



**POWERTECH (USA) INC.**

November 30, 2021

SUA-1600

ATTN: Document Control Desk  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Re: Request for Threshold Determination

Dear Sir or Madam:

EnCore Energy Corp. (“enCore”) and Azarga Uranium Corp. (“Azarga”), the sole owner of Powertech (USA) Inc. (“Powertech”) (the “Parties”), submit this letter requesting a Threshold Determination that the Interim Transaction between the Parties as described in Section 2 of this letter (the “Interim Transaction”) would not constitute an indirect transfer of control over Powertech’s license requiring prior written consent pursuant to Section 184 of the Atomic Energy Act of 1954 (“AEA”) and 10 C.F.R. 40.46(a).

Powertech, a South Dakota company, holds licenses issued by the U.S. Nuclear Regulatory Commission (“NRC”) under the Commission’s implementing regulations at 10 CFR Part 40 for the Dewey-Burdock Uranium Project in Fall River and Custer Counties, South Dakota (“SUA-1600”). Powertech is one hundred percent (100%) directly owned and controlled by Azarga, a British Columbia corporation. A diagram of the current organization is provided in Exhibit A-1.

1. Background

On September 7, 2021, enCore and Azarga entered into a definitive arrangement agreement (“the Agreement”) whereby enCore will acquire all of the issued and outstanding common shares of Azarga (the “Proposed Transaction”). Both companies are publicly traded<sup>1</sup> and their respective financial statements are publicly available on their websites.<sup>2</sup> In the Proposed Transaction, Azarga shareholders will receive common shares of enCore in exchange for Azarga common shares.

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<sup>1</sup> enCore is traded on the TSX Venture Exchange (TSXV) under the symbol “EU” and on the OTC Markets Group equity market (OTCQB) under the symbol “ENCUF.” Azarga is traded on the Toronto Stock Exchange under the symbol “AZZ”, on the OTCQB under the symbol “AZZUF” and on the Frankfurt Stock Exchange under the symbol “P8AA”.

<sup>2</sup> enCore Financial Statements are available at <https://encoreuranium.com/investors/financial-statements/>. Azarga Uranium Financial Statements are available at <https://azargauranium.com/financial-type/financial-statements/>.

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More specifically, Azarga shareholders will receive 0.375 common shares of enCore for each Azarga common share held (the “Exchange Ratio”). The Exchange Ratio implied consideration of Cdn\$0.71 per Azarga common share based on the closing price of the enCore common shares on the TSX Venture Exchange on September 3rd, 2021. Additionally, the Exchange Ratio will be subject to an adjustment mechanism at the closing of the Proposed Transaction (the “Closing Exchange Ratio”). The Closing Exchange Ratio shall be equal to the greater of: (i) the Exchange Ratio; or (ii) an exchange ratio calculated as Cdn\$0.54 divided by enCore’s 15-day volume-weighted average price prior to the closing of the Proposed Transaction, subject to a maximum Closing Exchange Ratio of 0.49 common shares of enCore for each share of Azarga outstanding. Azarga applied for and received an interim order of the Supreme Court of British Columbia on October 13, 2021, permitting the Proposed Transaction to be submitted to shareholders of Azarga at a meeting of shareholders held on November 16, 2021, in accordance with Canadian corporate laws. The shareholders of Azarga approved the Proposed Transaction at that shareholder meeting with 99.8% of the votes cast in favor. A hearing for final court approval is anticipated to be held in December 2021. The TSX Venture Exchange and the Toronto Stock Exchange have conditionally approved the Proposed Transaction, with final approval being subject to completion of customary filings.

On October 8, 2021, Powertech filed a request for NRC consent for indirect transfer of control in connection with the Proposed Transaction (the “License Transfer Application”) with the NRC Staff, and written consent to the proposed indirect transfer was requested no later than November 19, 2021. The Parties planned to close the Proposed Transaction on or before November 30, 2021. There is significant shareholder pressure on the Parties to do so.

Given the current stage of the NRC’s review of the Proposed Transaction, the Parties understand that it is improbable that the NRC will provide its approval of the License Transfer Application by the planned closing date. Accordingly, in order to meet shareholder expectations, the Parties are now planning for the transaction to occur in two stages: (1) an Interim Transaction to take place as soon as possible and no later than December 31, 2021, and (2) NRC approval of the License Transfer Application to fully effect the Proposed Transaction. The Parties accordingly request that the NRC Staff determine that the Interim Transaction would not constitute an indirect transfer of control over SUA-1600 and thus would not require prior NRC written consent.

## 2. Description of the Interim Transaction

The Interim Transaction is structured to allow for a change of ownership, while providing for limitations (“Operating Control Restrictions”) that ensure that no change of control occurs until the NRC approves the License Transfer Application. The key elements of the Interim Transaction are as follows:

- A. As contemplated in the Agreement, the Interim Transaction will allow for a share transfer where Azarga shareholders will receive common shares of enCore in exchange for Azarga

common shares. The structure immediately following the Interim Transaction is demonstrated in Exhibit A-2.

- B. The Interim Transaction will not involve any change in the management of Azarga and Powertech. Powertech currently has four officers -- Blake Steele (President and CEO), John Mays (Vice President and COO), Dan O'Brien (Treasurer) and Doris Meyer (Secretary). All four officers will remain in their respective positions until the NRC approves the License Transfer Application.
- C. After the Closing of the Interim Transaction, and prior to NRC approving the License Transfer Application, enCore shall exercise no control over the Board of Directors (BOD) of either Azarga or Powertech:
- 1) The independent directors of Azarga will remain on the BOD;<sup>3</sup>
  - 2) The current director of Powertech will remain on the BOD;<sup>4</sup>
  - 3) enCore shall not, directly or indirectly exercise any voting, nomination, appointment or similar rights (including to pass a resolution without a shareholder vote) attached to Azarga or Powertech (the "Transferred Entities"), except to:
    - i. appoint as a director of a Transferred Entity a person nominated in writing by the Transferred Entity, but only if and to the extent that, absent such appointment, the Transferred Entity would have no directors at the time of such appointment;
    - ii. appoint as a director of a Transferred Entity a person approved by the board of the Transferred Entity;
    - iii. remove any director who, in the opinion of enCore (acting reasonably), has engaged in a material breach of his or her fiduciary (or similar directors') duties to a Transferred Entity;
    - iv. pass or vote on any resolution of a Transferred Entity to the extent such resolution has been approved unanimously by the board of the Transferred Entity;
    - v. pass or vote on any annual or similarly recurring resolution of a Transferred Entity required by applicable law to be passed in connection with the ongoing solvency or standing of a Transferred Entity;

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<sup>3</sup> The Azarga Board of Directors (BOD) has six (6) directors, all of whom are independent of enCore.

<sup>4</sup> Powertech, a wholly owned subsidiary of Azarga, has one (1) director, who is independent of enCore.

- vi. pass or vote on a resolution of a Transferred Entity reasonably necessary either (a) to give effect to or otherwise consummate the Interim or Proposed Transactions or (b) for a Transferred Entity or enCore to perform its obligations under the Agreement.
- D. After the Closing of the Interim Transaction, and prior to NRC approving the License Transfer Application, enCore shall not direct, influence, or exercise any control over SUA-1600 or activities occurring under or governed by SUA-1600. There are currently no licensed activities occurring under SUA-1600 and the Parties agree no licensed activities will take place until such time that: (i) the NRC approves the License Transfer Application and (ii) Powertech has provided decommissioning funding assurances to the satisfaction of the NRC, as required by SUA-1600.
  - E. enCore shall not enter into any legally binding commitment with respect to any activities listed in paragraphs C and D above.
3. Analysis: The Interim Transaction Does Not Constitute an Indirect Transfer or Change of Control

For the purposes of Threshold Determination, the public stock transfer does not by itself result in a change in control of Azarga (or an indirect change in control of the Powertech) because this share exchange does not change the “actual or potential control over a license”<sup>5</sup> as a result of the Operating Control Restrictions. After all, “[c]ontrol of a license is in the hands of the person or persons who are empowered to decide when and how that license will be used.”<sup>6</sup>

The Interim Transaction does not involve a transfer of control of any NRC-licensed activity, because the entities and individuals, including individuals on the license and senior management at Powertech, who exercise direction and control over Powertech today will continue to do so following the closing of the Interim Transaction. In addition, pursuant to the Operating Control Restrictions, enCore will be unable to exercise management influence or control prior to NRC’s approval of the License Transfer Application. Finally, there are no licensed activities currently occurring under SUA-1600 because the licensee has not yet provided decommissioning assurances. Thus, there will be no physical changes made to any facility, and no adverse changes in day-to-day operations as a result of the Interim Transaction (as none exist). There will likewise be no movement of assets out of Powertech and there will be no adverse impact to the public health and safety, nor will the transfer be inimical to the common defense and security. The Parties are providing commitments to ensure that Powertech abides by all of the conditions of SUA-1600. In addition, Exhibit B addresses the six subjects identified in Section 5, Change of Control, of

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<sup>5</sup> *Safety Light Corp.* (Bloomsburg Site Decommissioning and License Renewal Denials), LBP-95-9, 41 NRC 412, 451 (1995)

<sup>6</sup> *Safety Light Corp.* (Bloomsburg Site Decontamination), ALAB-931, 31 NRC 350 n.46 (1990).

NUREG-1556.<sup>7</sup> The analysis of these six subjects supports the conclusion that the above-described transaction does not represent a change of control.

Further, the Interim Transaction will have no effect on Powertech's financial qualifications or financial operations. Powertech currently does not have operating revenues; thus enCore will not have the benefit of Powertech's operating revenues through the Interim Transaction. In fact, enCore brings financial strength to the Proposed Transaction; as of September 30, 2021, enCore has more than \$36M in assets (\$11.6M of these in cash), which adds to the \$47M in assets maintained by Azarga (\$2.3M of these in cash).<sup>8</sup>

#### 4. NRC Precedents Recognize Equity Ownership Does Not Necessarily Confer Control

Under Section 184 of the AEA, written consent from the NRC is required for the "transfer of control of any license to any person" whether such transfer takes place "directly or indirectly".<sup>9</sup> Consistent with NRC regulations, guidance, and case law, the proposed Interim Transaction does not constitute a transfer of control of the Powertech's NRC license because the Operating Control Restrictions effectively prevent enCore from exercising control over NRC-licensed activity during the interim period.

In guidance, the NRC has explained that "[c]ontrol over licensed activities can be construed as the authority to decide when and how that license (licensed material and/or activities) will be used."<sup>10</sup> Notably, the NRC previously has issued threshold determinations and regulations consistent with the finding that prior consent is not required for changes in non-voting equity ownership or other changes in equity ownership without a change in control. The NRC should make the same finding with respect to the Interim Transaction.

In the most applicable precedent, Brookfield WEC Holdings LLC ("Brookfield") acquired Westinghouse Electric Company LLC ("Westinghouse") from Toshiba Nuclear Energy Holdings (U.S.) Inc. ("Toshiba") as part of a two-step transaction including an initial interim transaction with no change in control.<sup>11</sup> In the interim transaction, Brookfield acquired Toshiba's equity interest in Westinghouse, but left control over Westinghouse with its independent board. Shortly

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<sup>7</sup> See U.S. Nuclear Regulatory Comm'n, NUREG-1556, Vol. 15, Rev. 1, *Consolidated Guidance About Materials Licenses: Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses* at 5-1 to 5-8, Appendix E (June 2016), (ADAMS Accession No. ML16181A003).

<sup>8</sup> As of September 30, 2021.

<sup>9</sup> 42 U.S.C. § 2234; see, e.g., 10 C.F.R. 70.36(a).

<sup>10</sup> U.S. Nuclear Regulatory Comm'n, NUREG-1556, Vol. 15, Rev. 1, *Consolidated Guidance About Materials Licenses: Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses* at 5-2 (June 2016), (ADAMS Accession No. ML16181A003).

<sup>11</sup> See Westinghouse Electric Company LLC, Request for Threshold Determination (ADAMS Accession No. ML18036A982).

before the interim transaction, Toshiba-affiliated board members resigned from the Westinghouse Board, leaving only independent board members in place. Brookfield then committed to leaving the independent board in place and in control of Westinghouse (with commitments similar to this case) for the period of the interim transaction. Brookfield further agreed to limit its control over Westinghouse for a period of time prior to the ultimate transaction, particularly by preventing Brookfield from “exercise any voting, nomination, appointment or similar rights (including to pass a resolution without a vote of members) attached to” the equity interest Brookfield acquired.<sup>12</sup> On March 22, 2018, with such limits in place, the NRC confirmed that the interim transaction did not involve a transfer, direct or indirect, of the Westinghouse NRC licenses.<sup>13</sup>

The Toshiba-Brookfield example is just one of many times the NRC has concluded that a transaction concerning ownership, without control, does not need prior NRC approval. In 2006, the NRC evaluated a restructuring of NRG Energy, Inc., which was upstream to a South Texas Nuclear Project Unit 1 and 2 licensee.<sup>14</sup> In this case, a non-voting intermediate parent company was added to the ownership chain above the licensee. However, the NRC concluded that because the new entity did not have voting rights, and voting rights remained with the same entity pre-existing the change, no change of control occurred.<sup>15</sup> In 2003, the NRC evaluated a transaction involving the licensee of the Comanche Peak Steam Electric Station, Units 1 and 2, and found that a transaction that involved the exchange of non-voting interests and the exchange of a non-controlling limited partner (despite it being technically upstream of the licensee) did not constitute a change of control.<sup>16</sup>

## 5. Conclusion

The Parties respectfully request that the NRC issue a Threshold Determination confirming that the proposed share transaction of the Interim Transaction, subject to the restrictions described in this letter, does not give rise to a direct or indirect transfer of control for which prior written consent

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<sup>12</sup> See Evaluation of and Threshold Determination on the Share Purchase Agreement Between Toshiba Corporation and Brookfield WEC Holdings LLC at 2-3 (ADAMS Accession No. ML18073A224). The NRC staff determined that some of these rights, such as “the right to vote on any annual or similarly recurring resolution,” were concerning from a change of control standpoint, but permitted them because of the short term that Brookfield would hold the NRC licenses without NRC approval.

<sup>13</sup> See NRC Response – Threshold Determination (ADAMS Accession No. ML18073A225).

<sup>14</sup> See, Letter from J.E. Dyer, NRC, to J.J. Sheppard, STP Nuclear Operating Co. (Aug. 18, 2006) (ADAMS Accession No. ML062220406) (hereinafter “South Texas Threshold Determination”); Letter from J.E. Dyer, NRC, to J.J. Sheppard, STP Nuclear Operating Co., (Nov. 2, 2006) (ADAMS Accession No. ML062890043).

<sup>15</sup> See South Texas Threshold Determination at 2 (explaining that “[i]n the new corporate structure, NRG Energy and the existing wholly-owned subsidiaries of NRG Energy that own the NRG South Texas LP will retain control of the voting stock or other existing controlling interests in NRG South Texas LP,” regardless of the new corporate structure).

<sup>16</sup> See Letter from M.C. Thadani, NRC to C.L. Terry, TXU Energy (Aug. 28, 2003) (ADAMS Accession No. ML032410234)

of the NRC would be required under Section 184 of the Atomic Energy Act. The Parties respectfully request the NRC issue the Threshold Determination no later than December 22, 2021.

We appreciate the NRC Staff's attention to this matter. Please do not hesitate to contact us if you require any additional information.

Sincerely,



John Mays  
Chief Operating Officer

cc:

Office of General Counsel  
Director, Office of Nuclear Materials Safety and Safeguards

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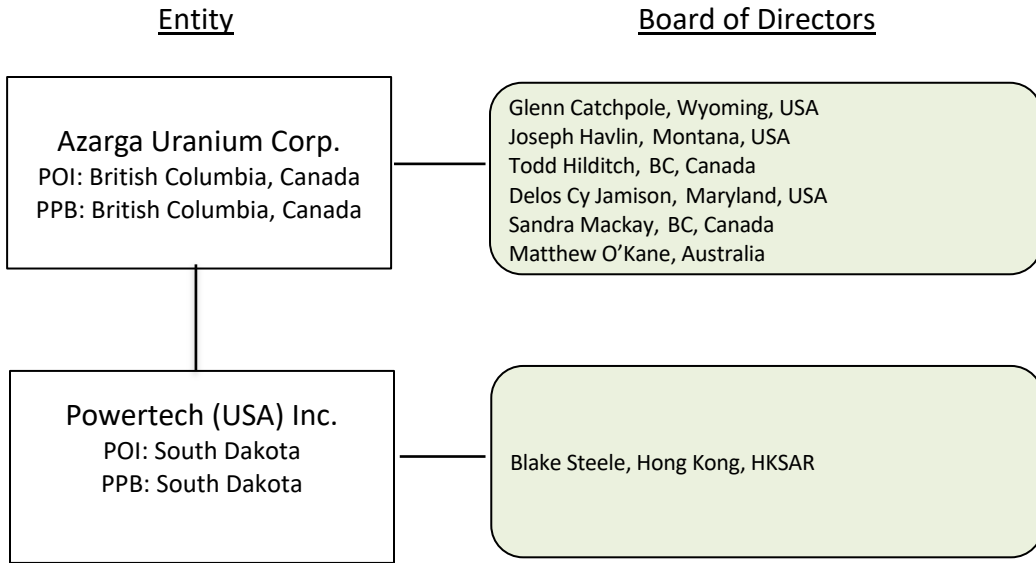
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**Exhibit A:**

**Simplified Corporate Structure**

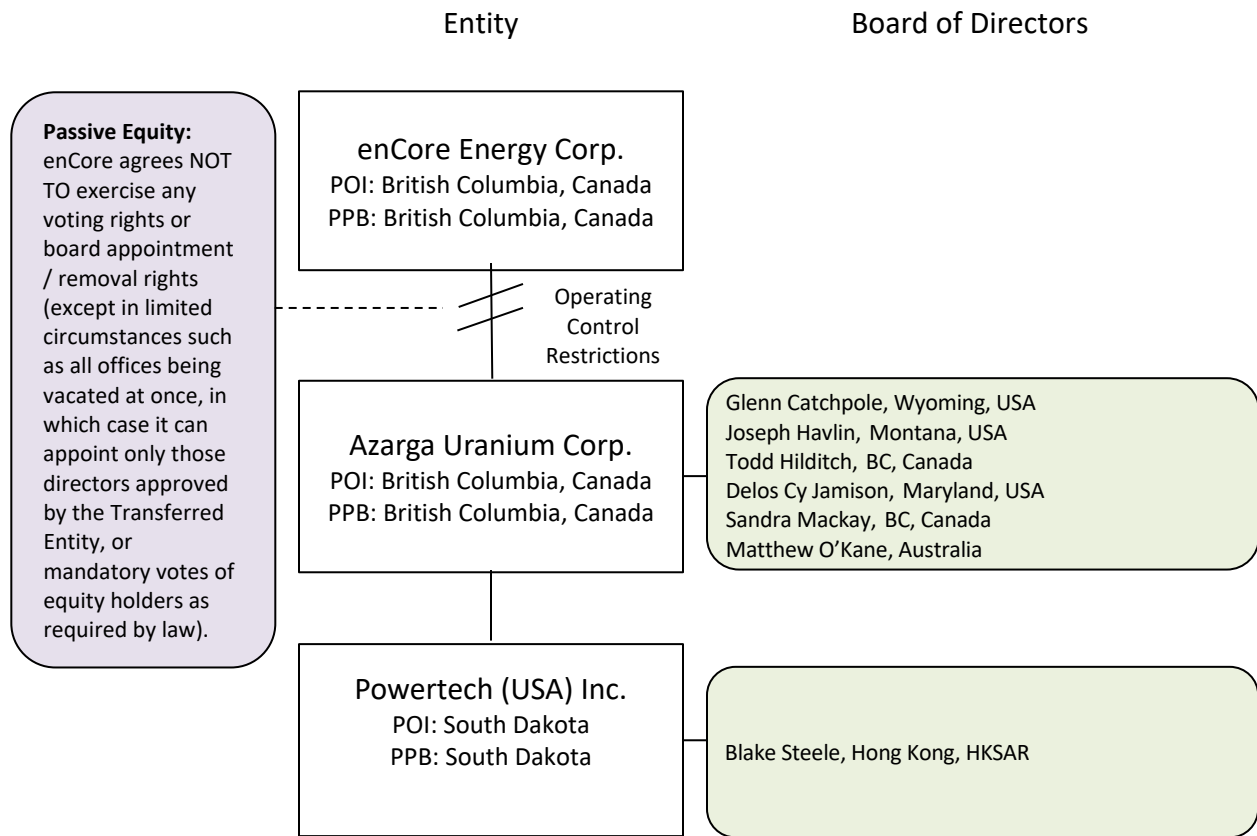


# Exhibit A-1: Simplified Corporate Structure (Current)\*



\* Remaining Azarga subsidiaries and corporate structure are included in the Oct. 8, 2021, License Transfer Application.

## Exhibit A-2: Simplified Corporate Structure (After Interim Transaction)\*



\* Remaining enCore subsidiaries and corporate structure are included in the Oct. 8, 2021, License Transfer Application.

**Exhibit B:**

**NUREG 1556**

**Information Regarding Interim Transaction**

## **Exhibit B: NUREG 1556 Information Regarding Interim Transaction**

The discussion below addresses the six subjects identified in Section 5, Change of Control in NUREG 1556, Volume 15, Rev. 1, Consolidated Guidance about Materials Licensees, Guidance about Changes of Control and about Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses Final Report, June 2016. These considerations support the conclusion that the Interim Transaction does not represent a change of control.

### **1. Description of the Transaction:**

**Prior to approval of a change of control, NRC requires a complete, clear description of the transaction, including the identity and the technical and financial qualifications of the proposed transferee and financial assurance for decommissioning information.**

As to the overall Proposed Transaction, Powertech provided information in its Oct. 8, 2021, License Transfer Application for SUA-1600. In sum, Azarga (parent company of Powertech) has entered into an agreement to be acquired by enCore, a publicly traded company headquartered in British Columbia, Canada.

The instant request relates to an interim transaction (“Interim Transaction”) pursuant to which enCore and Azarga will combine into one company following a share exchange offer, subject to certain restrictions preventing enCore from exercising control or influence over Azarga and its subsidiaries. The independent directors of Azarga will remain in place, and the director of Powertech will remain in place. Under the Interim Transaction, enCore agrees in post-closing covenants to forego the ability to exercise any control or influence over Azarga or Powertech, including by filling or replacing members of the boards and other restrictions (except in limited circumstances such as all offices being vacated at once, in which case it can appoint only those directors approved by Azarga or Powertech, or mandatory votes of equity holders as required by law). The Interim Transaction does not involve any changes to Powertech’s name, mailing address or contact information.

As discussed in the body of the letter and above, enCore’s interest under the Interim Transaction will be passive and the Interim Transaction does not involve transfer of control of Powertech’s license. Following closing of the Interim Transaction, enCore will not have the ability to influence or control any Powertech licensed material or activity (although no licensed activities are or will take place under the license without further NRC approvals).

Further, the Interim Transaction will have no effect on Powertech’s financial qualifications or financial operations. Powertech currently does not have operating revenues; thus, enCore will not have the benefit of Powertech’s operating revenues through the Interim Transaction. In fact, enCore brings financial strength to the Proposed Transaction; as of September 30, 2021, enCore has more than \$36M in assets (\$11.6M of these in cash), which adds to the \$47M in assets maintained by Azarga (\$2.3M of these in cash).<sup>19</sup>

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<sup>19</sup> As of September 30, 2021.

The Interim Transaction does not involve changes to the decommissioning funding plans or other financial assurance documents, as none currently exist under the Powertech license.

## **2. Changes in Personnel:**

**Prior to approval of a change of control, NRC requires that changes in personnel be documented, reviewed, and approved.**

The Interim Transaction does not involve any changes in personnel or duties that relate to any NRC licensed program.

## **3. Changes of Location, Equipment, and Procedures**

**Prior to the approval of a change of control, the licensee must submit a complete description of any planned changes in location, facilities, equipment, or procedures.**

The Interim Transaction does not involve any changes in the location, facilities, equipment, radiation safety program, use, possession, waste management or other procedures that relate to any NRC licensed program.

## **4. Surveillance Records**

**Prior to the approval of a change of control, licenses or applicants must submit a review of the status of all surveillance requirements and records. This should include an indication of whether the surveillance program is current and if it will be current at the time of transfer.**

The Interim Transaction does not affect or result in any change in the status of the licensee's facilities, equipment and radiation safety program, including any known contamination and whether decontamination will occur prior to the transfer, as no activities have taken place under the license to date and these programs do not yet exist. Powertech's regulatory programs will continue, unaltered, by the interim transaction as no activities have taken place under the license and these regulatory programs do not yet exist.

## **5. Decommissioning and Related Records Transfers.**

**Prior to the approval of a change of control, NRC regulations require that licenses arrange for the transfer and maintenance of records important to the safe and effective decommissioning of facilities involved in licensed activities. NRC also requires a description of the status of the licensed facility, with regard to ambient radiation levels and fixed and/or removable contamination as a result of NRC-licensed activities. The transferee must confirm, in writing, that they accept full responsibility for the decommissioning of the site, including any contaminated facilities and equipment.**

As discussed in the body of the letter and above, enCore's interest under the Interim Transaction will be passive and the Interim Transaction does not involve transfer of control of Powertech license. All records concerning the safe and effective decommissioning of the

facilities will be retained by Powertech, although none currently exist due to the status of the facility.

#### **6. Transferee's Commitment to Abide by the Transferor's Commitments**

**The transferee must either (i) commit to abide by all constraints, license conditions, requirements, representations, and commitments identified in and attributed to the existing license, or (ii) provide a description of its own program to comply with the license and all applicable regulations.**

As discussed in the body of the letter and above, enCore's interest under the Interim Transaction will be passive and the Interim Transaction does not involve transfer of control of Powertech's license. After the Interim Transaction, Azarga and Powertech will continue to abide by all constraints, conditions, requirements, representations and commitments in Powertech's license. Most importantly, Powertech will not take any actions under its license until the NRC has approved Powertech's decommissioning assurances, as required under the Powertech license.

**Exhibit C:**

**Independent Director Standards**

**The following standards are in accordance with the Canadian National Instrument 58-101 *Disclosure of Corporate Governance Practices*:**

A director is independent if he or she has no direct or indirect material relationship with the issuer (including a subsidiary entity of the issuer and a parent of the issuer).

A “material relationship” is a relationship which could, in the view of the issuer's board of directors, be reasonably expected to interfere with the exercise of a member's independent judgement.

The following individuals are considered to have a material relationship with an issuer:

- (a) an individual who is, or has been within the last three years, an employee or executive officer of the issuer;
- (b) an individual whose immediate family member is, or has been within the last three years, an executive officer of the issuer;
- (c) an individual who:
  - (i) is a partner of a firm that is the issuer's internal or external auditor,
  - (ii) is an employee of that firm, or
  - (iii) was within the last three years a partner or employee of that firm and personally worked on the issuer's audit within that time;
- (d) an individual whose spouse, minor child or stepchild, or child or stepchild who shares a home with the individual:
  - (i) is a partner of a firm that is the issuer's internal or external auditor,
  - (ii) is an employee of that firm and participates in its audit, assurance or tax compliance (but not tax planning) practice, or
  - (iii) was within the last three years a partner or employee of that firm and personally worked on the issuer's audit within that time;
- (e) an individual who, or whose immediate family member, is or has been within the last three years, an executive officer of an entity if any of the issuer's current executive officers serves or served at that same time on the entity's compensation committee; and
- (f) an individual who received, or whose immediate family member who is employed as an executive officer of the issuer received, more than \$75,000 in direct compensation from the issuer during any 12-month period within the last three years.



**Exhibit D:**  
**Standstill Agreement**

## STANDSTILL AGREEMENT

This Standstill Agreement (the “**Agreement**”) is dated effective November 30 2021 (the “**Effective Date**”).

### **BETWEEN:**

**ENCORE ENERGY CORP.**, a company existing under the laws of the Province of British Columbia

(“**enCore**”)

- AND -

**AZARGA URANIUM CORP.**, a company existing under the laws of the Province of British Columbia

(“**Azarga**”)

- AND -

**POWERTECH (USA) INC.**, a company existing under the laws of South Dakota, USA

(“**Powertech**”)

### **WHEREAS:**

- A. enCore and Azarga have entered into an arrangement agreement dated September 7, 2021 and as amended on November 22, 2021 (the “**Arrangement Agreement**”), pursuant to which enCore will acquire all of the issued and outstanding common shares of Azarga (“**Azarga Shares**”) in exchange for common shares of enCore, to be completed under a plan of arrangement pursuant to section 288 of the *Business Corporations Act* (British Columbia) (the “**Transaction**”).
- B. Powertech, a wholly-owned subsidiary of Azarga, holds licenses issued by the U.S. Nuclear Regulatory Commission (“**NRC**”) under Part 40 for the Dewey-Burdock Uranium Project in Fall River and Custer Counties, South Dakota.
- C. On October 8, 2021, Powertech filed a request to the U.S. Nuclear Regulatory Commission (“**NRC**”) for consent for the indirect transfer of control over Powertech’s license (“**SUA-1600**”) issued by the NRC (the “**License Transfer Application**”).
- D. In connection with the Transaction and the License Transfer Application, enCore and Azarga propose to submit a letter (the “**NRC Letter**”) to the NRC requesting a threshold determination permitting the Transaction to close, subject to certain commitments of the Parties hereto as set out below.
- E. The Parties wish to structure the Transaction to allow for a change of ownership while providing for limitations that ensure that no change of control occurs until the NRC approves the License Transfer Application (the “**Limitations**”).

**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, enCore and Azarga

(individually the “Party” and collectively the “Parties” to this Agreement) agree as follows:

**1. STANDSTILL**

- 1.1 enCore and Azarga agree that in the event of any conflict or inconsistency between the terms and conditions hereof and any terms or conditions set forth in the Arrangement Agreement, or other document relating to the transactions contemplated by this Agreement, the terms and conditions set forth in this Agreement shall prevail.
- 1.2 enCore and Azarga agree that on closing of the Transaction, the board of directors of Azarga (the “Azarga Board”) will consist of six directors, namely: Glenn Catchpole, Todd Hilditch, Joseph Havlin, Delos Cy Jamison, Matthew O’Kane, and Sandra Mackay, all of whom are independent directors as defined under Canadian National Instrument 58-101 *Disclosure of Corporate Governance Practices* and other applicable securities laws. Any other directors of Azarga will resign from the Azarga Board as soon as possible after the Effective Date.
- 1.3 enCore and Azarga agree that on closing of the Transaction, Blake Steele will remain as the President and CEO and sole director of Powertech, John Mays will remain as the Vice President and COO of Powertech, Dan O’Brien will remain as the Treasurer of Powertech and Doris Meyer will remain as the Secretary of Powertech.
- 1.4 enCore agrees that it will not, directly or indirectly exercise any voting, nomination, appointment or similar rights (including to pass a resolution without a shareholder vote) attached to Azarga or Powertech (the “Transferred Entities”), except to:
  - a) appoint as a director of a Transferred Entity a person nominated in writing by the Transferred Entity, but only if and to the extent that, absent such appointment, the Transferred Entity would have no directors at the time of such appointment;
  - b) appoint as a director of a Transferred Entity a person approved by the board of the Transferred Entity;
  - c) remove any director who, in the opinion of enCore (acting reasonably), has engaged in a material breach of his or her fiduciary (or similar directors’) duties to a Transferred Entity;
  - d) pass or vote on any resolution of a Transferred Entity to the extent such resolution has been approved unanimously by the board of the Transferred Entity;
  - e) pass or vote on any annual or similarly recurring resolution of a Transferred Entity required by applicable law to be passed in connection with the ongoing solvency or standing of the Transferred Entity;
  - f) pass or vote on a resolution of a Transferred Entity reasonably necessary either (i) to give effect to or otherwise consummate the Transaction; or (ii) for a Transferred Entity or enCore to perform its obligations under the Agreement.
- 1.5 enCore agrees that it will not direct, influence, or exercise any control over SUA-1600 or activities occurring under or governed by SUA-1600. There are currently no licensed activities occurring under SUA-1600 and the Parties agree no licensed activities will take place until such time that: (i) the NRC approves the License Transfer Application; and (ii) Powertech has provided decommissioning funding assurances to the satisfaction of the NRC, as required by SUA-1600.
- 1.6 enCore agrees that it will not enter into any legally binding commitment with respect to any activities listed in sections 1.4 and 1.5 above.
- 1.7 The term of this Agreement will commence on the Effective Date and will remain in full force and effect until the earlier of: (i) the date the NRC approves the License Transfer Application; or (ii) the date the NRC provides consent to a change to the composition of the Azarga Board.


## 2. GENERAL

- 2.1 Entire Agreement. This Agreement embodies the entire agreement and understanding among the parties hereto and supersedes all prior agreements and undertakings, whether oral or written, relative to the Limitations and the subject matter hereof.
- 2.2 Time of the Essence. Time shall be of the essence of this Agreement.
- 2.3 Jurisdiction. This Agreement shall be governed by and interpreted in accordance with the laws of the province of British Columbia and the laws of Canada applicable therein.
- 2.4 Association of Parties. Nothing contained in this Agreement shall be deemed to constitute a party, a partner, an agent or a legal representative of any other Party.
- 2.5 Headings. The headings of the sections of this Agreement are for convenience only and do not form a part of this Agreement. They are not intended to affect the construction of anything herein contained or govern the rights and liabilities of the parties.
- 2.6 Further Assurances. Upon the written request of any of the Parties, the other Parties agree to furnish such additional further assurances or documents as may be reasonably necessary to carry out the intent, purposes and terms of this Agreement.
- 2.7 Enurement. This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors, permitted assigns, heirs, administrators and legal representatives.
- 2.8 Prohibition Against Assignment. None of the Parties hereto may assign its rights or obligations under this Agreement without the prior written consent of the other Party.
- 2.9 Amendments. This Agreement may only be changed by an agreement in writing, duly executed by the Party or Parties against which enforcement, waiver, change, modification or discharge is sought.
- 2.10 Severability. If any one or more of the provisions contained herein should be held to be invalid, unenforceable or illegal in any respect in any jurisdiction, the validity, legality and enforceability of such provision shall not in any way be affected or impaired thereby in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
- 2.11 Independent Legal Advice. Each of the Parties acknowledges and agrees that it has had the opportunity to receive legal advice in connection with the execution of this Agreement and each of the Parties has either received such legal advice as deemed necessary or has waived the right to such legal advice.
- 2.12 Waiver. Waiver of any provisions herein by any Party hereto shall not be construed as a waiver of any other provisions or terms of this Agreement.
- 2.13 Counterpart Executions and Electronic Transmissions. This Agreement may be executed in counterparts, each of which when delivered (whether in originally executed form or by facsimile or other electronic transmission) will be deemed to be an original and all of which together will constitute one and the same document.

*[Signature page follows]*

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date first above written.

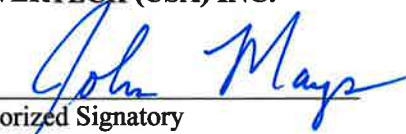
**ENCORE ENERGY CORP.**

Per:   
Authorized Signatory

**AZARGA URANIUM CORP.**

Per:   
Authorized Signatory

**POWERTECH (USA) INC.**

Per:   
Authorized Signatory