

## ESCROW AGREEMENT

This Agreement made as of the [day] day of [month], [year].

**AMONG:**

Mr Jose David Barrios [address for service]

(the “Seller”)

[MapleWave Capital ] [address for service]

(the “Purchaser”)

- and -

Levine Professional Corporation d/b/a Levine Law

(the “Escrow Agent”)

**WHEREAS** the Seller and the Purchaser have entered or may into a share purchase agreement dated [date] (the “Purchase Agreement”) pursuant to which, among other things, the Purchaser will purchase all of the issued and outstanding shares of SnowCap Financial Limited (the “Target”) from the Seller (the “Transaction”);

**AND WHEREAS** the Purchaser has agreed or may agree under the Purchase Agreement to deposit with the Escrow Agent: (i) an amount equal to Euro 5,000 (the “Deposit”) as of the date hereof; and (ii) an amount equal to Euro 30,000 (the “Escrow Amount”) prior to the Closing Date (as defined in the Purchase Agreement);

**AND WHEREAS** the Deposit Funds (as hereinafter defined) shall be applied towards the Purchaser’s payment of the Purchase Price (as defined in the Purchase Agreement) on Closing and shall be paid by the Escrow Agent to the Seller or refunded to the Purchaser in accordance with the provisions of this Agreement;

**AND WHEREAS** the Escrow Amount (as hereinafter defined) shall be administered and distributed by the Escrow Agent in accordance with the provisions of this Agreement;

**AND WHEREAS** the Escrow Agent is willing to act as escrow agent on the terms set forth in this Agreement;

**AND WHEREAS** capitalized terms used but not defined in this Agreement have the meaning given to them in the Purchase Agreement;

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained herein and other good valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

**1. Definitions.** In this Agreement, the following terms have the following meanings:

- (a) **Agreement** means this escrow agreement, as the same may be amended, restated, replaced, supplemented or novated from time to time in accordance with its provisions; and the words Article and Section followed by a number or letter mean and refer to the specified Article or Section of this escrow agreement.
- (b) **Business Day** means any day, other than a Saturday, Sunday or statutory or civic holiday, on which the principal commercial banks located in Toronto, Ontario are open for the conduct of business.
- (c) **Closing** means ..
- (d) **Court** has the meaning specified in
- (e) **Deposit Funds** means the Deposit plus any interest accrued thereon.
- (f) **Execution** means the binding execution of the Purchase Agreement by the Seller and the Purchaser.
- (g) **Escrow Funds** means the Escrow Amount plus (i) any interest accrued thereon, less (ii) any amount paid pursuant to Article 3 hereof.
- (h) **Parties** means the Seller, the Purchaser and the Escrow Agent and their respective successors and permitted assigns, and each individually means a Party.
- (i) **Purchase Agreement** has the meaning specified in the recitals to this Agreement.
- (j) **Transaction** has the meaning specified in the recitals to this Agreement.

**2. Certain Phrases.** In this Agreement, (i) the words “including” and “includes” mean “including (or includes) without limitation”, and (ii) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding” and if the last day of any such period is not a Business Day, such period will end on the next Business Day.

**3. Headings, Etc.** The division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and are not to affect or be used in the construction or interpretation of this Agreement.

**4. Applicable Law.** This Agreement shall be governed by and interpreted, construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflict of law principles.

## **ARTICLE 2** **APPOINTMENT AND DELIVERY OF ESCROW FUNDS**

- 1. Appointment of Escrow Agent.** The Purchaser hereby appoints the Escrow Agent to serve as escrow agent on its behalf on the terms and conditions set forth in this Agreement, and the Escrow Agent hereby accepts such appointment on such terms and conditions.
- 2. Acknowledgement and Waiver.** The Parties acknowledge that the Escrow Agent has acted and will continue to act as legal counsel to the Purchaser and agree that the Escrow Agent shall not, by virtue of acting as escrow agent hereunder, be disqualified or otherwise conflicted from continuing to act on behalf of the Purchaser in any manner, and shall be entitled to continue to act on behalf of the Purchaser in respect of any matter arising in relation to this Agreement, the Purchase Agreement or any other matter contemplated in the Purchase Agreement, including any dispute arising hereunder or thereunder.
- 3. Delivery of the Deposit.** On the date hereof the Purchaser shall have remitted the Deposit by way of wire transfer to the Escrow Agent in its capacity as escrow agent hereunder. The Escrow Agent hereby agrees to hold the Deposit, when received, in trust for the Purchaser subject to the terms of this Agreement.
- 4. Delivery of the Escrow Amount.** On or prior to Execution, the Purchaser shall remit, or cause to be remitted, the Escrow Amount by way of wire transfer to the Escrow Agent in its capacity as escrow agent hereunder. The Escrow Agent hereby agrees to hold the Escrow Amount, when received, in trust for the Purchaser subject to the terms of this Agreement.
- 5. Placement of the Deposit Funds and the Escrow Funds.** Until released in accordance with this Agreement, the Deposit Funds and the Escrow Funds shall be kept segregated in the records of the Escrow Agent and shall be deposited in one or more non-interest-bearing trust accounts to be maintained by the Escrow Agent in the name of the Escrow Agent at one or more banks which are Canadian Schedule I chartered banks.

## **ARTICLE 3** **DISBURSEMENT OF DEPOSIT FUNDS AND ESCROW FUNDS**

- 1. Payment and Release of the Deposit Funds.** The Escrow Agent shall only make payment from the Deposit Funds as follows:
  - (a) on execution of the certain finder agreement between the Seller's representative and the Purchaser, the Escrow Agent shall release and pay the Deposit Funds to the Seller's representative;

All portions of the Deposit Funds to be released pursuant to paras. (a) above shall be released to the applicable party by the Escrow Agent within 2 Business Days of receipt of the instructions set forth in para. (a) above.

## **2. Payment and Release of the Escrow Funds**

- (a) The Escrow Agent shall make payment from the Escrow Funds upon:
  - (i) receipt of written instructions from the Purchaser, which shall specify to whom the Escrow Funds or certain portions thereof shall be paid and the amounts of such portions;
  - (ii) receipt of an executed copy of the Purchase Agreement and all necessary Closing Documents as specified therein.
- (b) The Escrow Funds shall be released as follows: not later than the date which is [two (2)] days from the Closing Date, the Escrow Funds shall be distributed by wire transfer from the Escrow Agent's bank at Bank of Montreal ("BMO") to the Seller representative's bank as set out in Appendix "A" hereto.

**3. Distributions.** All payments by the Escrow Agent pursuant to this Article 3 shall be made by wire transfer in immediately available funds issued by a Canadian chartered bank to the Party entitled thereto. All payments by the Escrow Agent to the Seller or the Seller's representative shall be to the account of the Seller or Seller's Representative as set out in Appendix "A" hereto. All payments by the Escrow Agent to the Purchaser shall be to the account of the Purchaser as directed by the Purchaser.

**4. Further Documents.** The Escrow Agent may (but is not obligated to) request of all or any of the Parties such certificates and other documents as may be reasonably required to give effect to the release of any of the Escrow Funds.

**5. Status of Funds.** The Deposit Funds and the Escrow Funds are not the property of the Escrow Agent and shall not be subject to any lien, attachment or other judicial process of any creditor of the Escrow Agent.

## **ARTICLE 4 ADDITIONAL MATTERS**

- 1. No Requirement to Act.** The Escrow Agent shall retain the right not to act and shall not be held liable for refusing to act unless it has received clear and reasonable documentation which complies with the terms of this Agreement or as it may reasonably request from time to time. Such documentation must not require the exercise of any discretion or independent judgment on the part of the Escrow Agent.
- 2. Sufficiency of Deposit Funds and Escrow Funds.** The Seller and the Purchaser acknowledge and agree that the Escrow Agent is acting as a depositary only and the Escrow Agent shall have no obligation to ensure the sufficiency of the Deposit Funds and the Escrow Funds.

- 3. Termination.** This Agreement shall terminate and cease to be of any further force and effect (except for the provisions of this Agreement relating to protection of the Escrow Agent, which provisions shall survive any termination of this Agreement or the resignation or removal of the Escrow Agent) on such date on which the Escrow Agent has delivered all of the Deposit Funds and the Escrow Funds in accordance with the provisions of this Agreement.
- 4. Tax Reporting.** The Seller agrees to provide the Escrow Agent with their certified tax identification numbers and other forms, documents and information that the Escrow Agent may request in order to fulfill any tax reporting function.
- 5. Reliance upon Instructions.** The Parties agree that the Escrow Agent shall not be required to make any determination or decision with respect to the validity of any claim made by any Party, or of any denial thereof, but shall be entitled to act and rely conclusively on the terms hereof and on the written instructions and directions of the Purchaser tendered to it in accordance with the terms hereof.
- 6. Limitation of Responsibility.** The Escrow Agent shall have no duty to know or determine the performance or non-performance of any provision of this Agreement or any other agreement (including, without limitation, the Purchase Agreement) except as expressly required or contemplated in the performance by the Escrow Agent of its duties and responsibilities under this Agreement. The duties and responsibilities of the Escrow Agent are limited to those expressly stated herein. The provisions of this clause are not intended to and shall not restrict or remove any other rights which the Escrow Agent may have at law or in equity to seek relief or direction from the court in addition to those expressly set forth herein. Except as otherwise expressly provided herein, the Escrow Agent is hereby authorized to disregard any and all notices or warnings, other than written notices given by any of the other Parties hereto, and is hereby expressly authorized to comply with and obey any and all final non-appealable processes, orders, judgments or decrees of any court and shall not be liable to any of the other Parties for such compliance. The Escrow Agent shall be under no duty or obligation to ascertain the identity, authority or rights of the Parties (or their agents) executing or delivering or purporting to execute or deliver this Agreement, or any directions, instruments, documents or papers related hereto.
- 7. No Expenditure of Own Funds.** Nothing in this Agreement shall require the Escrow Agent to expend its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified or reimbursed as provided in this Agreement.
- 8. Fees and Reimbursement of the Escrow Agent.** The Purchaser shall be liable for any fees and reasonable expenses incurred by the Escrow Agent in performing its obligations and duties under this Agreement.
- 26. Removal of Resignation.** The Escrow Agent may at any time be removed at the joint written direction of the Seller and the Purchaser. The Escrow Agent may, at any time, resign and be discharged of its obligations under the Agreement. Within 3 Business Days after giving the foregoing notice of removal to the Escrow Agent or within 3 Business Days of receiving

the foregoing notice of resignation from the Escrow Agent, as the case may be, the Purchaser shall designate and appoint a successor escrow agent in Canada, provided such successor is a law firm, a chartered bank or a trust with offices in the Province of Ontario, and provide written notice of such to the resigning Escrow Agent. Upon receipt of a notice identifying the successor escrow agent in Canada, the Escrow Agent shall deliver the Deposit Funds and Escrow Funds then held by it to the successor escrow agent and such successor shall become the Escrow Agent for purposes of this Agreement. Upon such delivery, the resigning Escrow Agent shall have no further duties or responsibilities of any nature or kind whatsoever hereunder.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

**1. Seller Representations and Warranties.** The Seller represent and warrant to the other Parties as follows:

- (a) the Seller is a natural person and citizen of Mexico with the identification documents set out in Schedule “A” and Schedule “B” hereto;
- (b) the Seller is the sole beneficial owner of the shares purchased pursuant to the Purchase Agreement.

**2. Purchaser Representations and Warranties.** the Purchaser represents and warrants to the other Parties as follows:

- (a) it has the corporate power and authority to enter into and perform its obligations under this Agreement;
- (b) this Agreement constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms;
- (c) the execution, delivery and performance of this Agreement do not and will not result in a breach of, violate, or conflict with, any other agreement to which it is a party; and
- (d) the execution, delivery and performance of this Agreement do not require the consent, waiver, approval, licence or authorization of, or any filing with, any Governmental Authority or other Person and will not result in a breach of, violate or conflict with, any order, law, judgment or restriction binding on it or any of its properties or assets.

## **ARTICLE 6 MISC**

**1. Notices.** Any notice, consent, waiver or other communication given under this Agreement shall be in writing and may be given by delivering it or sending it to the address specified in the provisions of the Purchase Agreement, provided, however, that any notice to the Escrow Agent shall be provided as follows:

If to the Escrow Agent:

Levine Law

matthew@levinelegal.ca

Attention: Matthew Levine

Any such communication shall be deemed to have been delivered on the date of personal delivery or transmission by electronic, as the case may be, if such day is a business day and such delivery or transmission was received by the recipient Party prior to 5:00 p.m. ([specify] time) and otherwise on the next business day. Any Party may change its address for service by notice given in accordance with the foregoing and any subsequent notice shall be sent to such Party at its changed address.

2. **Time of the Essence.** Time shall be of the essence of this Agreement.
3. **Successors and Assigns.** This Agreement shall become effective when executed by the Parties and after that time shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns. Except as otherwise provided in Section 26., neither this Agreement nor any of the rights, duties or obligations under this Agreement or any interest therein are assignable or transferable by a Party without the prior written consent of the other Parties. Any attempt to assign any of the rights, duties or obligations in this Agreement without such written consent is void.
4. **No Waiver.** No failure or delay of any Party in exercising any right, power or remedy provided herein shall be, or be deemed to be, a waiver thereof; nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise of such rights, power or remedy or any other right, power or remedy.
5. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction in a final ruling to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and be ineffective to the extent of such illegality, invalidity or unenforceability and the remaining provisions shall continue in full force and effect, without amendment.
6. **Amendments.** This Agreement may not be amended, supplemented or otherwise modified except by a written agreement executed by the Parties.
7. **Counterparts.** This Agreement may be executed in any number of separate counterparts (including by facsimile or other electronic means), each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same.+

[SIGNATURE PAGE FOLLOWS]



**IN WITNESS WHEREOF** the Parties have executed this Agreement as at the date first above mentioned.

[Specify]

By: \_\_\_\_\_

[Specify]

By: \_\_\_\_\_

[Specify]

By: \_\_\_\_\_

## **APPENDIX “A” – Payment Details**

**SCHEDULE “A” -- Passport**

**SCHEDULE “B” – [second identification document]**

**Scanned, both sides**