CAD 25M

>> - 15M invested in AuVert equals 60% equity

>> - 20M invested 80%

>> - Royalty on the FKJ title will be waived only if all secured loans are repaid in full.

>> Are there any other pending questions?

>> Best,

>> Nicolas

>> [https://auvert.ca/images/AuVert-Mining-Group-Inc-Logo-Alt.png]

>> Nicolas Feron, Director

>> phone: (403) 630-8056 | direct:

>> AUVERT MINING GROUP

>> https://auvert.ca

>> 5940 Macleod Trail SW, Suite 519

>> Calgary, Alberta T2H 2G4 Canada

>> AUVERT COLOMBIA S.A.S.

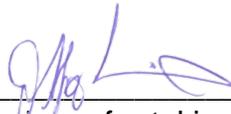
>> https://auvert.co

>> Cra 43A # 5A-113 Office 514, One Plaza Business Center

>> Medellín, Antioquia Colombia



This is Exhibit "Q" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

# MILES DAVISON LLP

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Our File No. 48154

June 15, 2020

## **PERSONAL AND CONFIDENTIAL**

### **VIA COURIER**

AuVert Mining Group Inc.  
c/o Miller Thomson LLP  
3000, 700 - 9th Avenue S.W.  
Calgary, AB T2P 3V4

AuVert Mining Group Inc.  
519, 5940 Macleod Trail SW  
Calgary, Alberta T2H 2G4

Attention: James Slade

Attention: Rhea Solis

Dear Madam/Sir:

**Re: Polaris Financial Management Limited (formerly known as Capella Financial Management Limited ("Polaris")) and AuVert Mining Group Inc. (the "Borrower")**

We are counsel for Polaris in connection with various loans made to the Borrower by Polaris and loans assigned by Fernhope Limited UK ("**Fernhope**") to Polaris.

As at May 15, 2020, the Borrower is indebted to Polaris in the amount of \$2,822,359.34, plus interest thereafter at the rates set out in the following Promissory Notes provided by the Borrower as follows, namely:

1. Promissory Note dated October 29, 2018 and Amendment to Promissory Note dated February 27, 2019, in the principal sum of \$380,000.00 (USD), plus interest as therein provided, made payable to Fernhope and assigned to Polaris (the "**First Fernhope Promissory Note**");
2. Promissory Note dated November 19, 2018 and Amendment to Promissory Note dated February 27, 2019, in the principal amount of \$100,000.00 (USD), plus interest therein provided, made payable to Fernhope and assigned to Polaris (the "**Second Fernhope Promissory Note**");

3. Promissory Note dated December 7, 2018 in the principal amount of \$1,500,000.00, plus interest as provided therein, as amended by an Amendment to Promissory Note dated April 26, 2019, pursuant to which the amount loaned to the Borrower and for which the Borrower acknowledged itself indebtedness and promised to pay was increased and advanced to the Borrower by \$250,000.00 to \$1,750,000.00 plus interest as provided therein, all of which is payable to Polaris; (the "**First Polaris Promissory Note**");

The First and Second Fernhope Promissory Notes matured on April 20, 2019. The Borrower has defaulted in paying the principal amounts owing and interest accruing thereon and demand is made upon the Borrower to pay all such amounts to Polaris.

Pursuant to the First Polaris Promissory Note, interest was due and payable to Polaris on December 7, 2019. The Borrower is in default in paying interest when due and an event of default (as therein provided) has occurred by the Borrower failing to cure the default within 60 days thereof (February 7, 2020) and as a result, all principal, interest and accruing interest became due and payable to Polaris without notice or demand, at the option of Polaris, which option Polaris has exercised.

As security for payment on the foregoing loans, the Borrower has provided the following to Polaris or the following has been duly assigned to Polaris, namely:

1. General Security Agreement dated October 29, 2018, as assigned to Polaris; and
2. General Security Agreement dated December 7, 2018 and Amendment to General Security Agreement dated April 26, 2019.

The amounts due and payable to Polaris in respect of the foregoing loans and promissory notes as at May 15, 2020 is \$2,822,359.34. Polaris demands the Borrower pay this amount, plus all interest due and payable thereafter. Polaris is also entitled to recover and hereby demands payment of its legal costs on a solicitor and its own client basis, as provided for in the referenced promissory notes, the security agreements and other documents executed by the Borrower. Polaris will exercise such rights as it may have under the referenced security and in law, to enforce recovery of the foregoing indebtedness.

In addition to the foregoing, the Borrower is further indebted to Polaris in respect of additional loans, as evidenced by the following promissory notes, namely:

1. Promissory Note dated June 3, 2019 in the principal amount of \$140,000.00, plus interest thereon in the amount of \$21,000.00 as therein provided, all of which was due and payable on June 3, 2020 to Polaris (the "**Second Polaris Promissory Note**");
2. Promissory Note dated June 3, 2019 in the principal amount of 54,000,000.00 Colombian Pesos (COP), plus interest thereon in the amount of 8,100,000 COP, all of which was due and payable on June 3, 2020 to Polaris; (the "**Third Polaris Promissory Note**"); and
3. Promissory Note dated June 14, 2019 in the principal amount of 340,000,000.00 COP, plus interest thereon in the amount of 51,000,000 COP, all of which was due and payable on June 14, 2020 to Polaris; (the "**Fourth Polaris Promissory Note**").

The amount outstanding on the Second, Third and Fourth Polaris Promissory Notes is \$325,116.00 (after converting the indebtedness to CDN) as of the due dates referenced above, plus further interest thereon as provided in these promissory notes.

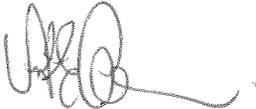
Notice is hereby given to you pursuant to the Second, Third and Fourth Polaris Promissory Notes that the indebtedness owing in respect of these promissory notes is now due and payable and you have failed to pay the outstanding indebtedness, obligating you to cure your default by paying the full amount of the outstanding indebtedness no later than 30 days from this notice.

Attached hereto is a Notice of Intention to Enforce Security addressed to the Borrower.

Please govern yourself accordingly.

Yours truly,

**MILES DAVISON LLP**



Sean T. FitzGerald  
STF:ts  
Encl.  
E. & O. E.

**NOTICE OF INTENTION TO ENFORCE SECURITY**

**(subsection 244(1) of the Bankruptcy and Insolvency Act)**

TO: AUVERT MINING GROUP INC.

insolvent person

TAKE NOTICE that:

1. Polaris Financial Management Limited, a secured creditor, intends to enforce its security on the insolvent person's property charged by the insolvent person pursuant to the Security.
2. The Security that is to be enforced is:
  - (a) General Security Agreement dated October 29, 2018; and
  - (b) General Security Agreement dated December 7, 2018.
3. The total amount of the indebtedness secured by the Security is \$3,147,475.34 plus further interest thereon and costs.
4. The secured creditor will not have the right to enforce the Security until the expiration of the 10-day period after this notice is sent unless the insolvent person consents to an earlier enforcement.

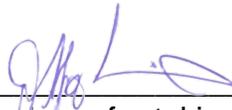
DATED at Calgary, Alberta this 15th day of June, 2020.

POLARIS FINANCIAL MANAGEMENT LIMITED,  
by its solicitors and agents MILES DAVISON LLP

Per:

  
\_\_\_\_\_  
Sean T. FitzGerald

This is Exhibit "R" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**Form 10**  
[Rule 3.25]

COURT FILE NUMBER      ~~2001-~~ 2001 13883

COURT                      COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE        CALGARY

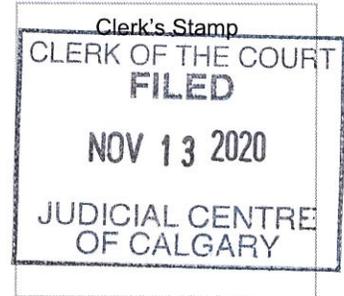
PLAINTIFFS                POLARIS FINANCIAL MANAGEMENT LIMITED and TELLURIS HOLDINGS LTD.

DEFENDANTS              AUVERT MINING GROUP INC., QUINCY FROST INVESTMENTS INC., AUVERT COLOMBIA S.A.S., ULLOA RECURSOS NATURALES S.A., MATTHEW SLADE, JAMES SLADE, MILTON COX and ANDEAN MINING S.A.S.

DOCUMENT                **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT                      **McMillan LLP**  
#1700, 421 – 7<sup>th</sup> Ave SW  
Calgary, AB T2P 4K9

**Attention:        Jeffrey Levine/Preet Saini**  
Telephone:        (416) 865.7791/ (403) 531.4716  
Fax:                (403) 531.4720  
Email:              jeffrey.levine@mcmillan.ca/  
preet.saini@mcmillan.ca  
File No.            277148



**NOTICE TO DEFENDANTS**

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

**Statement of facts relied on:**

**I. The Parties**

1. The plaintiff, Telluris Holdings Limited (“**Telluris**”) is an English limited company.
2. Telluris owns 49% of the voting shares of the defendant, AuVert Mining Group Inc. (“**AuVert**”).

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3. The plaintiff, Polaris Financial Management Limited (formerly Capella Financial Management Limited, “**Polaris**”) is a British Virgin Islands corporation.
4. Polaris is AuVert’s senior secured creditor.
5. AuVert is an Alberta corporation. Until recently, AuVert’s principal assets were shares in two Colombian mining companies, the defendants AuVert Colombia S.A.S. (“**AuVert Colombia**”) and Ulloa Recursos Naturales S.A.S. (“**Ulloa**” and together with AuVert Colombia, the “**Colombian Subsidiaries**”).
6. The defendant, Quincy Frost Investments Inc. (“**Quincy Frost**”) is an Alberta corporation.
7. Quincy Frost owns 51% of the shares of AuVert.
8. The individual defendants, James and Matthew Slade (the “**Slades**”), and Milton Cox, are all Quincy Frost shareholders and are members of the board of directors of AuVert, being the nominees of Quincy Frost.
9. The defendant Andean Mining S.A.S. (“**Andean Mining**”) is a Quincy Frost subsidiary and recently purported to purchase all of the shares of AuVert Colombia and Ulloa from AuVert.

## II. Overview

10. Quincy Frost has looted AuVert.
11. James Slade (“**Mr. Slade**”), Matthew Slade and Milton Cox have caused AuVert to sell all of its material assets to Andean Mining, another corporation they control. Nothing has been paid by Andean Mining to AuVert.
12. They have caused such sale in flagrant and intentional breach of AuVert’s contractual obligations to Telluris and Polaris and in breach of the Alberta *Business Corporations Act* (“**BCA**”) by which AuVert is bound.
13. They engineered the sale to thwart Polaris’ rights to enforce on its collateral, and to enable their further covert dealings with AuVert’s material assets and avoid any further responsibility to report and account to AuVert’s stakeholders, specifically Telluris.
14. AuVert is now a worthless shell solely because of the wrongdoing of the Slades and Milton Cox.
15. Through this action, Telluris and Polaris seek to return to AuVert the assets that should remain with AuVert for the benefit of all of its stakeholders in accordance with law and the contractual obligations of AuVert and Quincy Frost.

### III. James Slade Solicits and Obtains Investment in a Joint Venture to Exploit his Mining Technology

16. James Slade represented himself as an alluvial mining expert and purported to have developed advanced alluvial mining technology he wished to leverage on mining properties in Colombia. Alluvial mining is the mining of stream beds for mineral deposits.
17. In March, 2017, Mr. Slade met with representatives of Fernhope Limited U.K. (“**Fernhope**”), an English limited company. After initial discussions, James Slade presented his business plan for mine development in Colombia to Fernhope in May, 2017.
18. The business plan called for a USD\$10 million investment. Mr. Slade assured Fernhope that this investment would be sufficient to purchase all of the components necessary to build an alluvial gold mining plant in Colombia, and to start generating revenue from the completed plant within six months. The investment would also be sufficient, according to Mr. Slade, to cover further operating expenses after commissioning the plant.
19. Fernhope agreed to support Mr. Slade’s business plan through a joint venture. For a 49% interest in the venture, Fernhope would provide, on its own or through an affiliated entity, an equity investment commitment of USD\$10 million to be advanced in several tranches.
20. James Slade accepted Fernhope’s support for the joint venture in exchange for contributing the achievements of his developments to that point, and ongoing technical expertise and project management and leadership. James Slade became the joint venture’s CEO.
21. Fernhope started advancing funds to the joint venture in June 2017. Fernhope delivered the funding to Quincy Frost as loans evidenced by promissory notes and secured by a general security agreement. Fernhope loaned at total of USD\$4,750,000 to the joint venture in this manner through to January, 2018 at which time the parties formalized the joint venture through a subscription and shareholders’ agreement (the “**First Shareholders’ Agreement**”) among Telluris, Quincy Frost and AuVert Mining Group Limited (“**AuVert UK**”), an English limited company.
22. Further to the First Shareholders’ Agreement and related transactions, Fernhope assigned to Telluris Fernhope’s rights under its loans to Quincy Frost, and Telluris agreed to release Quincy Frost from its obligations on account of such loans in exchange for a 49% interest in the joint venture company, AuVert UK. Quincy Frost held 51% of AuVert UK.
23. Through February to May of 2018, Telluris advanced the balance of Fernhope’s USD\$10 million equity commitment to AuVert UK.
24. With Fernhope’s and Telluris’ funding, throughout 2017 and into 2018 the joint venture purchased, among other things:
  - a. approximately USD\$7 millions in equipment necessary to construct a mining plant in Colombia;

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- b. mining rights to several properties in Colombia to provide material for the plant to process; and
  - c. a hi-tech CAD\$1 million sonic drill.
25. In addition, Mr. Slade incorporated an Alberta company, 2158616 Alberta Inc. (“**Holdco**”), to hold the shares in newly incorporated AuVert. Title to the mining rights in Colombia were secured directly by the Colombian Subsidiaries, the shares of which AuVert wholly owned.
26. All of these material purchases and corporate structures were made with Fernhope’s and then Telluris’ knowledge and prior consent. AuVert UK’s obligation to advise Fernhope and then Telluris of such matters and to seek consent for such matters was within Fernhope’s and Telluris’ reasonable expectations. Indeed, the First Shareholders’ Agreement precluded Quincy Frost and AuVert UK from taking any action set out in a list of reserved matters without Telluris’ prior written consent. The list of reserved matters included the following:
- a. The sale or disposal of any material part of the business or assets of AuVert UK;
  - b. The creation of any encumbrance over any asset of AuVert UK;
  - c. AuVert UK establishing any new subsidiary whether inside or outside the UK;
  - d. Except as already agreed, any single expenditure in excess of USD\$250,000 or cumulative expenditure in a year in excess of USD\$1 million; and
  - e. Except as already agreed, any borrowings in excess of USD\$250,000.
27. Though Telluris made good on its commitments set out in the First Shareholders’ Agreement, Mr. Slade struggled to execute on his plan. The mining plant was supposed to have been up and running by the summer of 2018, but mismanagement caused delays.
28. In the meantime, the joint venture was nearly out of funds.

#### **IV. AuVert Requires Multiple Injections of Additional Funds**

29. By October of 2018, Mr. Slade finally obtained for the joint venture all of the parts necessary to build the plant. The parts were stored in a Colombian port.
30. Mr. Slade sought out additional investors to fund the joint venture in the longer term. In the short term, however, the joint venture needed funding immediately to move the mining plant parts from port to the mining property for construction and commissioning so that the Colombian Subsidiaries could start processing material.
31. Mr. Slade relied on Telluris for these immediate funds.

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32. Telluris arranged with Fernhope to loan USD\$380,000 to AuVert evidenced by a promissory note made by AuVert dated October 29, 2018 (the “**First Fernhope Loan**”). The First Fernhope Loan had an outside maturity date of February 26, 2019.
33. Fernhope then loaned a further USD\$100,000 to AuVert evidenced by a promissory note made by AuVert dated November 19, 2018 (the “**Second Fernhope Loan**”). The Second Fernhope Loan had an outside maturity date of March 19, 2019.
34. The First and Second Fernhope Loans were secured by a general security agreement over AuVert’s assets dated October 29, 2018 (the “**Fernhope GSA**”).
35. Within weeks, through Mr. Slade’s reporting to Telluris, Telluris learned that notwithstanding Mr. Slade’s assurances, the proceeds of the First and Second Fernhope Loans were not sufficient to complete the commissioning of the mining plant. More money was required.

#### V. The Joint Venture Partners Memorialize their Go-Forward Plan

36. Mr. Slade again called upon Telluris to procure additional funds. This time, Telluris obtained additional funding for the joint venture from a company affiliated with Fernhope’s principals, Capella Financial Management Limited (“**Capella**”), a British Virgin Islands company.
37. Capella loaned CAD\$1,500,000 to AuVert evidenced by a promissory note made by AuVert dated December 7, 2018 (the “**First Capella Loan**”). The First Capella Loan matured on the earlier of AuVert attracting outside investment of at least CAD\$5 million on December 7, 2021.
38. The First Capella Loan was secured by a general security agreement over AuVert’s assets dated December 7, 2018 (the “**Capella GSA**”).
39. The purpose of the proceeds of the First Capella Loan was two-fold: (1) to fund the commissioning of the mining plant in Colombia; and (2) to repay the First and Second Fernhope Loans that were intended to bridge the gap in the joint venture’s funding needs.
40. Since a material component of the First Capella Loan would be directed to the Colombian Subsidiaries, Mr. Slade agreed that Capella should be granted a security interest in the assets of the Colombian Subsidiaries. He also agreed that the proceeds of the First Capella Loan should be used to satisfy the First and Second Fernhopes Loans and that all these measures ought to be taken and documented by an outside date of December 31, 2018 (the “**Outside Documentation Date**”), and that Mr. Slade would cause all necessary action to be taken for these measures to be implemented.
41. Fernhope, Telluris, Capella, AuVert UK and AuVert entered a side agreement (the “**Side Agreement**”) to memorialize the foregoing terms on December 7, 2018, contemporaneous with the First Capella Loan and the Capella GSA.
42. Also in December, 2018, the parties decided to consolidate the corporate structure of the joint venture. In furtherance of this consolidation:

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- a. Telluris and Quincy Frost sold their shares in AuVert UK to Holdco in exchange for a pro rata interest in Holdco pursuant to a share exchange agreement dated December 31, 2018;
  - b. On December 31, 2018 Telluris, Quincy Frost and Holdco entered a unanimous shareholders' agreement (the "**AuVert Shareholders' Agreement**"); and
  - c. On January 1, 2019, Holdco and AuVert amalgamated and continued as AuVert.
43. In the result, and as described above, Telluris held 49% of the common shares in AuVert and Quincy Frost held 51% of the common shares in AuVert. In accordance with the AuVert Shareholders' Agreement, the five member board of directors for AuVert (the "**Board**") included three Quincy Frost nominee representatives and two Telluris nominee representatives. Also, the AuVert Shareholders' Agreement incorporated substantially the same list of activities that AuVert could pursue only with prior knowledge of and prior written consent of Telluris as described in paragraph 26, above.

**VI. Mr. Slade Fails to Execute on AuVert's Business Plan Notwithstanding Misplaced Trust from Telluris and Capella**

44. Following the corporate consolidation and execution of the AuVert Shareholders' Agreement, on January 1, 2019, the parties agreed to extend the Outside Documentation Date to January 31, 2019. Telluris, Fernhope, Capella and AuVert agreed to the extension because:
- a. Mr. Slade had still not found additional financing that he had been looking for since at least the fall of 2018; and
  - b. Mr. Slade told Telluris, Fernhope and Capella that all of the money Capella had advanced was necessary to commission the plant in Colombia and as such, the first and second Fernhope Loans could not yet be satisfied.
45. The extension requested by Mr. Slade was for only one month, because Mr. Slade assured Telluris, Fernhope and Capella that additional financing from a third party was imminent.
46. Mr. Slade's representation of imminent funding turned out to be entirely false. The extended Outside Documentation Date came and went without payment of the First and Second Fernhope Loans, and without the registration of any security interest for Capella in the assets of the Colombian Subsidiaries.
47. When the First Fernhope Loan matured on February 26, 2019, Mr. Slade said that AuVert could still not afford to repay Fernhope. Moreover, Mr. Slade informed Capella that if Capella registered a first ranking security interest in the assets of the Colombian Subsidiaries, the registration would undermine his efforts to secure additional financing that he had purportedly been pursuing for months.
48. At the time, Mr. Slade again assured Telluris, Fernhope and Capella that the mining plant, the parts for which had now been transported from the port to one of the mining properties which the

Colombian Subsidiaries owned, was on the brink of being commissioned. Based upon Mr. Slade's assurances, Telluris, Fernhope and Capella hesitated in enforcing their rights under the Side Agreement to avoid any distraction for Mr. Slade at what was represented by Mr. Slade as being a critical time.

49. Instead, the parties to the Side Agreement entered a further agreement on February 27, 2019 extending the date for AuVert's repayment of the First and Second Fernhope Loans to April 20, 2019.
50. Despite Mr. Slade's continuing assurances that the Colombian Subsidiaries were just days away from commissioning the plant, it never happened. In addition, Mr. Slade had still been unsuccessful in attracting further investment to AuVert and once again called upon Telluris to secure additional funding.
51. Notwithstanding Mr. Slade's challenges in having the plant in Colombia commissioned, Telluris still trusted Mr. Slade.
52. As a further demonstration of that trust, on April 26, 2019, in response to requests from Mr. Slade and AuVert for additional funds, Telluris procured from Capella a further advance of CAD\$250,000 in consideration of an amendment to the promissory note evidencing the First Capella Loan. Mr. Slade assured Telluris and Capella that he would secure investment from new sources imminently.
53. On May 21, 2019, Capella took an assignment, with AuVert's consent on June 3, 2019, of the First and Second Fernhope Loans.
54. Though Capella's patience was running thin, with further assurances from Mr. Slade as to imminent commissioning of the plant, on June 3, 2019, Capella advanced CAD\$140,000 and 54,000,000 in Colombian Pesos to AuVert evidenced by promissory notes maturing June 3, 2020 (the "**Second Capella Loan**").
55. On June 14, 2019, Capella advanced an additional 340,000,000 Colombian Pesos to AuVert evidenced by yet another promissory note maturing June 14, 2020 (the "**Third Capella Loan**").
56. Accordingly, as of June 14, 2019, AuVert owed Capella principal amounts of USD\$480,000, CAD\$1,890,000 and 394,000,000 Colombian Pesos (about CAD\$140,000).
57. Such loan amounts were secured by AuVert's assets, including its shares in the Colombian Subsidiaries. However, in order to put Mr. Slade in the best position possible, according to him, to attract additional investment in AuVert, including financing to take out Capella's position, Capella refrained from registering any security interest in Colombia directly over the assets of the Colombian Subsidiaries notwithstanding that it was contractually entitled to do so.

**VII. Mr. Slade Begins Secretly Selling off AuVert's Assets, then Halts Updates of Substance**

58. As described above, Telluris procured for AuVert millions of dollars in loans from Fernhope and Capella between October, 2018 and June 2019. By June of 2019, however, Telluris had a heightened degree of scepticism concerning AuVert's and Mr. Slade's ability to execute in any kind of timely manner on Mr. Slade's plan which seemed to depend upon a seemingly endless stream of funds from Telluris' affiliates.
59. It turns out that Telluris' scepticism ought not to have been limited to Mr. Slade's ability to execute on his plan. Telluris should also have been sceptical as to whether its trust in Mr. Slade to act honestly was well-placed.
60. Rather than being honest with Telluris about AuVert's funding requirements, Mr. Slade kept from Telluris just how much funding was needed to commission the plant in Colombia. On June 26, 2019 Mr. Slade secretly sold for a mere USD\$250,000 the sonic drill that the enterprise had purchased just a year earlier for CAD\$1 million. He sold the sonic drill improvidently in an effort to avoid yet more embarrassment about just how wrong his original business plan had been. He hoped that an additional USD\$250,000 would be enough to have the plant commissioned.
61. Of course, had Telluris and Capella not accepted Mr. Slade's assertions that all of the Colombian Subsidiaries assets had to remain unencumbered to generate new investment, Capella would have had a registered security interest in the sonic drill, and Mr. Slade could not have caused the Colombian Subsidiaries to sell it. Instead, the extra USD\$250,000 had no material impact on AuVert's success, and the sale of the sonic drill reduced assets from which Capella might eventually be able to recover on its loans.
62. Ignorant of Mr. Slade's secret dealings, after June, 2019 Capella decided it would not advance any additional funds irrespective of further requests from Telluris.
63. Since Telluris was not prepared to procure additional funds for AuVert, Mr. Slade continued to seek out new investors for AuVert. The hunt for new investment was not yielding any results for Mr. Slade, however, so he continued to secretly sell off the Colombian Subsidiaries' mining equipment to cover short term cash needs.
64. Without even telling the Board, Mr. Slade sold a virtually brand new CAD\$465,000 bulldozer belonging to AuVert Colombia for 640,000,000 Colombian Pesos (about CAD\$220,000) on October 1, 2019, and then sold a brand new CAD\$180,000 excavator for 260,000,000 Colombian Pesos (about CAD\$90,000) on October 22, 2019. In each case, Mr. Slade sold the equipment at less than half of the original purchase price.
65. On December 10, 2019, Capella changed its name to Polaris.
66. On December 19, 2019, Mr. Slade told the Board that AuVert had been presented with a verbal offer of CAD\$15,000,000 for an 80% equity stake in AuVert. The funds were to be used, in part, to repay 100% of AuVert's outstanding debt.

67. Mr. Feron wrote to Mr. Slade, asking that Mr. Slade pursue the offer and that the Board could discuss and review the offer once it was made formally.
68. However, no formal offer ever arrived.
69. Instead, Mr. Slade thereafter intentionally avoided regular communications with the Board about material developments concerning AuVert or the Colombian Subsidiaries.
70. Mr. Feron asked Mr. Slade on numerous occasions for the 2019 AuVert financials, but they were never provided.
71. In one specific instance at the end of January, 2020, Mr. Slade did not provide the financials that Mr. Feron requested, because Mr. Slade was busy stripping the Colombian Subsidiaries of their assets, secretly selling more of the venture's equipment. He sold a truck AuVert Colombia purchased new for CAD\$62,000 for 92,000 Colombian Pesos (about CAD\$32,000) on January 22, 2020 without telling the Board and again for an amount that was less than half of the original purchase price of the equipment.
72. Mr. Feron continued to ask for updates through February, 2020. In response to one specific request for updates made February 19, 2020, Mr. Slade wrote that he no longer had legal and accounting support, but Mr. Feron explained that he was looking simply for copies of monthly bank statements and lists of accruals and creditors that would normally be compiled for management purposes, for the Board, and to present to potential investors. Such requests did not require legal or accounting support for them to be satisfied by Mr. Slade.
73. Mr. Slade's only response was to provide a single AuVert bank statement from June, 2019 showing the receipt of funds for the sonic drill sale. No other information was provided.

**VIII. In Secret, James Slade, Matthew Slade and Milton Cox, and Quincy Frost, Conspire and Cause AuVert to Breach its Contractual and Statutory Obligations**

74. With AuVert requiring yet more funds to try and commission the plant, Mr. Slade became increasingly desperate. Through sources never disclosed to Telluris or Polaris, Mr. Slade purportedly found USD\$1,250,000 in financing for Quincy Frost in May, 2020. Mr. Slade and Quincy Frost were not, however, prepared to advance the funds to AuVert or the Colombian Subsidiaries on terms comparable to the favourable terms on which Capella had advanced millions of dollars to AuVert. In short, Mr. Slade and Quincy Frost wanted more protection for themselves than they were prepared to give Polaris.
75. Accordingly, Mr. Slade caused AuVert Colombia to purport to accept USD\$1,250,000 from Quincy Frost in exchange for the future delivery of 1,000 ounces of gold and a first-ranking security interest in the assets of AuVert Colombia (the "**Gold Purchase**") registered May 19, 2020.
76. Mr. Slade and Quincy Frost knew that Telluris and Polaris would not consent to such an arrangement. The Gold Purchase breached section 4.1(f) of the Fernhope GSA and the Capella GSA, and section 2.6(a)(viii) of the AuVert Shareholders' Agreement. Moreover, the sale was

made undervalue, and, according to Mr. Slade's own words, impaired AuVert's ability to attract new, much-needed investment. Recall that Polaris wished to have a security interest registered against the assets of the Colombian Subsidiaries, but Mr. Slade refused because the registration would deter new investors. Now he permitted such a registration, but only for Quincy Frost's, and therefore his own, benefit.

77. Since he knew Telluris and Polaris would not approve of his self-serving arrangement, Mr. Slade decided not to report the Gold Purchase to the Auvert Board. He kept the Gold Purchase a secret, notwithstanding the impact that its terms had on Capella's security and Telluris' interest in AuVert.
78. Mr. Slade has never caused AuVert to account for the USD\$1,250,000 Quincy Frost is purported to have advanced.
79. On June 14, 2020, certain of the Capella Loans matured and the First Capella Loan was in default for failure to make an interest payment in December, 2019. At that time, it had been four months since any material information about AuVert or the Colombian Subsidiaries had been distributed to the Board or AuVert shareholders. Mr. Slade had:
  - a. stopped communicating with the Board or Telluris in any meaningful way;
  - b. surreptitiously and improvidently liquidated material pieces of equipment belonging to the Colombian Subsidiaries; and
  - c. without Board approval or consultation with AuVert's senior secured creditor, encumbered the assets of the Colombian Subsidiaries for Quincy Frost's and ultimately his own benefit.

**A. Polaris Delivers a Notice of Intention to Enforce its Security**

80. On June 15, 2020, Polaris, served on AuVert a demand letter (the "**Demand Letter**") in respect of all of the indebtedness then due and owing to Polaris, and a notice of intention to enforce on security under section 244 of the *Bankruptcy and Insolvency Act* (Canada).
81. In response to the Demand Letter, Mr. Slade purported to call a Board meeting on June 23, 2020. He did so, however, without notice to Messrs. Feron or Jim Allen, Telluris' representatives on the Board.
82. Mr. Slade alleges that he sent notice of the Board meeting to Mr. Feron and Mr. Allen's AuVert email addresses. Before purporting to provide notice in that manner, however, Mr. Slade terminated Mr. Feron's and Mr. Allen's access to email received at those addresses. Mr. Slade therefore knew that his purported notice would not and could not be received by Mr. Feron or Mr. Allen at all.
83. Even if Mr. Slade inadvertently cancelled Mr. Feron's and Mr. Allen's access to their AuVert email accounts, when he did not hear from either of them regarding the June 23, 2020 Board meeting, he could easily have notified Mr. Feron and Mr. Allen of the Board meeting in a variety of other ways. For example, the Board had a history of communicating by phone, text message or email message

to other email addresses for Mr. Feron and Mr. Allen of which Mr. Slade was aware. Mr. Slade chose not to, however, because he did not want to have to account to the Board for all of his secret improvident dealings described above.

84. Accordingly, the meeting on June 23, 2020 proceeded with only Quincy Frost representatives on the Board present. Those representatives were: James Slade, Matthew Slade and Nathan Medlock. Counsel to AuVert and Quincy Frost, Rhea Solis, who also served as AuVert's Secretary, and AuVert's CFO, Swapan Kakumanu, also attended the meeting.
85. Ms. Solis attended the meeting as Secretary, not in her capacity as counsel to AuVert. She offered no legal advice at the meeting.
86. At the June 23 meeting of Quincy Frost representatives on the Board, James Slade recognized that AuVert was insolvent. However, the Board members in attendance resolved to pursue forbearance discussions with Polaris rather than filing a notice of intention to make a proposal in bankruptcy. They knew and were concerned that filing a notice of intention to make a proposal in bankruptcy would cause an impartial licensed insolvency trustee serving as a proposal trustee to review:
  - a. Mr. Slade's secret improvident sell-off of equipment; and
  - b. Improper security registrations in favour of Quincy Frost.
87. Following the June 23 meeting, AuVert engaged through counsel with Polaris on terms of Polaris' forbearance from efforts to enforce on its security. Through counsel, Polaris set out for AuVert general proposed terms of Polaris' forbearance on June 25, 2020.
88. Counsel for AuVert responded on July 6, 2020, requesting additional particulars of the terms of forbearance.

#### **B. The Quincy Frost Board Representatives Strip AuVert of its Assets**

89. While counsel for Polaris and AuVert exchanged messages about the terms of Polaris' forbearance, on July 7, 2020 Mr. Slade purported to hold another meeting of the Board.
90. Again, he provided notice of the meeting to Quincy Frost board representatives but not to the Telluris representatives. Since Mr. Medlock had resigned his seat on the Board after the June 23, 2020 meeting, the Quincy Frost representatives attending the July 7, 2020 meeting were James Slade, Matthew Slade and Milton Cox (the "**Quincy Frost Board Representatives**").
91. Counsel to AuVert and Quincy Frost, Rhea Solis, who also served as AuVert's Secretary, and AuVert's CFO, Swapan Kakumanu, also attended the July 7, 2020 meeting.
92. Ms. Solis attended the meeting as Secretary, not in her capacity as counsel to AuVert. Again, she offered no legal advice at the meeting.

93. Notwithstanding AuVert's obvious insolvency, and notwithstanding AuVert's ongoing forbearance discussions with counsel for Polaris, the Quincy Frost Board Representatives resolved that AuVert sell the shares of the Colombian Subsidiaries to a Quincy Frost subsidiary, Andean Mining for CAD\$5,000,000. However, the Quincy Frost Board Representatives resolved in favour of the sale of the Colombian Subsidiaries even though:
- a. the sale agreement required no payment to AuVert for its interests in the Colombian Subsidiaries on closing;
  - b. they knew Andean Mining had no means of ever paying the CAD\$5,000,000 purchase price;
  - c. AuVert had not taken any steps at all to canvas the market for an interested buyer, and test whether the purchase price was the best available;
  - d. they purported to determine that CAD\$5,000,000 was a fair price for the Colombian Subsidiaries on the basis of advice from James Slade, not any independent expert valuator. James Slade, in turn, assessed the value of the Colombian Subsidiaries based on a single valuation prepared in Spanish. Mr. Slade did not share the valuation with the other Quincy Frost Board Representatives, and the party preparing the valuation was not made available to the Quincy Frost Board Representatives to answer any questions about the valuation and its limitations; and
  - e. they did not have the benefit of any legal advice with respect to their fiduciary duties as directors of AuVert to act in the best interests of AuVert and to consider the interests of all of AuVert's stakeholders before resolving to proceed with the sale.
94. Accordingly, the Quincy Frost Board Representatives could not have acted in the best interests of AuVert in deciding to approve the sale of the Colombian Subsidiaries to Andean Mining, and they do not have the benefit of the business judgment rule as a defence to their conduct because the decision to sell the Colombian Subsidiaries to Andean Mining was not a reasonable one in the circumstances.

**C. The Colombian Subsidiaries' Sale Breached AuVert's Contractual and Statutory Obligations and Telluris' and Polaris' Reasonable Expectations**

95. AuVert's sale of the Colombian Subsidiaries breached multiple agreements by which AuVert is bound, and also breached the provisions of the Alberta *Business Corporations Act* (the "BCA").
96. Section 190(1) of the BCA provides that a sale of all or substantially all of the property of a corporation other than in the ordinary course of business of the corporation requires the approval of the shareholders by special resolution. AuVert's sale of the Colombian Subsidiaries was a sale to which section 190(1) of the BCA applied. AuVert nevertheless carried out the sale without any shareholder resolution at all, let alone a special resolution, as required by the BCA.

97. Section 4.1(i) of both the Fernhope GSA and the Capella GSA provide that AuVert agrees that it will: “not sell, dispose of, assign, convey or otherwise transfer any of the Collateral, or any rights thereunder.” As described above, Fernhope’s rights under its respective GSA and as a secured creditor of AuVert were assigned to Capella, now Polaris. Accordingly, AuVert’s sale of the Colombian Subsidiaries breached Polaris’ rights as a secured creditor of AuVert.
98. Section 2.6(a)(iii) of the AuVert Shareholders Agreement required that the “sale or disposal of any material part of the business or assets of [AuVert]” be approved in advance by Telluris in writing. AuVert’s sale of the Colombian Subsidiaries was never even brought to Telluris’ attention before it was carried out. Accordingly, Telluris did not even have the opportunity to consider and approve of the sale. Therefore, AuVert’s sale of the Colombian Subsidiaries was also an intentional and serious breach of the AuVert Shareholders’ Agreement.
99. AuVert is a closely held company. Until June, 2019, AuVert’s two shareholders were kept regularly apprised of, and consulted on, all major decisions for the company before they were made. Information flowed to shareholders through their Board nominees.
100. For its part, Telluris reasonably expected that this practice of being consulted on major decisions for AuVert would continue uninterrupted. Such expectations were memorialized at the outset of the joint venture in the First Shareholders Agreement, then carried through to the AuVert Shareholders’ Agreement. AuVert, and more particularly, Quincy Frost and the Quincy Frost Board Representatives, breached those expectations by carrying out the sale of the Colombian Subsidiaries in breach of the express requirements of the AuVert Shareholders’ Agreement and the BCA, and in breach of Telluris’ reasonable expectations developed through consistent prior dealings with Quincy Frost and the Quincy Frost Board Representatives.
101. Quincy Frost and the Quincy Frost Board Representatives also breached Polaris’ reasonable expectations that they would not permit AuVert to breach its obligations under the Fernhope and Capella GSAs.
102. The Quincy Frost Board Representatives, led by Mr. Slade, intentionally caused AuVert to breach its agreements with Telluris and Polaris, and to breach the BCA, because they wished to safeguard Quincy Frost’s interests, and therefore their own personal interests, without regard whatsoever for the interests of AuVert and its other major stakeholders.

**Remedy sought:**

103. The Plaintiffs seek:
- a. A declaration that the defendants, in respect of AuVert, have: (i) acted; (ii) conducted the business or affairs of AuVert, the Colombian Subsidiaries and Quincy Frost; and (iii) exercised the powers of the directors of AuVert, in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of Polaris and Telluris;

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- b. An order for an accounting of any funds AuVert has obtained as a result of the Gold Sale, and for disgorgement to AuVert of any such funds and any other funds paid to Quincy Frost or to the Quincy Frost Board Representatives or on their behalf;
- c. An order setting aside the sale of the Colombian Subsidiaries to Andean Mining and directing AuVert to cause the Colombian Subsidiaries to produce their share registers showing that AuVert owns all of the shares in the Colombian Subsidiaries;
- d. An order setting aside the Gold Sale;
- e. An interim and final order restraining AuVert and the Quincy Frost Board Representatives from transacting the affairs of AuVert without the prior written consent of Telluris or further order of this court;
- f. An interim order restraining the Quincy Frost Board Representatives from taking any steps that would cause Andean Mining to transact in any way with its shares of the Colombian Subsidiaries or permit any encumbrance on the shares or the assets of the Colombian Subsidiaries;
- g. An interim order that AuVert not pay for any legal fees of Quincy Frost or the Quincy Frost Board Representatives incurred in connection with their response to this action; and
- h. Costs of this action.

**NOTICE TO THE DEFENDANTS**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.

COURT FILE NUMBER 2001-13883

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFFS POLARIS FINANCIAL MANAGEMENT LIMITED and TELLURIS HOLDINGS LTD.

DEFENDANTS AUVERT MINING GROUP INC., QUINCY FROST INVESTMENTS INC., AUVERT COLOMBIA S.A.S., ULLOA RECURSOS NATURALES S.A., MATTHEW SLADE, JAMES SLADE, MILTON COX and ANDEAN MINING S.A.S.

DOCUMENT **STATEMENT OF DEFENCE**

PARTIES FILING THIS DOCUMENT AUVERT MINING GROUP INC. and QUINCY FROST INVESTMENTS INC.

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Miller Thomson LLP  
Barristers and Solicitors  
3000, 700 – 9<sup>th</sup> Avenue SW  
Calgary, AB T2P 3V4  
Phone: 403.298.3437 Fax: 403.262.0007

Attention: Patrick Fitzpatrick  
Email: pfitzpatrick@millerthomson.com  
File No.: 0257169.0001



**Statement of facts relied on:**

**Introduction and Overview**

1. The Defendants, AuVert Mining Group Inc. ("**AuVert**") and Quincy Frost Investments Inc. ("**Quincy Frost**") deny each of the allegations made in the Statement of Claim in this action (the "**Statement of Claim**"), except to the extent those allegations are expressly admitted or pleaded in this Statement of Defence. AuVert and Quincy Frost further deny that the Plaintiffs are entitled to any relief as against AuVert or Quincy Frost, as pleaded or at all.
2. The Statement of Claim in this action is an abuse of the process of this Court. It is replete with embellishment, speculation, conjecture, and concocted fiction, presented by

the Plaintiffs in the Statement of Claim as supposed statements of fact. The Plaintiffs knew or well ought to have known when the Statement of Claim was filed that there is no basis, reasonable or otherwise, for much of the allegations, arguments and hyperbole contained in the Statement of Claim.

3. At all times material to this action it was a term, express or implied, of any agreement as between Polaris and AuVert, that the parties would each act in good faith in the performance and exercise of their respective rights and obligations toward each other.
4. AuVert and Quincy Frost have at all times material to this action acted in good faith with a view to preserving assets and value of AuVert to the benefit of its shareholders, being Quincy Frost and the Plaintiff Telluris Holdings Ltd. ("**Telluris**"), as well as to the benefit of AuVert's other stakeholders. In order to protect the value of AuVert's assets from exercise of security by a creditor, AuVert entered into a series of transactions that preserved assets and will result in generation of cash flow sufficient to pay all of AuVert's debts including but not limited to AuVert's debt to Polaris.
5. AuVert has greater value than the amounts owed by AuVert to the Plaintiff Polaris Financial Management Limited ("**Polaris**"). This action is part of a bad faith attempt by the Plaintiffs (the "**Plaintiffs' Scheme**") to appropriate the entire value of AuVert to themselves, to the detriment of AuVert and many of its stakeholders including but not limited to Quincy Frost.
6. In furtherance of the Plaintiffs' Scheme:
  - (a) The Plaintiffs secretly engaged Jim Allen ("**Allen**"), who is a Board member of AuVert appointed by Telluris, as the Plaintiffs' agent to gather information and records from AuVert, supposedly in furtherance of Allen's functions as a Director of AuVert but secretly for purposes of assisting Polaris in attempting to carry out the Plaintiffs' Scheme;
  - (b) Either at the Plaintiffs' direction or request, or with the knowledge, approval or acquiescence of the Plaintiffs, or otherwise as agent on behalf of the Plaintiffs, Allen in his capacity as a Director of AuVert requested and obtained confidential information and records of AuVert, which information and records Allen in turn supplied to Jeffrey Levine of McMillan LLP, as legal counsel acting jointly for

Allen, Polaris and Telluris – thereby providing such confidential information and records to Polaris and for intended use by Polaris;

- (c) Either at the Plaintiffs' direction or request, or with the knowledge, approval or acquiescence of the Plaintiffs, or otherwise as agent on behalf of the Plaintiffs, on September 3, 2020:
    - (i) Allen falsely represented to AuVert's Board that he had no conflict with respect to Polaris that he needed to disclose to AuVert's Board, which representation was false in light of the facts described in subparagraphs 6(a) and 6(b), above; and
    - (ii) Allen expressly misrepresented to AuVert's Board the relationship between Polaris and Telluris, in that when Allen requested information and records in his capacity as a director of AuVert, Allen expressly assured AuVert's Board that Polaris and Telluris were not affiliated, which assurance Allen knew to be untrue in that Polaris and Telluris were to Allen's knowledge affiliated and acting in concert with one another in furtherance of the Plaintiffs' Scheme;
  - (d) The Plaintiffs thereby caused, participated in, and/or benefitted from, and are together with Allen jointly and severally liable for, breach of confidence by Allen and breach of fiduciary duty owed by Allen to AuVert.
7. Prior to the steps taken by AuVert, as referred to in paragraph 4 of this Statement of Defence, the Plaintiffs intended that Polaris would take steps to enforce its security over assets of AuVert, with the result of Polaris obtaining for itself the entirety of AuVert's assets. The transactions referred to in paragraph 4 of this Statement of Defence have made it unnecessary, inappropriate and inequitable for Polaris to enforce its security over assets of AuVert.
8. This action should accordingly be dismissed as against AuVert and Quincy Frost, with solicitor and own client (full indemnity) costs payable jointly and severally by the Plaintiffs to AuVert and to Quincy Frost.

## The Facts

9. AuVert and Quincy Frost agree with the facts stated in paragraphs 1, 2, 3, 6 and 7 of the Statement of Claim.
10. AuVert and Quincy Frost also agree:
  - (a) The individual defendants, James and Matthew Slade are direct Quincy Frost shareholders and Milton Cox is an indirect Quincy Frost shareholder and are members of the board of directors of AuVert, being the nominees of Quincy Frost.
  - (b) AuVert is an Alberta corporation;
  - (c) The Defendant Andean Mining S.A.S. ("**Andean Mining**") is a Quincy Frost subsidiary.
11. AuVert and Quincy Frost also agree there were many communications and a number of financial transactions among parties referred to in the Statement of Claim, but deny those communications and transactions had the nature, character and intentions as alleged in the Statement of Claim. Among other things:
  - (a) There were discussions between James Slade and Fernhope Limited U.K. ("**Fernhope**") regarding a business plan and investment. The business plan contemplated a proposed investment of USD \$10 million would be sufficient to build and commence operating an alluvial gold mining plant in Colombia and to start generating revenue from the completed plant, although on the assumption that the initial use of funds would not be changed. AuVert and Quincy Frost otherwise agree with the contents of paragraphs 17 through 20, and 22, 24 and 25 of the Statement of Claim;
  - (b) As to the advance of funds referred to in paragraphs 21 and 23 of the Statement of Claim and the related structure:
    - (i) Despite warnings and admonitions by Quincy Frost as to the timing, amounts and use to be made of investment funds, Fernhope delayed at length in providing needed funds and was uncooperative in ensuring investment funds were used for necessary business purposes;

- (ii) Quincy Frost repeatedly in telephone calls and meetings warned Fernhope of the dangers of establishing a structure that did not recognize the AuVert business model and only rewarded Fernhope;
- (c) At all material times Fernhope, and subsequently Telluris, had complete or extensive business and financial information as to AuVert and participated in all material decisions that were made by AuVert;
- (d) At all times AuVert's Board membership has included one or more Directors appointed by Telluris;
- (e) At all times material to this action, one or more AuVert Directors appointed by Telluris had full knowledge of the business, finances and affairs of AuVert, and either participated or were invited to participate in all decisions made by AuVert's Board of Directors;
- (f) Further, at various times one or more Board members appointed by Telluris were physically present in Colombia, for purposes of direct dealings with the business, finances and affairs being carried on in Colombia;
- (g) In the summer of 2020, Telluris' appointed AuVert Board members either ceased having access to, or ceased accessing, their AuVert email accounts, but did not inform AuVert management or the Quincy Frost appointees to AuVert's Board. In the result, AuVert management and the Quincy Frost appointees to AuVert's Board reasonably believed that the Telluris-appointed members of AuVert's Board had decided to stop communicating with AuVert management and the Quincy Frost appointees to AuVert's Board, and to cease participating in AuVert Board meetings. AuVert Board meetings that took place without any Telluris appointee present were initially scheduled on notice to all AuVert Directors, and then adjourned to a later date due to initial lack of quorum, and subsequently conducted at the adjourned date – all in accordance with AuVert's Unanimous Shareholder Agreement;
- (h) Funding needs changed due to reasons beyond the control of, and without any fault by, AuVert and Quincy Frost. Despite being aware of the changes in funding needs and the reasons for those changed funding needs, Telluris failed,

neglected and refused to provide or obtain the full amounts of funds needed, and instead only put additional funds into AuVert in a piecemeal fashion;

- (i) Quincy Frost injected substantial funds to the Colombian operations, to meet the funding needs that Telluris failed, neglected and refused to provide fully or timely;
- (j) As to paragraphs 29 through 35 of the Statement of Claim:
  - (i) The Telluris representatives on AuVert's Board pushed for increasing the size of the first plant to double its capacity, and exerted pressure to modify the original planned and agreed use of funds. The plant was also rushed to completion and key components shipped directly to Colombia to be built in the field. Although AuVert's Board was warned this would extend commissioning time, AuVert's Board felt it was worth the risk to not delay production;
  - (ii) When AuVert's Board agreed to purchase Ulloa in early 2018 the Board was aware the result would reduce the available capital that was needed to deliver and set up the plant. Telluris' Board representatives, Allen and Nicolas Feron ("**Feron**") were present in Colombia when those decisions were made, actively participated in and supported those decisions, acknowledged the Ulloa purchase would increase the need for funds, and assured the other members of AuVert's Board that additional funds would be available if there were delays that caused increased costs. AuVert's Board relied on those assurances, which Allen and Feron had actual or apparent authority to make on behalf of Telluris, in proceeding as agreed by AuVert's Board;
  - (iii) Subsequently, at a September 2018 meeting in Anniston, representatives of AuVert and Telluris discussed the funds required to get the plant into production and all company issues. In particular, it was discussed that more than a million dollars was needed should delays stop quick production and therefore delay the earning of revenues. However, contrary to the assurances Allen and Feron had given previously on behalf of Telluris, at the September 2018 meeting the Telluris representatives would not commit on the full funding requirement and

weeks later Telluris informed AuVert that Fernhope would loan only a fraction of the funds that were required;

- (iv) Allen on behalf of Telluris participated thoroughly in working on financial numbers and projections, and at all times in the period referred to in paragraphs 29 through 35 of the Statement of Claim was aware of all relevant information;
- (k) As to paragraphs 36 through 43 of the Statement of Claim:
  - (i) The terms of the further funding provided through Capella were restrictive and only addressed a short term need for the company, which created substantial and unreasonable pressure to perform quickly and avoid all delays. In addition, Telluris began making even more requests for meetings and information, which took time away from actually getting into production and moving forward.
  - (ii) The funds provided were not the amount required to “bridge the gap”. Instead, those funds were Telluris’ unreasonable interpretation of the minimum amount the company required, and Telluris knew or ought to have known the result would be a further funding need in future;
  - (iii) James Slade never agreed to the alleged security interest in the Colombian companies. Instead, there were discussions about a proposed additional equity interest;
  - (iv) The corporate restructuring was conducted in light of tax considerations. It was necessary to restructure because Telluris had previously insisted on a different corporate structure. When Telluris subsequently agreed to the corporate restructuring, a cost of nearly \$500,000 (Canadian) was incurred in legal and accounting fees to carry out that restructuring;
  - (v) As a result of that restructuring Telluris held (and continues to hold) 49% of the common shares of AuVert and Quincy Frost held (and continues to hold) 51% of the common shares of AuVert;
- (l) As to paragraphs 44 through 57 of the Statement of Claim:

- (i) It was agreed between the Telluris representatives and AuVert's Board and management that James Slade would focus on the plant/operations side and that the rest of the Board would assist in securing funding and accounting issues. There were as well ongoing communication among those parties as to potential sources for funds, whether from potential investors or lenders such as Canadian Export Development Bank or gold purchase companies in Medellin. Allen and Telluris were at all times in that period fully aware of all material facts in relation to efforts to raise funds through investors or lenders;
  - (ii) No representations or assurances were given, other than as to work that was being done and status of communications with potential investors or lenders, and no representation or assurance that there was "imminent funding" was made;
  - (iii) Feron realized that Fernhope and Capella did not have direct security in the Colombian assets and requested security, which request was unreasonable in light of the ongoing efforts to secure additional equity or loan financing;
  - (iv) James Slade worked diligently toward commissioning the plant. Any delays were caused by operational issues beyond his control;
- (m) As to paragraphs 58 through 73 of the Statement of Claim:
- (i) In or about May or June 2019, Feron promised on behalf of Telluris to continue to support AuVert, including to provide funding to cover costs for legal expenses, staff costs, and management salaries. However, in June 2019 Feron then advised that Telluris was refusing to put any more money into the company;
  - (ii) The sonic drill was never sold. Instead, a loan of \$250,000 USD was obtained. Those funds were used to secure insurance to protect the assets, and for operational costs to maintain the titles and value of the company as a whole;
  - (iii) At or about that time, additional funds were needed in order to prevent the company from being placed in receivership. Certain equipment that was

nearly a year old was sold, at prices that were the best offer and consistent with used equipment of that age;

- (iv) There was discussion about a third party interested in buying an 80% equity stake in AuVert for \$15,000,000 (Canadian), part of which funds would be used to pay AuVert's debts. The potential offer was not ultimately made, however due to the potential purchaser becoming frustrated with having to deal with negotiating positions from multiple parties, and from delays and lack of commitment by Telluris;
  - (v) Communications and provision of available financial information – including but not limited to financial statements as and when they were available – continued during the time period referred to in paragraphs 58 through 73 of the Statement of Claim;
  - (vi) The AuVert bank statement referred to in paragraph 73 of the Statement of Claim was provided at Feron's request, to confirm receipt of funds in relation to the Sonic drill (which involved a loan and not a sale of the sonic drill);
- (n) As to paragraphs 74 through 79 of the Statement of Claim:
- (i) The alleged "favourable terms" referred to in paragraph 74 of the Statement of Claim were 15% interest and 100% security on top of restrictive covenants;
  - (ii) Telluris otherwise refused to advance any further funds. As a result Quincy Frost and James Slade each advanced funds or paid for company expenses. Some of the funds advanced by Quincy Frost were used to cover Canadian tax and staff bills and otherwise to support AuVert;
  - (iii) The transaction referred to in paragraph 76 of the Statement of Claim was a gold pre-purchase agreement and not a conventional loan, and was not kept secret;
  - (iv) In or after June 2020, Polaris attempted to seize assets. Feron resigned from AuVert's Board on July 21, 2020. Allen, however, remained on AuVert's Board rather than resign. His purpose of remaining on AuVert's

Board was to use his access to information and documents to obtain confidential information and documents from AuVert for purposes of assisting or facilitating Polaris attempting to enforce its security or otherwise pursue the Plaintiffs' Scheme;

- (v) Communication continued via email, during which time to the knowledge of Telluris and its representatives James Slade was in Colombia;
- (o) As to paragraphs 80 through 88 of the Statement of Claim:
  - (i) On June 15, 2020, Polaris had a demand letter and a notice of intention to enforce security served on AuVert's registered office;
  - (ii) All members of AuVert's Board, including Feron and Allen, were sent notification of the June 23, 2020 Board meeting by email. There was no response or other communication by Feron or Allen, and the Quincy Frost appointees to the AuVert Board concluded that Feron and Allen had decided not to attend the Board meeting and to cease communications;
  - (iii) Because of a known attempt by a representative of Polaris to access company records on AuVert's computer system, steps were taken to prevent remote access to AuVert's computer system. Those steps inadvertently and without knowledge of AuVert's management or the other members of AuVert's Board also impeded email access by Feron and by Allen. Although Allen and Feron noticed they were each unable to access their emails, neither of them informed AuVert management or the other members of AuVert's Board, although Allen and Feron each had means to readily do so;
  - (iv) In all meetings of AuVert's Board that were attended by Rhea Solis:
    - (A) Rhea Solis attended the meeting in her capacity as legal counsel to AuVert; and
    - (B) Rhea Solis acted as meeting secretary for purposes of taking notes and preparing meeting minutes, and at no time was Rhea Solis "AuVert's Secretary"; and

- (C) At all times, all advice or comments by Rhea Solis during any such meetings were communicated for the purposes of giving legal advice as legal counsel to AuVert;
- (v) AuVert's Unanimous Shareholder Agreement required that for purposes of quorum at Board meetings, if a meeting had been called and quorum was not present within 30 minutes of the scheduled meeting start time, the meeting would be rescheduled for one week later, and after waiting 30 minutes after that re-scheduled start time the directors present could proceed with the meeting. AuVert's Board on three occasions over a period of six weeks had to go through that process in order to conduct Board meetings. In the absence of any communication at all from Feron or from Allen the Quincy Frost representatives on AuVert's Board concluded reasonably that Feron and Allen had decided to stop communication;
- (vi) AuVert was not insolvent. AuVert had, as of June 23, 2020, recently paid for various obligations. The Colombian subsidiary was funded and moving forward to start positive cash flow. There was every reasonable expectation that the Colombian enterprise would be successful. The Plaintiffs also concluded this, which conflicted with the Plaintiff's Scheme;
- (p) As to paragraphs 89 through 94 of the Statement of Claim:
  - (i) The July 7, 2020 meeting of AuVert's Board was duly called;
  - (ii) In all meetings of AuVert's Board that were attended by Rhea Solis:
    - (A) Rhea Solis attended the meeting in her capacity as legal counsel to AuVert; and
    - (B) Rhea Solis acted as meeting secretary for purposes of taking notes and preparing meeting minutes, and at no time was Rhea Solis "AuVert's Secretary"; and
    - (C) At all times, all advice or comments by Rhea Solis during any such meetings were communicated for the purposes of giving legal advice as legal counsel to AuVert;

- (iii) AuVert was not insolvent, given the investment arranged by Quincy Frost;
  - (iv) However, the service by Polaris of the Notice of Intention to Enforce a Security put assets in Colombia at risk of seizure by a creditor in Colombia, in that the Notice of Intention to Enforce a Security created an entitlement by that Colombian creditor to enforce security;
  - (v) The transactions now complained of by the Plaintiffs were then carried out in order to preserve assets for the benefit of all of AuVert's stakeholders including but not limited to the Plaintiffs;
- (q) As to paragraphs 95 through 102 of the Statement of Claim:
- (i) The transactions now complained of have caused no damage to the Plaintiffs. Instead, those transactions have preserved value of AuVert for the benefit of all of AuVert's stakeholders including but not limited to the Plaintiffs;
  - (ii) Notice of the shareholder meeting to approve the transaction was sent to the Telluris by registered mail in accordance with the terms of AuVert's Unanimous Shareholder Agreement and was also sent via email to Feron and Allen as representatives of Telluris. Feron acknowledged receipt of the notice of shareholder meeting and Allen attended the shareholder meeting;
  - (iii) The Plaintiffs did not have reasonable expectations for the value of AuVert to be risked or lost by blind compliance with formal provisions of the agreements referred to in the Statement of Claim;
  - (iv) The Plaintiffs in effect claim they had reasonable expectations the Plaintiffs' Scheme would work. Any such expectations were not reasonable.

**Any matters that defeat the claim of the plaintiff:**

- 12. The facts alleged in this Statement of Defence, above.
- 13. AuVert and Quincy Frost plead and rely upon the provisions of section 10 of the *Judicature Act*, RSA 2000, c. J-02.

**Remedy sought:**

14. The Defendants, AuVert Mining Group Inc. and Quincy Frost Investments Inc. request that the Plaintiff's claim be dismissed, with costs on a solicitor and own client (full indemnity) basis.

COURT FILE NUMBER	2001-13883
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF BY COUNTERCLAIM	AUVERT MINING GROUP INC.
DEFENDANTS BY COUNTERCLAIM	POLARIS FINANCIAL MANAGEMENT LIMITED, TELLURIS HOLDINGS LTD. and JIM ALLEN
DOCUMENT	<b><u>COUNTERCLAIM</u></b>
PARTY FILING THIS DOCUMENT	AUVERT MINING GROUP INC.
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Miller Thomson LLP Suite 3000 700 – 9 <sup>th</sup> Avenue S.W. Calgary, AB T2P 3V4 Attention: Patrick D. Fitzpatrick Telephone: 403-298-2437 Email: pfitzpatrick@millerthomson.com File No.: 0257169.0001

### **NOTICE TO DEFENDANTS BY COUNTERCLAIM**

You are being sued. You are defendants by counterclaim.

Go to the end of this document to see what you can do and when you must do it.

#### **Statement of facts relied on:**

1. The Plaintiff by Counterclaim, AuVert Mining Group Inc. ("**AuVert**") repeats and relies upon the facts stated in the Statement of Defence in the within action and adopts the defined terms set therein.
2. The Defendant by Counterclaim, Jim Allen ("**Allen**") is an individual whom AuVert believes to reside in or near Anniston, Alabama.
3. At all times material to this counterclaim:
  - (a) Allen was a director of AuVert;
  - (b) As a director of AuVert:

- (i) Allen owed fiduciary duties to AuVert;
  - (ii) Pursuant to section 122 of the *Business Corporations Act*, RSA 2000, c. B-9, Allen had duties in exercising his powers and discharging his duties to act honestly and in good faith with a view to the best interests of AuVert;
  - (iii) Pursuant to section 120 of the *Business Corporations Act*, RSA 2000, c. B-9, Allen had a duty to disclose in writing to AuVert or request to have entered in the minutes of meetings of directors the nature and extent of his conflict with Polaris;
- (c) Allen had duties of confidence to AuVert:
- (i) To keep confidential and not disclose any confidential records or information of AuVert that Allen obtained pursuant to his position as a director of AuVert; and
  - (ii) To not disclose to anyone, or alternatively to anyone other than Telluris on the condition of Telluris keeping same confidential, any confidential records or information of AuVert that Allen obtained pursuant to his position as a director of AuVert.
4. By reason of the facts described in the Statement of Defence:
- (a) Allen was in a conflict of interest and falsely represented to AuVert's Board that he had no conflict with respect to Polaris that he needed to disclose to AuVert's Board;
  - (b) Allen breached his fiduciary duties to AuVert;
  - (c) Allen breached his statutory duties to AuVert; and
  - (d) Allen breach his duties of confidence to AuVert.
5. Damages would not be an adequate remedy for the harm caused to AuVert by Allen's conduct and breaches of his duties to AuVert.

**Remedy sought:**

6. The Plaintiff by Counterclaim, AuVert Mining Group Inc. seeks the following relief in respect of this Counterclaim:
- (a) Declarations that:
    - (i) Allen owed fiduciary duties, statutory duties and duties of confidence to AuVert;
    - (ii) Allen breached his fiduciary duties, statutory duties and duties of confidence to AuVert;
  - (b) An interim, interlocutory and permanent injunction:
    - (i) Prohibiting Allen from making any further use, or making any further disclosure, of confidential information received by Allen from AuVert;
    - (ii) Prohibiting Polaris from using or disclosing any confidential information of AuVert;
  - (c) As against each of the Defendants by Counterclaim:
    - (i) General, aggravated and punitive damages in such amounts as this Honourable Court may determine to be appropriate;
    - (ii) Costs on a solicitor and own client (full indemnity) basis; and
  - (d) Such further relief as this Honourable Court may determine to be appropriate.

**NOTICE TO THE DEFENDANT(S) BY COUNTERCLAIM**

You only have a short time to do something to respond to this counterclaim:

20 days if you are served in Alberta

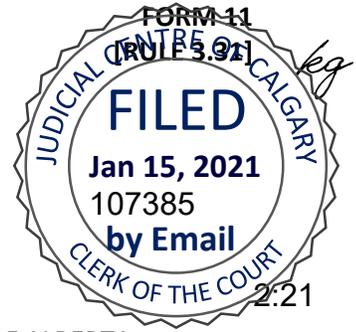
1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice to counterclaim in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice to counterclaim on the plaintiff(s) by counterclaim's address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice to counterclaim within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) by counterclaim against you after notice of the application has been served on you.



Clerk's stamp:

COURT FILE NUMBER:	2001-13883
COURT:	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE:	CALGARY
PLAINTIFFS:	<b>POLARIS FINANCIAL MANAGEMENT LIMITED and TELLURIS HOLDINGS LTD.</b>
DEFENDANTS:	<b>AUVERT MINING GROUP INC., QUINCY FROST INVESTMENTS INC., AUVERT COLOMBIA S.A.S., ULLOA RECURSOS NATURALES S.A., MATTHEW SLADE, JAMES SLADE, MILTON COX, and ANDEAN MINING S.A.S.</b>
PLAINTIFF BY COUNTERCLAIM:	<b>AUVERT MINING GROUP INC.</b>
DEFENDANTS BY COUNTERCLAIM:	<b>POLARIS FINANCIAL MANAGEMENT, TELLURIS HOLDINGS LTD. and JIM ALLEN</b>
DOCUMENT:	<b>STATEMENT OF DEFENCE</b>
PARTY FILING THIS DOCUMENT:	<b>MATTHEW SLADE, JAMES SLADE, and MILTON COX</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PERSON FILING THIS DOCUMENT:	<b>Field LLP</b> Barristers and Solicitors 400, 444 – 7 Avenue SW Calgary AB T2P 0X8 Tel: 403.260.8500   Fax: 403.264.7084  Attention: Rob Rakochev/William McClary Email: rrakochev@fieldlaw.com/wmclary@fieldlaw.com File No.: 72771-1

**Statement of facts relied on:**

1. Except where expressly admitted herein, the Defendants, Matthew Slade (“**Matthew**”), James Slade (“**James**”), and Milton Cox (“**Milton**”, and collectively with Matthew and James, the “**Individual Defendants**”) deny each and every allegation contained in the Statement of Claim filed in the within action on November 13, 2020 (the “**Statement of Claim**”).

2. The Individual Defendants each have significant experience developing and operating successful mining operations in numerous locations throughout North and South America, and have been successfully operating such businesses together for over 30 years.
3. The purpose of the venture in question was to conduct alluvial gold mining operations in Colombia. The Individual Defendants fairly and competently pursued this objective, always exercising sound business judgment that was reasonable in the circumstances.
4. The Individual Defendants agree with the facts stated in paragraphs 1, 2, 3, 6, and 7 of the Statement of Claim.
5. The Individual Defendants agree with and adopt the defined terms as set out in the Statement of Defence of the Defendants Auvert Mining Group Inc., and Quincy Frost Investments Inc., filed December 4, 2020 (the “**Corporate Defendants’ Statement of Defence**”). Capitalized terms in this Statement of Defence have the meaning ascribed to them in the Corporate Defendants’ Statement of Defence unless otherwise defined herein.
6. The Individual Defendants also agree:
  - a. James and Matthew are direct Quincy Frost shareholders and Milton is an indirect Quincy Frost shareholder;
  - b. the Individual Defendants are members of the board of directors of AuVert, being the nominees of Quincy Frost;
  - c. AuVert is an Alberta corporation; and
  - d. Andean Mining is a Quincy Frost subsidiary.
7. The Statement of Claim is an abuse of process. It contains allegations with no basis in fact through which the Plaintiffs seek to undermine the legitimate authority and business decisions of the Individual Defendants as part of a bad faith attempt to appropriate the entire value of AuVert to themselves, to the detriment of, *inter alia*, the Individual Defendants.
8. At all material times, the Individual Defendants acted in good faith and exercised sound business judgment when conducting the affairs of the businesses in question. Accordingly, the Individual Defendants have sought to preserve the assets and value of AuVert to the benefit of its stakeholders.
9. The Plaintiffs have attempted to ensnare the Individual Defendants in their scheme, as described in the Corporate Defendants’ Statement of Defence, as a collateral attack that has no basis in fact or law.
10. The Individual Defendants agree with the facts relied on, and the assessment of the Statement of Claim contained in paragraph 11 of the Corporate Defendants’ Statement of Defence.

**Any matters that defeat the claim of the Plaintiff:**

11. The Individual Defendants deny that their duties under any agreements, the *Alberta Business Corporations Act*, RSA 200, c B-9 (the "**BCA**"), in equity, and/or at common law ever obliged them to act in accordance with the expectations described in the Statement of Claim.
12. In the alternative, if any of the duties described in the Statement of Claim existed, which is not admitted and is expressly denied, the Individual Defendants discharged such alleged duties at all material times.
13. In particular, and without limiting any of the foregoing, the Individual Defendants have not acted, exercised their power as Directors, or conducted the business affairs of corporate entities in a manner, or effecting a result, that is oppressive or unfairly prejudicial, or that unfairly disregards the interests of any stakeholders, including but not limited to the Plaintiffs, and/or any of the relevant corporations described in the Statement of Claim.
14. The Individual Defendants' deny that the Plaintiffs have suffered any loss or damages, as alleged, or at all, and put the Plaintiffs to the strict proof thereof.
15. At all material times, the Individual Defendants' decisions with regards to the relevant corporate entities were made to the benefit of those corporate entities' stakeholders, including but not limited to the Plaintiffs.
16. In the alternative, if any of the Individual Defendants' conduct contradicted any of their alleged duties to the Plaintiffs or at all, which is not admitted and is expressly denied, then any such contradiction did not cause damages to the Plaintiffs, or any of them.
17. Further, or in the alternative, if the Plaintiffs, or any of them, have suffered damages as a result of the conduct of the Individual Defendants', which is not admitted and is expressly denied, then the particulars of such conduct are not sufficient to ground liability for such damages on the part of the Individual Defendants by operation of common law, statute, equity, and/or at all.
18. The Individual Defendants have, at all relevant times, acted reasonably and with sound business judgment in their operation of the ventures described herein. Any relevant transaction that has been entered into as a result of the actions of the Individual Defendants has been to the benefit of AuVert, its shareholders, and its other stakeholders.
19. The Individual Defendants further plead and rely on section 10 of the *Judicature Act*, RSA 2000, c J-02, and Division 2 of Part 10 of the *Alberta Rules of Court*, Alta Reg 124/2010.

**Remedy sought:**

20. The Individual Defendants request that this Honourable Court dismiss the Plaintiffs' claim, with costs awarded on a solicitor and own client, or full indemnity, basis.

Form 11  
[Rule 3.31]

COURT FILE NUMBER 2001-13883

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF BY COUNTERCLAIM: AUVERT MINING GROUP INC.

DEFENDANTS BY COUNTERCLAIM: POLARIS FINANCIAL MANAGEMENT LIMITED, TELLURIS HOLDINGS LTD. and JIM ALLEN

DOCUMENT **STATEMENT OF DEFENCE TO COUNTERCLAIM**



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **McMillan LLP**  
#1700, 421 – 7<sup>th</sup> Ave SW  
Calgary, AB T2P 4K9

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Email: jeffrey.levine@mcmillan.ca/ preet.saini@mcmillan.ca  
File No. 277148

**Statement of facts relied on:**

1. The defendants by counterclaim, Telluris Holdings Ltd. (“**Telluris**”), Polaris Financial Management Limited (“**Polaris**”) and Jim Allen (“**Mr. Allen**” and together with Telluris and Polaris, the “**Defendants by Counterclaim**”), admit the allegations in subparagraphs 3(a) and (b) of the Counterclaim.
2. The Defendants by Counterclaim deny the allegations contained in the balance of Counterclaim except as specifically admitted below.

3. The Defendants by Counterclaim rely on the facts as pleaded in the Statement of Claim and Reply in the within action. Capitalized terms below have the meaning ascribed to them in the Statement of Claim and Reply unless otherwise defined.

#### **The Scope of Mr. Allen's Duties to AuVert**

4. Mr. Allen is a resident of Anniston, Alabama. As admitted above, Mr. Allen was at all material times a director of AuVert and as such, accepts that he owed a fiduciary duty to AuVert and duties prescribed for directors under the Alberta BCA. The content of the fiduciary duty included a duty of confidence.
5. However, the scope and content of the duty of confidence Mr. Allen owed to AuVert is informed by section 2.4 of the AuVert Shareholders' Agreement which provides in relevant part at sub-paragraph "(h)" as follows:

Each Nominated Director shall be entitled to make such disclosure to the Shareholder who appointed him or her in relation to the Business or affairs of the Corporation as he or she, in his or her absolute discretion, sees fit.

6. Accordingly, AuVert mis-describes Mr. Allen's duties of confidence in paragraph 3(c) of the Counterclaim.

#### **Mr. Allen was Forthright with the Other Members of the Board**

7. Contrary to the allegations at paragraph 6 of the Defence, neither Telluris nor Polaris secretly engaged Mr. Allen to gather information and records to assist Polaris in completing any nefarious scheme. Moreover, Mr. Allen made no mis-representation to the Board about the relationship between Telluris and Polaris.
8. The AuVert Shareholders' Agreement expressly provides in section 2.2 for Mr. Allen's appointment to the Board, as follows:

Telluris shall have the right, exercisable from time to time in accordance with Articles and By-laws, to appoint, remove and replace up to two (2) individuals to be a Director. Any Director appointed by Telluris pursuant to this Section 2.2 shall also be

known as a Telluris Director. The first such Telluris Directors shall be James W. Allen and Nicolas Feron. [emphasis added]

9. Further to this appointment, Mr. Allen has at all times carried out his statutory, common law and equitable duties owed to AuVert, as modified and supplemented by the AuVert Shareholders' Agreement. Telluris and Polaris have never engaged Mr. Allen to do anything contrary to those duties. And for its part, Polaris never engaged Mr. Allen to do anything at all. Accordingly, Mr. Allen never owed any duty to Polaris, and could therefore not be in any conflict with respect to how AuVert resolved its default on its secured loans owing to Polaris.
10. With respect to the allegations at paragraph 6(c) of the Defence, Mr. Allen attended an AuVert shareholders' meeting on September 3, 2020. At the shareholders' meeting, Mr. Allen was asked whether he was involved with Polaris, and Mr. Allen accurately responded: "no."
11. Contrary to the allegation at paragraph 6(c)(ii) of the Defence, Mr. Allen never offered any assurance to the Board that Telluris and Polaris were not affiliated. Such affiliation was not discussed as it was well known that Telluris and Polaris were affiliated. Indeed, the Side Agreement entered into in connection with the First Capella Loan expressly provided in the recitals as follows:

AuVert Canada has requested that Telluris arrange for one or more of Telluris' affiliates to provide a CAD\$1,500,000 loan (the "New Loan") to AuVert Canada and Telluris has arranged for its affiliate, Capella,<sup>1</sup> to extend such loan subject to the terms and conditions of this Agreement.

**Mr. Allen and Telluris did not Breach AuVert's Confidence**

12. Contrary to the allegation at paragraph 6(b) of the Defence, Mr. Allen did not provide any confidential records or information provided to him in his capacity as a director of AuVert to counsel for Telluris and Polaris. Mr. Allen provided to Telluris certain records and information that Telluris, in turn provided to counsel for Telluris and Polaris.

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<sup>1</sup> Capella changed its name to Polaris on December 10, 2019.

However, that provision of information and records did not breach any confidence. The information and records passed to counsel for Telluris and Polaris were not confidential, and in any event had to be disclosed by the Board to both Telluris and Polaris for AuVert's directors to satisfy their fiduciary duty to AuVert.

13. Mr. Allen provided a copy of the agreement in respect of the Gold Purchase, and minutes of meetings of the Quincy Frost Board Representatives held June 23, July 7 and July 28, 2020 (the "**Minutes**") to Telluris. Telluris then provided the agreement and Minutes to Telluris' counsel who was also acting for Polaris.
14. While the Gold Purchase constituted breaches of the Fernhope GSA, Capella GSA and the AuVert Shareholders' Agreement as described in paragraph 76 of the statement of claim, its substance was a matter of public record because Quincy Frost registered the material terms of the Gold Purchase in the Movable Property Guarantees Registry in Colombia. Accordingly, the Gold Purchase was not confidential.
15. Nothing in the Minutes was confidential either. Prior to Mr. Allen disclosing the Minutes to Telluris, the information in the Minutes was either in substance a matter of public record, or had in substance been conveyed separately to Polaris in correspondence between counsel for AuVert and counsel for Polaris.
16. In any event, the particulars of the Gold Purchase and the information in the Minutes disclosed conduct contrary to AuVert's best interests. As described in paragraphs 76 and 95 through 98 of the statement of claim, the Gold Purchase and information in the Minutes disclosed conduct of Quincy Frost and the Quincy Frost Board Representatives that caused AuVert to breach the BCA and multiple agreements between AuVert and its stakeholders, and unlawfully strip AuVert of its material assets. In those circumstances, the fiduciary duty of all Board members owed to AuVert included a positive obligation to disclose the Gold Purchase and the Minutes to Telluris and Polaris, major AuVert stakeholders, so as to bring the aforementioned breaches to their attention.
17. Finally, each of Quincy Frost, the Quincy Frost Board Representatives and AuVert are barred from any claim of breach of confidence against Mr. Allen because none of them

could advance such a claim with clean hands. The effect of Mr. Allen's disclosure to Telluris was to bring to the attention of Telluris and Polaris wrongdoing of Quincy Frost, the Quincy Frost Board Representatives and AuVert. Even if Mr. Allen's disclosure constituted a breach of confidence, which is denied, AuVert would have no remedy for such a breach that has merely resulted in Telluris and Polaris being better positioned to more efficiently advance their oppression claim arising from this wrongdoing.

**Remedy sought:**

18. The Defendants by Counterclaim seek dismissal of the counterclaim with full-indemnity costs or costs on such other scale as this Honourable Court determines just.

COURT FILE NUMBER 2001-13883

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

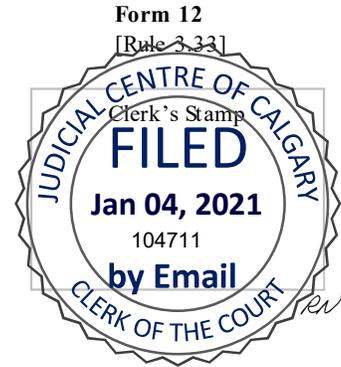
PLAINTIFFS POLARIS FINANCIAL MANAGEMENT LIMITED and TELLURIS HOLDINGS LTD.

DEFENDANTS AUVERT MINING GROUP INC., QUINCY FROST INVESTMENTS INC., AUVERT COLOMBIA S.A.S., ULLOA RECURSOS NATURALES S.A., MATTHEW SLADE, JAMES SLADE, MILTON COX and ANDEAN MINING S.A.S.

DOCUMENT **REPLY TO STATEMENT OF DEFENCE OF AUVERT MINING GROUP INC. and QUINCY FROST INVESTMENTS INC.**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **McMillan LLP**  
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File No. 277148



**This is the Reply of the Plaintiffs to the Statement of Defence filed by the Defendants AuVert Mining Group Inc. and Quincy Frost Investments Inc. on December 4, 2020.**

**Statement of facts relied on:**

1. Capitalized terms in this Reply have the meaning ascribed to them in the Statement of Claim unless otherwise defined.

2. Telluris and Polaris deny the allegations in the Statement of Defence filed by AuVert and Quincy Frost (the “**Defence**”) unless already admitted in the Statement of Claim or admitted below.

### **Overview**

3. Contrary to the allegations in the Defence, there is no embellishment, speculation, conjecture or fiction asserted in the Statement of Claim. All facts asserted will be proven at trial.
4. AuVert and Quincy Frost ground their defence in two assertions:
  - a. At paragraph 4 of the Defence, they allege that AuVert entered into a series of transactions that preserved assets and will result in generation of cash flow sufficient to pay all of AuVert’s debts; and
  - b. At paragraph 5 of the Defence, they allege that this action is part of a bad faith attempt by the Plaintiffs to appropriate the entire value of AuVert to themselves.
5. AuVert and Quincy Frost’s first assertion is belied by their own allegations in the Defence. AuVert and Quincy Frost admit in paragraph 11(p)(v) that, far from preserving AuVert’s assets, AuVert sold the shares of the Colombian Subsidiaries, AuVert’s sole material assets, to Andean Mining. The result of this transaction is to turn AuVert’s rights as the owner of entities with alluvial mining assets and operations in Colombia into a mere unsecured damages claim for breach of a promissory note that Andean Mining gave to AuVert as consideration for the purchase. AuVert has preserved nothing. It has turned wine into water.
6. AuVert and Quincy Frost’s second assertion is without foundation. The Defendants ground their allegation of bad faith in baseless assertions of secret engagements, misrepresentations and conflicts where there are none. Telluris and Polaris seek nothing more than the remedies for oppression set out in the Statement of Claim. Should the requested remedies be granted,

AuVert's affairs would thereby be returned to the *status quo* as it existed before the unlawful and oppressive Gold Purchase and sale of the Colombian Subsidiaries were completed.

Telluris and Polaris would then be free to exercise, all in good faith, their rights as a shareholder and secured creditor, respectively, pursuant to Alberta law.

#### **AuVert UK was Capitalized as Agreed**

7. Contrary to the allegation in paragraph 11(b)(i) of the Defence, Fernhope did not delay in providing funds, nor was Fernhope uncooperative in ensuring investments funds were used for necessary business purposes. While Mr. Slade and Quincy Frost wanted \$10 million to use as they pleased and when they pleased with no oversight, they accepted that no prudent investor would agree to invest funds on that basis.
8. Between June 2017 to January 2018 Fernhope invested USD\$4,750,000 in the joint venture through Quincy Frost as agreed between them, and then Telluris contributed the balance of a USD\$10 million equity commitment in AuVert all in accordance with the terms of the First Shareholders' Agreement and Telluris' obligations set out therein.
9. Quincy Frost's allegation in paragraph 11(b)(ii) of the Defence about a warning of a structure that only rewarded Fernhope is nonsensical. Fernhope, and then Telluris, never had any preferential rights to the equity of the joint venture that became AuVert, and Fernhope's rights as AuVert's secured creditor, later assigned to Polaris, were no greater than those ordinarily afforded to creditors in similar circumstances.

#### **AuVert's Investment Decisions in 2018 Were Made Collaboratively, Spurred on by James Slade**

10. Contrary to the allegations in paragraph 11(j) of the Defence, the Telluris nominees to the Board did not push "for increasing the size of the first plant to double its capacity" or exert any "pressure to modify the original planned and agreed use of funds." The Board made its decisions collaboratively having regard to Mr. Slade's recommendations and input.

11. Contrary to the allegation at paragraph 11(j)(iii) of the Defence, Jim Allen and Nicolas Feron never gave any assurances on behalf of Telluris as to funding commitments. At the meeting in Anniston in September 2018, Mr. Slade and AuVert's Chief Financial Officer, Swapan Kakumanu, delivered a presentation to the Board setting out an estimate of funds necessary to permit the Colombian Subsidiaries to start processing material and generate revenue. Through Fernhope, Telluris procured nothing less than all of the funds Mr. Slade and Swapan Kakumanu estimated would be required.

#### **James Slade Insisted Upon a Corporate Restructuring at the End of 2018**

12. Contrary to the allegation at paragraph 11(k)(iv) of the Defence, Telluris never insisted on any corporate structure. While Telluris did request that the joint venture be established in the UK, the corporate structure established in January, 2018 was decided upon collectively having regard to Mr. Slade's assurance that he would become a UK resident – an assurance on which he was not able to follow through. James Slade proposed the migration to Canada 12 months later. Telluris agreed to the migration based on Mr. Slade's representation that the migration would have no material negative impact on the joint venture.
13. The cost of the migration and change in corporate structure was only brought to the Board's attention in April 2019 at a time when all the work involved in the migration was complete such that the cost could not be avoided.

#### **All Promised Funds Were Advanced**

14. Contrary to the allegation at paragraph 11(m)(i) of the Defence, Nicolas Feron made no promises for Telluris' continued financial support for AuVert in May or June 2019, and neither Mr. Feron nor Telluris otherwise had any obligation to arrange such financial support. As described at paragraphs 54 and 55 of the Statement of Claim, however, Mr. Feron did arrange for additional funding for AuVert from Capella on June 3 and 14, 2019.

**Telluris Cannot Reasonably be Blamed for Failed Efforts to Raise Additional Equity Investment**

15. Telluris denies that any third party interested in buying an 80% equity stake in AuVert decided not to make an offer because of delays and lack of commitment by Telluris as alleged in paragraph 11(m)(iv) of the Defence. Mr. Slade refused to identify for Telluris the alleged interested third party and denied Telluris any opportunity to even speak with the alleged interested third party. Accordingly, the alleged third party could not have reasonably blamed Telluris for alleged frustration.

**Mr. Slade Knew How, but Failed, to Contact Telluris' Representative's on the Board**

16. Contrary to the allegation at paragraph 11(o)(iii) of the Defence, denial of email access for Mr. Feron and Mr. Allen did not inadvertently result out of an attempt to prevent remote access to AuVert's computer system.
17. The "computer system" referred to in the Defence was in fact an online storage space hosted by Microsoft's "OneDrive" cloud service. The "known attempt by a representative of Polaris to access company records" referred to in paragraph 11(o)(iii) of the Defence refers to Mr. Feron accessing AuVert's OneDrive account in his capacity as a director of AuVert. One of the specific purposes for setting up the OneDrive account was so that AuVert's directors, including Mr. Feron, could have such access.
18. Mr. Slade caused AuVert's OneDrive account to be cancelled some time in June 2020. He knew or ought to have known that by cancelling AuVert's OneDrive account that in addition to preventing appropriate access for Mr. Feron and Mr. Allen to AuVert's records uploaded to OneDrive, Mr. Feron and Mr. Allen's AuVert email accounts would be cut off. Indeed, any email he thereafter sent to Mr. Feron or Mr. Allen at their AuVert email accounts would have resulted in an automatic email notice to Mr. Slade of a failure to deliver the sent email. Accordingly, and contrary to the allegation in paragraph 11(o)(iii) of the Defence, there could

not have been any inadvertence in impeding email access for Mr. Feron and Mr. Allen.

Rather, their email access was intentionally impeded.

19. Contrary to the further allegation at paragraph 11(o)(iii) of the Defence, Mr. Allen did inform AuVert management and other members of the Board on September 1, 2020 that his access to his AuVert email account had been cut off. Until then, Messrs. Feron and Allen had no reason to raise the issue with AuVert management, because James Slade had been sending emails to Mr. Feron and Mr. Allen at email addresses other than their AuVert email addresses through to at least the end of June 2020. Had he wanted to reach them by email, it was clear that Mr. Slade knew how to do so. Moreover, though Mr. Feron noticed that he no longer had access to AuVert's OneDrive account, that did not alarm Mr. Feron because Mr. Slade had mentioned several times in the past that he would cancel the service as a cost-saving measure.

**Any matters that defeat the claim/defence of the defendants:**

**The Defence Fails to Address the Claim**

20. The substance of AuVert's and Quincy Frost's defence, as set out in paragraph 11(q) of the Defence, is that: (i) the Gold Purchase and AuVert's sale of the Colombian Subsidiaries has not caused damage to Telluris or Polaris; and (ii) that Telluris and Polaris could not reasonably have expected for "the value of AuVert to be risked or lost by blind compliance with formal provisions" of the AuVert Shareholders' Agreement, the Alberta BCA, the Fernhope GSA and the Capella GSA. Both defences miss the mark.
21. Neither Telluris nor Polaris expected for AuVert to risk its value by blind compliance with AuVert's contractual and statutory obligations as suggested in paragraph 11(q)(iii) of the Defence. As described in the Statement of Claim and in particular paragraphs 97 and 100, Telluris expected that it would be consulted on major decisions for AuVert, and Polaris

expected AuVert would comply with its positive covenants set out in the Fernhope and Capella GSAs. Meeting these expectations did not put AuVert's value at risk.

22. To the contrary, AuVert and the Quincy Frost Board Representatives could have satisfied Telluris' and Polaris' reasonable expectations and lawfully maximized value for all of AuVert's stakeholders by negotiating a forbearance agreement with Polaris and potentially a plan of arrangement under the BCA. Alternatively, in the absence of a negotiated solution, AuVert could have filed a notice of intention to make a proposal to its creditors pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada). Rather than exercise any of these lawful options, Quincy Frost and the Quincy Frost Board Representatives illegally stripped AuVert of its assets as described in the Statement of Claim.
23. Quincy Frost and the Quincy Frost Board Representatives actions in this regard are not surprising, because Quincy Frost and the Quincy Frost Board Representatives incorrectly identify their best interests as one and the same as the best interests of AuVert. Since Quincy Frost is the sole beneficiary of the Gold Purchase and is the parent of Andean Mining, the party that purported to purchase the Colombian Subsidiaries from AuVert, the asset stripping identified above no doubt benefited Quincy Frost and the Quincy Frost Board Representatives as Quincy Frost shareholders. But such benefits for Quincy Frost and the Quincy Frost Board Representatives were to the detriment of AuVert, which is left with nothing. Nevertheless, Quincy Frost and the Quincy Frost Board Representatives continue to treat their interests and AuVert's interests as aligned, where they are not, going so far as to direct AuVert to retain Quincy Frost's counsel in this proceeding when such counsel could not at the same time act in both Quincy Frost's and AuVert's best interests.

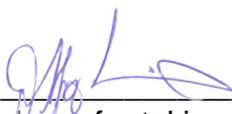
**Remedy sought:**

24. Telluris and Polaris continue to request the remedies sought in the Statement of Claim.

**NOTE**

This reply may only make admissions or respond to matters raised for the first time in the statement of defence (Rules 3.33(2)(b) and 13.10).

This is Exhibit "S" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

**From:** [Fitzpatrick, Patrick](#)  
**To:** [Jeffrey Levine](#)  
**Cc:** [Preet Saini](#); [Solis, Rhea](#)  
**Subject:** AuVert et al  
**Date:** Monday, January 11, 2021 5:00:23 PM  
**Attachments:** [image635e2.PNG](#)  
[51521985\\_1 Andean Mining S.A.S. Dec 2020 letter agreement with AuVert Mi....pdf](#)  
[51520434\\_1 Andean Mining S.A.S. Jan 4 2021 letter to AuVert Mining Group....pdf](#)

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Jeffrey,

You have requested an update as to status of the payments to be made by Andean to AuVert Canada per the share purchase agreement, as well as otherwise as to the status of the Colombian operation.

I am informed that although there have been Covid-related delays that have impacted the projected timeline for commercial operation and for payments to be made, things are proceeding about as well as could be hoped for in the continuing pandemic environment. As examples, the plant is operational in Condoto, and the team in Medellin completed Covid testing on Tuesday January 5 to allow them to drive back to the site and finish upgrades and recovery room changes to start a regular metal flow.

I am also informed that because of Covid-related delays Andean and AuVert Canada have agreed the first payment under the share purchase agreement will now be made by March 31, 2021 rather than by December 31, 2020. Please see the attached letter agreement in this regard.

Please also see the attached Project Update dated January 4, 2021, from Andean to AuVert Canada.

Regards,

Patrick

## **PATRICK D FITZPATRICK**

Partner

### **Miller Thomson LLP**

3000, 700 - 9th Avenue SW

Calgary, Alberta T2P 3V4

**Direct Line:** +1 403.298.2437

**Fax:** +1 403.262.0007

**Email:** [pfitzpatrick@millerthomson.com](mailto:pfitzpatrick@millerthomson.com)

[millerthomson.com](http://millerthomson.com)



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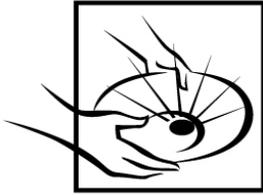
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# Andean Mining S.A.S.

December 4th, 2020

AuVert Mining Group Inc.  
PO Box 36029, RPO Lakeview  
Calgary, Alberta, Canada T3E 7C6

Attn: Mr. Milton Cox

## Re: Share Sale Agreement - July 10th, 2020

Dear Mr. Cox;

As we have been discussing, I am writing this letter to formally confirm the agreed change in the payment structure under our Share Sale Agreement. The initial payment was due on December 31st, 2020 and every quarter thereafter until completed. The first payment will now be due on or before March 31st, 2021.

Due to the ongoing global pandemic we have been delayed substantially from our expectations when this agreement was signed earlier in the year. However Andean has been able to restore the Condoto plant to operate again and positive cashflow has begun from that site. In addition we have continued to work on the importation tax liability, title issues and general financial clean up. I will provide an update on status under separate cover.

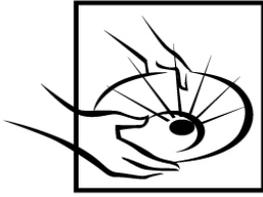
It still is the intent of Andean to accelerate the payments and complete the Share Sale Agreement as quickly as possible. To that end I will provide quarterly updates as agreed. Please sign your acceptance below and we can replace this letter with a more formal addendum at a later date if required.

Signed and agreed on the date as above;

James Slade, Legal Representative

Signed and agreed on December 5th, 2020 by;

W. Milton Cox, Director



# Andean Mining S.A.S.

January 4th, 2021

AuVert Mining Group Inc.  
PO Box 36029, RPO Lakeview  
Calgary, Alberta, Canada T3E 7C6

Attn: Mr. Milton Cox

## **Re: Project Update**

Dear Mr. Cox;

As requested please find a brief update on the developments with AuVert Colombia S.A.S. and Ulloa Recursos S.A.

Andean Mining has been working with AuVert Colombia to reduce outstanding financial obligations and create new sources of cash flow. Relationships have been revived with refineries and government agencies to develop the necessary channels to realize the value of the assets of both AuVert Colombia and Ulloa.

After a considerable time spent inactive, Andean has completed the extensive work to revive the Condoto mine. These steps include but are not limited to increasing security on site, making modifications to the plant to improve throughput and reduce operational downtime. In addition, we are working with the community to maintain and develop relationships. We are building a workforce and training regime to allow for expansion of operations.

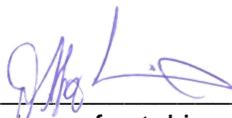
At this time we have been delayed by many months due to Covid related issues, but we are starting operations now and will be able to meet all obligations as agreed.

Sincerely,

A handwritten signature in blue ink, appearing to read 'James Slade'. The signature is fluid and cursive, with a large initial 'J' and 'S'. It is positioned above the printed name of the signatory.

James Slade, Legal Representative

This is Exhibit "T" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



---

A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H

## SHARE SALE AGREEMENT

**THIS AGREEMENT** dated effective the 10<sup>th</sup> day of July, 2020 (the "**Effective Date**")

**BETWEEN:**

**AUVERT MINING GROUP INC.**, of 3000, 700 – 9<sup>th</sup> Ave SW, Calgary, Alberta T2P 3V4, Canada (referred to in this Agreement as the "**Vendor**")

- and -

**ANDEAN MINING S.A.S.**, of Vte de Caldas, YE DE PRIMAVERA, KM 1 VIA LA IN A4 NIVEL 1.2, Caldas, 05129, Colombia N.I.T: (Tax ID) 900447661-2 (referred to in this Agreement as the "**Purchaser**")

**WHEREAS:**

- A. The Vendor is the legal and beneficial owner of certain shares of AuVert Colombia S.A.S ("**AuVert Colombia**") and Ulloa Recursos Naturales S.A. ("**Ulloa**", collectively with AuVert Colombia, the "**Subsidiaries**");
- B. The Vendor desires to sell its interest in all of the shares of the Subsidiaries (the "**Shares**") to the Purchaser on the terms and conditions contained in this Agreement; and
- C. Each of the Vendor and the Purchaser have agreed to take all steps as may be necessary to give effect to the transactions contemplated by this Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of this Agreement and the mutual terms and conditions set forth herein, the parties agree that:

1.

### INTERPRETATION

#### 1.1 DEFINITIONS

In this Agreement, the following terms shall have the following respective meanings:

- (a) "**Agreement**" means this agreement and all schedules hereto and amendments hereof;
- (b) "**Applicable Laws**" means all current constitutions, treaties, laws, statutes, codes, ordinances, official plans, orders, decrees, rules, regulations, and by-laws, whether domestic, foreign or international of any governmental authority, and the common law, binding on or affecting any person, property or matter referred to in the context in which such words are used;
- (c) "**AuVert Colombia**" means AuVert Colombia S.A.S., a body corporate duly existing pursuant to the laws of Colombia;
- (d) "**Closing**" means the purchase and sale of the Shares by the Vendor to the Purchaser and the delivery by the Purchaser to the Vendor of the Purchase Price on the Effective Date and all other incidental matters;

- (e) "**Closing Date**" means the Effective Date;
- (f) "**Effective Date**" means the date first above written;
- (g) "**Equipment**" has the meaning as set out in Section 2.3 herein;
- (h) "**Material Adverse Effect**" means a material adverse effect on (a) the business, assets, operations or condition, financial or otherwise, of any of the Subsidiaries, or (b) the validity or enforceability of any of the Promissory Notes, or the rights and remedies of the Vendor thereunder or the ability of the Vendor to receive payment of the Purchase Price in full;
- (i) "**Party**" means either the Vendor or Purchaser, as applicable and "**Parties**" means both of them;
- (j) "**Purchase Price**" means the amount of CDN\$3,750,000 for the Shares of AuVert Colombia and CDN\$1,250,000 for the Shares of Ulloa for an aggregate purchase price of CDN \$5,000,000;
- (k) "**Shares**" has the same meaning set forth in the recitals;
- (l) "**Subsidiaries**" has the same meaning set forth in the recitals; and
- (m) "**Ulloa**" means Ulloa Recursos Naturales S.A., a body corporate duly existing pursuant to the laws of Colombia.

## 1.2 CURRENCY

All references in this Agreement to dollars or to "\$" are deemed to be references to Canadian currency.

## 2.

### PURCHASE, SALE AND CLOSING

#### 2.1 PURCHASE AND SALE OF THE SHARES

The Vendor hereby sells, assigns and sets over unto the Purchaser all of the Vendor's right, title and interest in and to the Sold Assets owned thereby and the Purchaser hereby purchases the Shares Assets as of the Effective Date in consideration for the Purchaser delivering to the Vendor the Purchase Price in respect thereof.

#### 2.2 PURCHASE PRICE

The Purchase Price shall be payable via an unsecured non-interest bearing promissory note payable, subject to the Purchaser's right to early repayment without penalty, by December 31, 2025 in equal quarterly payments starting on December 31, 2020 as follows:

- (a) AuVert Colombia - CDN\$175,000 starting on December 31, 2020 and each March 31, June 30, September 30, and December 31 thereafter until fully paid.

- (b) Ulloa - CDN\$75,000 starting on December 31, 2020 and each March 31, June 30, September 30, and December 31 thereafter until fully paid.

### 2.3 CAPITALIZATION OF EQUIPMENT

The parties acknowledge that mining equipment including a P200 Plant and other pieces (the “**Equipment**”) paid by AuVert Canada has been temporarily imported into Colombia by AuVert Colombia. The Equipment has not yet been imported as an ordinary import. Once imported as an ordinary import, the intent is for AuVert Colombia to capitalize the Equipment. As a result of the foregoing the parties acknowledge and agree that:

- (a) The Purchase Price is inclusive of the capitalization of the Equipment and no further consideration is owed to the Vendor from the Purchaser as a result of the capitalization;
- (b) The shares to be issued as a result of the capitalization shall be issued to the Purchaser;
- (c) The Vendor shall direct AuVert Colombia to issue the shares that result from the capitalization of the Equipment to the Purchaser; and
- (d) The Vendor shall cooperate with AuVert Colombia and the Purchaser to cause the capitalization of the Equipment to the Purchaser.

### 2.4 TRANSFER TAXES

The Vendor shall pay all transfer taxes with respect to the sale of the Shares to the Purchaser.

### 2.5 CLOSING

The Closing will take place on the Effective Date.

### 2.6 DELIVERY OF CLOSING DOCUMENTS BY VENDOR

At the Closing Date, upon fulfilment of all the conditions under this Agreement which have not been waived in writing:

- (a) the Vendor will deliver to the Purchaser the following, fully executed where applicable, and in each case, in form and substance satisfactory to the Purchaser:
  - (i) all transfers and other documents as may be necessary to vest legal and beneficial ownership to the Shares in the name of the Purchaser;
  - (ii) share certificate(s) representing the Shares duly endorsed for transfer to the Purchaser;
  - (iii) direction to AuVert Colombia as set out in Section 2.3(c); and

- (iv) such further documents and assurances as may be reasonably required by the Purchaser in order to complete the purchase and sale of the Shares contemplated in this Agreement or as required by Applicable Laws.

## **2.7 DELIVERY OF CLOSING DOCUMENTS BY PURCHASER**

At the Closing Date, upon fulfilment of all the conditions under this Agreement which have not been waived in writing:

- (c) the Purchaser will deliver to the Vendor the following, fully executed where applicable and, in each case, in form and substance satisfactory to the Vendor:
  - (i) payment of the Purchase Price; and
  - (ii) such further documents and assurances as may be reasonably required by the Vendor in order to complete the purchase and sale of the Shares as contemplated in this Agreement or as required by Applicable Laws.

## **3.**

### **CONDITIONS**

#### **3.1 CONDITIONS OF VENDOR**

The Closing is subject to the following conditions being satisfied or the Vendor agreeing to waive the same:

- (a) the non-occurrence of a Material Adverse Effect;
- (b) the Subsidiaries shall have obtained all required consents and approvals; and
- (c) the Purchaser shall have obtained board approval.

#### **3.2 CONDITIONS OF PURCHASER**

The Closing is subject to the following conditions being satisfied or the Purchaser agreeing to waive the same:

- (a) the Vendor shall have obtained board approval.

## **ARTICLE 4 COVENANTS, REPRESENTATIONS, AND WARRANTIES**

### **4.1 VENDOR**

The Vendor covenants, represents and warrants the following:

- (a) that the Vendor is the legal and beneficial owner of the Shares, and is not acting as agent or trustee for any other person;
- (b) the Vendor has full corporate capacity to enter into this Agreement and to authorize the execution and delivery of all documents, the performance of all acts and the consummation of all transactions on the part of the Vendor to be done or performed herein;
- (c) that the Vendor shall deliver to the Purchaser all transfers and assignments required to convey the Shares from the Vendor to the Purchaser; and
- (d) that the covenants, representations, warranties and agreements contained in this Agreement shall not merge with the conveyance of the Shares into the name of the Purchaser.

### **4.2 PURCHASER**

The Purchaser hereby represents and warrants, and the Vendor relies upon such representations and warranties, that the Purchaser has full capacity and authority to enter into this Agreement and to authorize the execution and delivery of all documents, the performance of all acts and the consummation of all transactions on the part of the Purchaser to be done or performed herein.

### **4.3 SURVIVAL**

All warranties, undertakings, representations and indemnities set forth in this Agreement shall survive the closing of this Agreement and shall continue in full force and effect for the benefit of and shall be binding upon the parties hereto.

## **ARTICLE 5 GENERAL**

### **5.1 ENUREMENT**

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors, administrators and permitted assigns.

### **5.2 HEADINGS**

The headings are for reference purposes and shall not effect in any way the meaning and interpretation of this Agreement.

### **5.3 SEVERABILITY**

If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

### **5.4 ENTIRE AGREEMENT**

This Agreement, together with any agreements and other documents to be delivered in conjunction herewith, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein and therein.

### **5.5 FURTHER ASSURANCES**

Each Party agrees that upon the reasonable written request of the other Party, at any time, it will perform all acts and execute all documents as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement, whether before or after the Closing Date.

### **5.6 INDEPENDENT LEGAL ADVICE**

Each of the Parties have been given an opportunity to obtain independent legal advice concerning the interpretation and effect of this Agreement and enters into it voluntarily and with full understanding of his/her/its obligations herein.

### **5.7 AMENDMENT AND WAIVER**

This Agreement may only be amended by written agreement signed by each Party hereto. Any waiver of any provision of this Agreement will be effective only if it is in writing and signed by the Party to be bound thereby, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right will preclude any further or other exercise of such right.

### **5.8 ASSIGNMENT AND BENEFIT OF THE AGREEMENT**

Neither this Agreement nor any of the rights or obligations under this Agreement are assignable by either Party without the prior written consent of the other Party. Subject to that condition, this Agreement will enure to the benefit of and be binding upon the Parties and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns.

## 5.9 GOVERNING LAW AND ATTORNMENT

This Agreement is governed by and will be construed in accordance with the laws of Colombia. Each Party irrevocably attorns to the exclusive jurisdiction of the courts of the Colombia with respect to any matter arising under or relating to this Agreement.

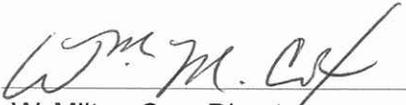
## 5.10 COUNTERPARTS

This Agreement may be executed in several counterparts each of which when so executed shall be deemed to be an original, and such counterparts shall constitute one and the same instrument and notwithstanding the date of execution shall be deemed to bear date as of the date of this Agreement. This Agreement shall be considered properly executed by any party if executed and transmitted by facsimile or executed, scanned and sent by electronic mail to the other party or its solicitors.

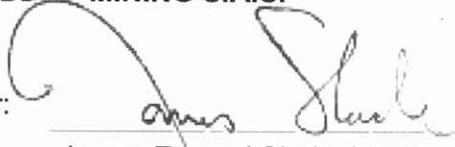
[intentionally left blank]

IN WITNESS WHEREOF the parties have executed this Agreement effective the day and year first above written.

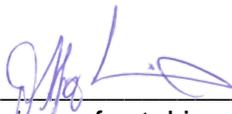
**AUVERT MINING GROUP INC.**

Per:   
W. Milton Cox, Director

**ANDEAN MINING S.A.S.**

Per:   
James Edward Slade, Legal Representative

This is Exhibit "U" referred to in the  
Affidavit of Nicolas Feron  
sworn before me virtually by Zoom at Toronto,  
Ontario, this  
8th day of June, 2021



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A Commissioner for taking Affidavits in  
the Province of Ontario

Jeffrey Levine, LSO# 55582H



COURT FILE NUMBER 2101-05160

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF/APPLICANT POLARIS FINANCIAL MANAGEMENT LIMITED

DEFENDANT/RESPONDENT AUVERT MINING GROUP INC.

DOCUMENT **CONSENT TO ACT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**McMillan LLP**  
 #1700, 421 – 7<sup>th</sup> Ave SW  
 Calgary, AB T2P 4K9  
**Attention: Jeffrey Levine/Preet Saini**  
 Telephone: (416) 865.7791/ (403) 531.4716  
 Fax: (403) 531.4720  
 Email: jeffrey.levine@mcmillan.ca/  
 preet.saini@mcmillan.ca  
 File No. 277148

BDO Canada Limited, a licensed trustee, hereby consents to be appointed as receiver and manager of the defendant AuVert Mining Group Inc.

DATED at the City of Toronto, in the Province of Ontario, this 4<sup>th</sup> day of June 2021.

**BDO Canada Limited**

Per: \_\_\_\_\_  
 Name: Clark Lonergan, LIT  
 Title: Partner/Senior Vice President