

**INNER SPIRIT HOLDINGS LTD.**

and

**THE GUARANTORS named herein**

and

**COMPUTERSHARE TRUST COMPANY OF CANADA**

as Trustee and

**COMPUTERSHARE TRUST COMPANY OF CANADA**

as Collateral Agent

**INDENTURE**

**providing for the issue of 12.0% Senior Secured Convertible Debentures**

Dated as of May 24, 2019

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**THIS INDENTURE** dated as of May 24, 2019.

**BY AND AMONG:**        **INNER SPIRIT HOLDINGS LTD.**, a corporation governed by the laws of Alberta;

(the "**Corporation**")

**AND:**                    **Each of the GUARANTORS** (as defined herein);

**AND:**                    **COMPUTERSHARE TRUST COMPANY OF CANADA**, a trust company existing under the laws of Alberta, in its capacity as trustee;

(the "**Trustee**")

**AND:**                    **COMPUTERSHARE TRUST COMPANY OF CANADA**, a trust company existing under the laws of Alberta, in its capacity as collateral agent.

(the "**Collateral Agent**")

**WHEREAS** the Corporation wishes to provide for the creation and issue of senior secured convertible debentures with the designation of "**12.0% Senior Secured Convertible Debentures**" (the "**Debentures**"), all upon the terms and conditions set forth in this Indenture (as hereinafter defined);

**AND WHEREAS** all necessary acts and proceedings have been done and taken and all necessary resolutions have been passed to authorize the execution and delivery of this Indenture by the Corporation, to make the same effective and binding upon the Corporation, and to make the Debentures, when certified by the Trustee and issued as provided in this Indenture, valid and legally binding obligations of the Corporation with the benefit and subject to the terms of this Indenture;

**AND WHEREAS** the foregoing recitals are made as representations and statements of fact by the Corporation and not by the Trustee.

**THEREFORE**, it is hereby covenanted, agreed and declared as follows:

## **ARTICLE 1 INTERPRETATION**

### **Section 1.1        Definitions**

In this Indenture and in the Debentures, unless there is something in the subject matter or context inconsistent herewith, the expressions below shall have the following meanings:

"**Acquired Indebtedness**" means Indebtedness of (a) any Obligor incurred to finance an acquisition or other business combination or (b) Persons that are acquired by an Obligor or merged, consolidated or amalgamated with or into any Obligor or otherwise becomes an Obligor in accordance with the terms of this Indenture, whether or not incurred in connection with, or in contemplation of, such transaction;

"**Act**" or "**Act of Holder(s)**", when used with respect to any Holder(s), shall have the meaning specified in Section 1.12(1);

"**Affiliate**" has the meaning ascribed thereto in the *Securities Act* (Alberta);

"**Applicable Law**" shall mean, at any time, with respect to any Person, property, transaction, event or other matter, as applicable, all laws, rules, statutes, regulations, treaties, orders, judgments and decrees, and all official requests, directives, rules, guidelines, orders, policies, practices and other requirements of any Governmental Authority relating or applicable at such time to such Person, property, transaction, event or other matter, and shall also include any interpretation thereof by any Person having jurisdiction over it or charged with its administration or interpretation;

"**Applicable Securities Law**" shall mean any Applicable Law in any jurisdiction in Canada regulating, or regulating disclosure with respect to, any sale or distribution of securities in, or to residents of, such jurisdiction;

"**Authenticated**" means (a) with respect to the issuance of a Certificated Debenture, one which has been duly signed by the Corporation and authenticated by manual signature of an authorized officer of the Trustee, and (b) with respect to the issuance of an Uncertificated Debenture, one in respect of which the Trustee has completed all Internal Procedures such that the particulars of such Uncertificated Debenture are entered in the records of the Trustee, and "**Authenticate**", "**Authenticating**" and "**Authentication**" have corresponding meanings;

"**Beneficial Holder**" means a Person who is the beneficial owner of a Debenture, as shown on a list maintained by a Participant or the Depository;

"**Board of Directors**" shall mean either the Board of Directors of the Corporation, or any committee of that board duly authorized to make a decision on the matter in question;

"**Board Resolution**" shall mean a copy of a resolution certified by the Chief Executive Officer, the Chief Financial Officer, or any director, Vice-President, Secretary or Assistant Secretary of the Corporation to have been duly adopted by the Board of Directors and to be in full force and effect and unamended on the date of such certification;

"**Business Day**" shall mean any day of the week, other than Saturday, Sunday or a statutory holiday in the Province of Alberta, on which banking institutions are open for business in the City of Calgary, Alberta;

"**Canadian Dollar**" or "**Dollar**" or "\$" shall mean lawful currency of Canada;

"**Cannabis Permits**" means all permits or licences of any nature held by the Corporation or any subsidiary of the Corporation, as of the date of this Indenture or thereafter, under Canadian federal, provincial and territorial law, and regulations made thereunder, that are necessary or desirable to lawfully conduct or maintain, directly or indirectly, its cannabis-related activities and interests;

"**Capital Lease**" means, with respect to any Person, any lease of any property (whether real, personal or mixed) by such Person as lessee that, in accordance with GAAP, is required to be classified and accounted for as a capital lease on a balance sheet of such Person;

"**Capital Lease Obligation**" means, with respect to any Capital Lease of any Person, the amount of the obligation of the lessee thereunder that, in accordance with GAAP, would appear on a balance sheet of such lessee in respect of such Capital Lease;

"**Cash Management Obligations**" means obligations in respect of ordinary course cash management services consisting of automated clearing house transactions, controlled disbursement services, treasury,

depository, overdraft and electronic funds transfer services, foreign exchange facilities, currency exchange transactions or agreements and options with respect thereto, credit card processing services, credit or debit cards, purchase cards and any indemnity given in connection with any of the foregoing;

"**CDS**" shall mean CDS Clearing and Depository Services Inc., together with its successors from time to time;

"**Certificated Debentures**" means Debentures in the form of individual certificates in definitive fully registered form and substantially in the form of Schedule 2.2;

"**Change of Control**" means (i) any event as a result of or following which any person, or group of persons "acting jointly or in concert" within the meaning of Applicable Securities Law, beneficially owns or exercises control or direction over an aggregate of more than 50% of the then outstanding Common Shares; or (ii) the sale or other transfer of all or substantially all of the consolidated assets of the Corporation;

"**Change of Control Notice**" has the meaning ascribed thereto in Section 3.3(2);

"**Change of Control Offer**" has the meaning ascribed thereto in Section 3.3(1);

"**Change of Control Repurchase Date**" means the date that is 30 business days after the date of the Change of Control Notice;

"**Change of Control Repurchase Notice**" has the meaning ascribed thereto in Section 3.3(3);

"**Change of Control Repurchase Price**" means an amount equal to 100% of the principal amount of Debentures held by a Holder, plus accrued and unpaid interest, if any, on such Debentures, plus an amount equal to the interest that would have otherwise accrued on the Debentures to the Maturity Date but for the purchase or conversion of the Debentures pursuant to the Change of Control Offer;

"**Charge**" means the Liens created by or intended to be created by this Indenture;

"**Collateral**" means all property, assets and undertaking of the Obligors subject to the Charge;

"**Collateral Agent**" means Computershare Trust Company of Canada, in its capacity as collateral agent under this Indenture, and its successors and permitted assigns in such capacity;

"**Common Shares**" means the Common Shares in the share capital of the Corporation; provided that in the event of any reclassification, subdivision, consolidation, conversion, exchange or other modification thereto shall thereafter mean the shares or other securities or property resulting therefrom;

"**Conversion Price**" means \$0.25 per Common Share, subject to adjustment in accordance with the provisions of Article 4;

"**Corporate Trust Office**" shall mean the principal office or offices of the Trustee in the City of Calgary, Province of Alberta, at which at any particular time its corporate trust business shall be administered;

"**Corporation**" shall mean Inner Spirit Holdings Ltd. until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, "**Corporation**" shall

mean such successor corporation;

**"Corporation Request"** or **"Corporation Order"** shall mean a written request or order signed in the name of the Corporation by any Responsible Officer of the Corporation and delivered to the Trustee;

**"Counsel"** shall mean, in the case of counsel to the Trustee, any barrister, solicitor or other lawyer or firm of barristers, solicitors or other lawyers retained or employed by the Trustee and, in the case of counsel to the Corporation, any barrister, solicitor or other lawyer or firm of barristers, solicitors or other lawyers retained or employed by the Corporation and acceptable to the Trustee;

**"Credit Facilities"** means, one or more debt facilities, commercial paper facilities or incurrence of other Indebtedness, in each case, with banks or other lenders or investors providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), debt securities or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced in whole or in part from time to time;

**"CSE"** means the Canadian Securities Exchange;

**"Current Market Price"** for any date means the VWAP on the CSE for the 20 consecutive trading days ending on the fifth trading day preceding the date of the applicable event (or, if the Common Shares are not listed thereon, on such Recognized Stock Exchange on which the Common Shares are listed as may be selected by the Directors and approved by the Trustee or, if the Common Shares are not listed on any Recognized Stock Exchange, then on the over-the-counter market). The VWAP shall be determined by dividing the aggregate sale price of all Common Shares sold on the said exchange or market, as the case may be, during the said 20 consecutive trading days by the total number of Common Shares, as the case may be, so sold;

**"Date of Conversion"** has the meaning ascribed thereto in Section 4.4(2);

**"Debentureholder(s)"** or **"Holder(s)"** means the registered holder(s) of Debentures for the time being;

**"Debenture Liabilities"** means the indebtedness, liabilities and obligations of the Corporation under Debentures issued under this Indenture, including on account of principal, interest or otherwise but excluding the issuance of Common Shares upon any conversion or redemption;

**"Debentures"** has the meaning ascribed thereto in the recitals;

**"Default"** means any event or condition that constitutes an Event of Default or that would constitute an Event of Default with the giving of notice, passage of time, or both;

**"Depository"** or **"CDS"** means CDS Clearing and Depository Services Inc. and its successors in interest;

**"Directors"** means the directors of the Corporation on the date hereof or such directors as may, from time to time, be appointed or elected directors of the Corporation pursuant to the Corporation's articles and by-laws, and applicable laws, and **"Director"** means any one of them, and reference to action by the Directors means action by the Directors as the Board of Directors;

**"Equity Interests"** means Stock and all warrants, options or other rights to acquire Stock (but

excluding any debt security that is convertible into, or exchangeable for, Stock);

"**Event of Default**" shall mean any of the events identified in Section 7.1 as being an Event of Default;

"**Excluded Holder**" has the meaning ascribed thereto in Section 2.23(1);

"**Extraordinary Resolution**" has the meaning ascribed thereto in Section 11.8 and Section 11.11;

"**Fair Market Value**" means the value that would be paid by an informed and willing buyer to an arm's length informed and willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Corporation (unless otherwise provided in the Indenture);

"**Fiscal Year**" means any of the annual accounting periods of the Corporation ending on December 31 of each year;

"**Freely Tradeable**" means, in respect of shares of capital of any class of any corporation, shares which: (i) are issuable without the necessity of filing a prospectus or any other similar offering document under Applicable Securities Law; and (ii) are not subject to a hold period under National Instrument 45-102 - "*Resale of Securities*" of the Canadian Securities Administrators (or any successor regulation to such National Instrument 45-102);

"**GAAP**" means generally accepted accounting principles in Canada, consistently applied and any change therein from time to time, including but not limited to, as a result of the adoption of International Financial Reporting Standards ("**IFRS**") by the Corporation and its Subsidiaries;

"**Government Obligations**" means securities issued or guaranteed by the Government of Canada or any province thereof;

"**Governmental Authority**" or "**Governmental Authorities**" shall mean, when used with respect to any Person, any government, parliament, legislature, regulatory authority, agency, tribunal, department, commission, board, instrumentality, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, arbitration board or arbitrator or other law, regulation or rule-making entity (including a Recognized Stock Exchange) having or purporting to have jurisdiction over such Person or the business or property of such Person pursuant to the laws of Canada or any country in which such Person is residing, incorporated, continued, amalgamated, merged or otherwise created or established or in which such Person carries on business or holds property, or any province, territory, state, municipality, district or political subdivision of any such country or of any such province, territory or state of such country;

"**Guaranteed Obligations**" means the obligations, liabilities and indebtedness of each Guarantor under Section 2.11(2)(a);

"**Guarantors**" means, each Subsidiary of the Corporation; as of the date hereof, the Guarantors consist of Spirit Leaf Inc., Spirit Leaf Corporate Inc. and Watch It! Consolidated Ltd. and after the date hereof shall include any other Person who from time to time provides a Guarantee in accordance with the terms and provisions hereof;

"**Hedging Obligations**" means, with respect to any specified Person, the obligations of such Person under:

- (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (b) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates,

in each case entered into for the purpose of managing risks in the ordinary course of business and not for speculative purposes.

**"Indebtedness"** means, with respect to a specified Person, and without duplication:

- (a) any indebtedness of such Person for monies borrowed or raised, including any indebtedness represented by a note, bond, debenture or other similar instrument of such Person;
- (b) reimbursement obligations of such Person arising from bankers' acceptance, letters of credit or letters of guarantee or similar instruments;
- (c) indebtedness of such Person for the deferred purchase price of property or services, other than for consumable non-capital goods and services purchased in the ordinary course of business, including arising under any conditional sale or title retention agreement;
- (d) obligations of such Person under capital or synthetic leases and sale and leaseback transactions;
- (e) the aggregate amount at which shares in the capital of such Person that are redeemable at fixed dates or intervals or at the option of the holder thereof may be redeemed; and
- (f) guarantees or Liens granted by such Person in respect of Indebtedness of another Person;

**"Indenture"** means or refers to this Indenture as amended or supplemented by any indenture, deed or instrument supplemental or ancillary thereto;

**"Indenture Documents"** means this Indenture, the Security Documents, the Debentures and each other document, instrument, application or agreement now or hereafter executed and delivered by or on behalf of the Corporation;

**"Interest Obligation"** means the obligation of the Corporation to pay interest on the Debentures, as and when the same becomes due;

**"Interest Payment Date"** means the last day of June and the last day of December in each year, commencing June 31, 2020, and such other dates to which interest accrues and is payable pursuant to Section 2.3;

**"Internal Procedures"** means the minimum number of the Trustee's internal procedures customary at

such time for the making of any one or more entries to, changes in or deletions of any one or more entries in the records of the Trustee (including without limitation, original issuance or registration of transfer of ownership) to be complete under the operating procedures followed at the time by the Trustee;

**"Inventory"** means inventory, including any "inventory" as such term is defined in the PPSA, now or hereafter owned or acquired by the Corporation, wherever located, and in any event including inventory, merchandise, goods and other personal property that are held by or on behalf of the Corporation for sale or lease or are furnished or are to be furnished under a contract of service, or that constitute raw materials, work in process, finished goods, returned goods, supplies or materials of any kind, nature or description used or consumed or to be used or consumed in the Corporation's business or in the processing, production, packaging, promotion, delivery or shipping of the same, including all supplies;

**"Issue Date"** means the date of issuance of any Debentures under this Indenture;

**"Jurisdictions"** means the Provinces of Alberta, British Columbia, Ontario and Saskatchewan;

**"Legend Removal Opinion"** has the meaning set forth in Section 2.27;

**"Lien"** means any hypothec, security interest, mortgage, lien, right of preference, pledge, assignment by way of security or any other agreement or encumbrance of any nature that secures the performance of an obligation, and a Person is deemed to own subject to a Lien any property or assets that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital or synthetic lease or similar agreement (other than an operating lease) relating to such property or assets;

**"LVTS"** means the Large Value Transfer System;

**"Material Adverse Effect"** means a material adverse effect on (a) the business, assets, operations, prospects or financial or other condition of the Obligor considered as a whole, (b) the Corporation's ability to pay any of its obligations under this Indenture, (c) the Trustee's Liens, on behalf of the Debentureholders, on the Collateral or the priority of such Liens, or (d) the Trustee's or any Debentureholder's rights and remedies under the Indenture Documents;

**"Material Subsidiary"** means any Subsidiary of the Corporation which has consolidated assets equal to or greater than 25% of the consolidated assets of the Corporation and its Subsidiaries;

**"Maturity"** shall mean the date on which principal becomes due and payable under the Debentures;

**"Maturity Date"** means June 30, 2022 or such other date on which the Debentures become due and payable as provided in this Indenture;

**"NCI"** means the non-certificated inventory system operated by CDS;

**"NCI Letter of Instruction"** means the NCI letter of instruction provided by CDS to the Trustee in connection with the conversion of the Debentures;

**"Notice"** shall mean any notice, document or other communication required or permitted to be given under this Indenture;

**“Obligation”** means collectively, the Debenture Liabilities and the Guaranteed Obligations;

**"Obligor"** means the Corporation and the entities that are listed as of the date hereof on Schedule 1.1 (*Obligors*) and **"Obligor"** means any one of them;

**"Officer's Certificate"** shall mean a certificate signed by any two officers of the Corporation, at least one of whom shall be the chief executive officer or the chief financial officer, (or officer holding a similar title) and delivered to the Trustee;

**"Opinion of Counsel"** shall mean a written opinion addressed to the Trustee (among other addressees as applicable) by Counsel and in a form which, in each case, shall be reasonably satisfactory to the Trustee;

**"Original QIB Purchaser"** means a purchaser of Debenture Units from the Corporation in the original offering of Debenture Units by the Corporation that was a Qualified Institutional Buyer that was also an "accredited investor" (as such term is defined in Rule 501(a) of Regulation D under the U.S. Securities Act), and who has executed and delivered a completed U.S. purchaser's letter in which such purchase has agreed, inter alia, not to sell any Debentures or Common Shares issuable upon conversion of Debentures other than to the Corporation or pursuant to Rule 904 of Regulation S;

**"Outstanding"** when used with respect to the Debentures shall mean, as of the date of determination, all Debentures theretofore Authenticated, certified and delivered by the Trustee under this Indenture, except:

- (a) Debentures theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Debentures for whose payment, purchase, or repurchase money in the necessary amount has been theretofore deposited with the Trustee under gratuitous deposit or set aside and segregated in trust by the Corporation (if the Corporation shall act as its own paying agent) for the Holders of such Debentures; and
- (c) Debentures that have been surrendered to the Trustee pursuant to Section 2.24 or in exchange for or in lieu of which other Debentures have been certified and delivered pursuant to this Indenture, other than any such Debentures in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Debentures are held by a bona fide purchaser in whose hands such Debentures are valid obligations of the Corporation; provided, however, that: (i) in determining whether the Holders of the requisite principal amount of the Debentures then outstanding have taken any Act of Holders hereunder, Debentures owned by the Corporation or any Affiliate of the Corporation shall be disregarded and deemed not to be then Outstanding; (ii) in determining whether the Trustee shall be protected in acting and relying upon such Act of Holders, only Debentures of which the Trustee has actual notice that they are so owned shall be so disregarded; and (iii) that Debentures so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act with respect to such Debentures and that the pledgee is not the Corporation or any Affiliate of the Corporation;

**"Participant"** shall mean, in relation to a Depository, a broker, dealer, bank or other financial

institution or other Person on whose behalf such Depository or its nominee holds Debentures pursuant to a book-based system operated by such Depository;

**"Payment Record Date"** means (i) with respect to the Maturity Date, 15 Business Days prior to such date and (ii) with respect to an Interest Payment Date, the date determined as the record date for the determination of the Holders to which interest on Debentures is payable on such Interest Payment Date, which date shall be the 15th day of the month in which such Interest Payment Date occurs (or if such day is not a Business Day, the immediately preceding Business Day);

**"Permitted Liens"** means:

- (a) Liens imposed or arising by operation of law, in each case, in respect of obligations not yet due or which have been postponed or are being contested in good faith and by appropriate proceedings to the extent that adequate reserves are maintained;
- (b) pledges or deposits of money securing statutory obligations under workmen's compensation, employment insurance, social security or public liability laws or similar legislation;
- (c) Liens for Taxes incurred in the ordinary course of the business of the Corporation that are not yet due and payable or the validity of which is being actively and diligently contested in good faith by the Corporation, provided that the Corporation has established on its books reserves considered by it and its auditors to be adequate therefor and all enforcement proceedings related thereto have been stayed;
- (d) pledges or deposits made in the ordinary course of business in connection with bids or tenders or to comply with the requirements of any legislation or regulation applicable to the Person concerned or its business or assets;
- (e) Liens in respect of Indebtedness that is subordinated and postponed in right to the payment to the Debentures;
- (f) Liens in favour of the Trustee or Collateral Agent pursuant to any of the Security Documents;
- (g) Liens on assets acquired or constructed after the date of this Indenture securing purchase money Indebtedness and Capital Lease Obligations; provided that such Liens shall in no event extend to or cover any assets other than such assets acquired or constructed after the date of this Indenture with the proceeds of such purchase money Indebtedness or Capital Lease Obligations;
- (h) servitudes, easements, rights-of-way, restrictions and other similar encumbrances on real property imposed by Applicable Law or incurred in the ordinary course of business and encumbrances consisting of zoning or building restrictions, easements, licenses, restrictions on the use of property or minor imperfections in title thereto which, in the aggregate, are not material, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of any Obligor;
- (i) Liens securing Cash Management Obligations;

- (j) Liens for any judgment rendered, or claim filed, against the Corporation that does not constitute an Event of Default;
- (k) Liens incurred or deposits made to secure the performance of or otherwise in connection with statutory obligations, environmental reclamation obligations, bids, leases, customer or supplier contracts, government contracts, surety or appeal bonds, performance or return-of-money bonds or other obligations of a like nature incurred in the ordinary course of business; and
- (l) the Liens in existence on the date of this Indenture, including the Liens summarized on Schedule 1.1 (*Permitted Liens*) and any refinancing, extensions and renewals thereof,

provided that obligations under the Permitted Liens described in paragraphs (d), (f), (h), (i) and (j) above shall not exceed \$1,000,000 in the aggregate;

"**Person**" shall mean any natural person, corporation, firm, partnership, joint venture, trustee, executor, liquidator of a succession, administrator, legal representative or other unincorporated association, trust, unincorporated organization, government or Governmental Authority and pronouns relating thereto have a similar extended meaning;

"**Personal Property**" means all existing and after acquired personal, movable, tangible and intangible assets of the Corporation (including, but not limited to, all cash, cash equivalents, bank accounts, receivables, Inventory (wherever located), securities (whether or not marketable), intellectual property, intangibles and all substitutions, accessions and proceeds of the foregoing (including insurance proceeds));

"**PPSA**" shall mean the *Personal Property Security Act* (Alberta) and the Regulations thereunder, as from time to time in effect, provided, however, if attachment, perfection or priority of Collateral Agent's security interests in any Collateral are governed by the personal property security laws of any jurisdiction other than Alberta, PPSA shall mean those personal property security laws in such other jurisdiction for the purposes of the provisions hereof relating to such attachment, perfection or priority and for the definitions related to such provisions;

"**Proceeding**" shall mean any suit, action or other judicial or administrative proceeding;

"**Qualified Institutional Buyer**" means a "qualified institutional buyer" within the meaning of Rule 144A under the U.S. Securities Act;

"**Recognized Stock Exchange**" means the CSE or, if the Debentures are not listed on the CSE, any other national securities exchange or market on which the Debentures are then listed and posted for trading;

"**Redemption Date**" has the meaning ascribed thereto in Section 3.2; "**Redemption Notice**" has the meaning ascribed thereto in Section 3.2; "**Redemption Price**" has the meaning ascribed thereto in Section 3.1; "**Registrations**" has the meaning ascribed thereto in Section 6.13;

"**Regulation S**" means Regulation S adopted by the U.S. Securities and Exchange Commission under the U.S. Securities Act;

"**Repayment Offer**" has the meaning ascribed thereto in Section 3.3(1);

**"Replacement Cost"** means, with respect to any property, the cost of repairing, replacing or reinstating such property with materials of like kind and quality and for like occupancy (where applicable) on the same or a similar site, in accordance with the requirements of any applicable municipal by-laws;

**"Responsible Officer of the Corporation"** means the Chairman, the Chief Executive Officer, the Chief Financial Officer, any Vice-President, the Secretary, any Assistant Secretary, or any other officer of the Corporation customarily performing functions similar to those performed by any of the above designated officers;

**"Security"** means the Liens created by the security documents;

**"Security Interest"** means a mortgage, indenture, pledge, deposit by way of security, charge, hypothec, assignment by way of security, security interest, lien (whether statutory, equitable or at common law), title retention agreement, a right of set-off (if created for the purpose of directly or indirectly securing the repayment of money owed), and any other interest in property or assets, howsoever created or arising, that secures payment or performance of an obligation;

**"Stock"** means all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity whether voting or non-voting, participating or non-participating, including common stock, preferred stock or any other equity security, other than Stock of a Subsidiary;

**"Subject Transaction"** has the meaning ascribed thereto in Section 12.1;

**"Subsidiary"** in relation to any specified Person, shall mean (a) any corporation, association or other business entity a majority of the outstanding Voting Securities of which are beneficially owned, directly or indirectly, by or for such Person and/or by or for any subsidiary or one or more of the other Subsidiaries of that Person (or a combination thereof), and (b) any partnership (i) the sole general partner or the sole managing general partner of which is such Person or a Subsidiary of such Person or (ii) the only general partners of which are the Person or one or more Subsidiaries of that Person (or any combination thereof);

**"Successor Entity"** has the meaning ascribed thereto in Section 12.1(a);

**"Supplemental Indenture"** has the meaning ascribed thereto in Section 14.4;

**"Taxes"** has the meaning ascribed thereto in Section 2.23(1);

**"Tilray Promissory Note"** means the promissory note dated March 5, 2019 granted by the Corporation in favour of Tilray, Inc., and the security interest granted thereunder;

**"Transfer Agent"** shall mean Computershare Trust Company of Canada or other Person or Persons appointed as the transfer agent for the Common Shares, in such capacity, together with such Person's or Persons' successor from time to time in such capacity;

**"Trustee"** shall mean Computershare Trust Company of Canada until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, **"Trustee"** shall mean or include each Person who is then a Trustee hereunder;

"**Uncertificated Debenture**" means any Debenture which is issued under the NCI and which is not evidenced by a Certificated Debenture;

"**United States**" or "**U.S.**" means the United States of America, its territories and possessions, any state of the United States, and the District of Columbia;

"**U.S. Legend**" has the meaning ascribed thereto in Section 2.27;

"**U.S. Person**" means a "U.S. person" as that term is defined in Rule 902(k) of Regulation S;

"**U.S. Securities Act**" means the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder;

"**VWAP**" means the volume-weighted average trading price of the Common Shares for the applicable period (which must be calculated utilizing days in which the Common Shares actually trade). The VWAP shall be determined by dividing the aggregate sale price of all Common Shares sold on the applicable Recognized Stock Exchange or market, as the case may be, over the applicable period by the total number of Shares so sold;

"**Voting Securities**" means securities having under all circumstances voting power to elect the directors, managers or trustees of the corporation, association or other business entity, provided that securities which only carry the right to vote conditionally on the happening of an event shall not be considered to be Voting Securities nor shall any securities be deemed to cease to be Voting Securities solely by reason of a right to vote accruing to shares of another class or classes by reason of the happening of such event;

"**Wholly-Owned Subsidiary**" means any Subsidiary of which the Corporation beneficially owns, directly or indirectly, all the Voting Securities and equity interests (other than qualifying equity interests required to be issued under Applicable Law) and a Subsidiary shall be deemed to beneficially own Voting Securities and equity interests beneficially owned by a Wholly-Owned Subsidiary and so on indefinitely;

"**Written Order**" means a written order or request, respectively, signed in the name of the Corporation by a Responsible Officer or director of the Corporation; and all other terms which are used herein but not otherwise defined herein, and that are defined in the *Securities Act* (Alberta), either directly or by reference therein, shall have the meanings assigned to them therein.

## **Section 1.2 Interpretation**

- (1) Words importing the singular number shall include the plural and vice versa and words importing gender shall include the masculine, feminine and neuter genders.
- (2) The words "hereto", "herein", "hereof", "hereby", "hereunder", and other words of similar import refer to this Indenture as a whole and not to any particular article, section, subsection, paragraph, clause or other part of this Indenture.
- (3) Except as otherwise provided herein, any reference in this Indenture to any act, statute, regulation, policy statement, instrument, agreement, or section thereof shall be deemed to be a reference to such act, statute, regulation, policy statement, instrument, agreement or section thereof as amended, re-enacted or replaced from time to time.

**Section 1.3 Accounting Terms**

As used in this Indenture and in any certificate or other document made or delivered pursuant to this Indenture, accounting terms not defined in this Indenture, or in any such certificate or other document, and accounting terms partly defined in this Indenture or in any such certificate or other document to the extent not defined, shall have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Indenture, or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Indenture, or in any such certificate or other document shall prevail.

**Section 1.4 Headings and Table of Contents**

The division of this Indenture, or any related document, into articles, sections, subsections, paragraphs, clauses and other subdivisions, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Indenture or any such related document.

**Section 1.5 Section and Schedule References**

Unless something in the subject matter or context is inconsistent therewith, references in this Indenture to articles, sections, subsections, paragraphs, clauses, other subdivisions, exhibits, appendices or schedules are to articles, sections, subsections, paragraphs, clauses other subdivisions, exhibits, appendices or schedules of or to this Indenture.

**Section 1.6 Governing Law**

The parties to this Indenture agree that any legal suit or proceeding arising with respect to this Indenture or the Debentures will be tried exclusively in the courts of the Province of Alberta in the City of Calgary, and the parties to this Indenture agree to submit to the jurisdiction of, and to venue in, such courts. This Indenture and each Debenture issued hereunder shall be governed by, and construed with, the laws of the Province of Alberta and the federal laws of Canada applicable therein and shall be treated in all respects as Alberta contracts.

**Section 1.7 Currency**

Unless expressly provided to the contrary in this Indenture or in any Debenture, all monetary amounts in this Indenture or in such Debenture refer to Canadian Dollars.

**Section 1.8 Non-Business Day**

Unless expressly provided to the contrary in this Indenture or in any Debenture, whenever any payment shall be due, any period of time shall begin or end, any calculation is to be made or any other action is to be taken on, or as of, or from a period ending on, a day other than a Business Day, such period of time shall begin or end and such calculation shall be made as of the day that is not a Business Day, but such actions shall be taken and such payment shall be made, as the case may be, on the next succeeding Business Day.

**Section 1.9 Time**

Unless otherwise expressly stated in this Indenture or in any Debenture, all references to a time will

mean Mountain time. Time shall be of the essence of this Indenture.

### **Section 1.10 Independence of Covenants**

Each covenant contained in this Indenture shall be construed (absent an express provision to the contrary) as being independent of each other covenant, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant.

### **Section 1.11 Form of Documents Delivered to Trustee**

- (1) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.
- (2) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

### **Section 1.12 Acts of Holders**

- (1) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may, alternatively, be embodied in and evidenced by the record of Debentureholders voting in favour thereof, either in person or by proxies duly appointed in writing, at any meeting of Debentureholders duly called and held in accordance with the provisions of Article 11, or a combination of such instruments and any such record. Except as herein otherwise expressly provided, such action shall become effective when such requisite instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Corporation. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "**Act of Holders**" of the "**Act**" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such Agent shall be sufficient for any purpose of this Indenture and, subject to Section 9.1, conclusive in favour of the Trustee and the Corporation, if made in the manner provided in this Section 1.12. The record of any meeting of Debentureholders shall be provided in the manner specified in Section 11.7.
- (2) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgements of deeds, certifying that the individual signing such instrument or writing acknowledged to such notary public or other officer the execution thereof. Where such execution is by a signer acting in a capacity, other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority. The fact and date of the execution of any such

instrument or writing, or the authority of the Person executing the same, may also be proved in any manner that the Trustee deems sufficient.

- (3) If the Corporation or the Trustee shall solicit from the Debentureholders any Act, the Corporation or the Trustee, as the case may be, may, at its option, fix in advance a record date for the determination of Debentureholders entitled to take such Act, but the Corporation or the Trustee, as the case may be, shall have no obligation to do so. Any such record date shall be fixed at the Corporation's or the Trustee's discretion, as the case may be, provided that such record date shall be fixed on a date not more than 60 days prior to the Act. If such a record date is fixed, such Act may be sought or taken before or after the record date, but only the Debentureholders of record at the close of business on such record date shall be deemed to be Debentureholders for the purpose of determining whether Holders of the requisite proportion of Debentures Outstanding have authorized or agreed or consented to such Act, and for that purpose the Debentures Outstanding shall be computed as of such record date.

### **Section 1.13 Interest Payments and Calculations**

- (1) The rate of interest stipulated in this Indenture or in any Debenture will be calculated on the basis of a 360 day year composed of twelve 30 day months.
- (2) For purposes of the *Interest Act* (Canada), (i) whenever any interest under this Indenture is calculated using a rate based on a year of 360 days or 365 days, as the case may be, the rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (a) the applicable rate based on a year of 360 days or 365 days, as the case may be, (b) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (c) divided by 360 or 365, as the case may be, (ii) the principle of deemed reinvestment of interest does not apply to any interest calculation under this Indenture, and (iii) the rates of interest stipulated in this Indenture are intended to be nominal rates and not effective rates or yields.
- (3) In calculating interest under this Indenture or under a Debenture for any period, unless otherwise specifically stated, the first day of such period shall be included and the last day of such period shall be excluded.

### **Section 1.14 Successors and Assigns**

All covenants and agreements in this Indenture by the Corporation shall bind its successors and assigns, whether expressed or not.

### **Section 1.15 Severability Clause**

If any provision in this Indenture or in the Debentures shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

### **Section 1.16 Benefits of Indenture**

Nothing in this Indenture or in the Debentures, express or implied, shall give to any Person, other than the parties hereto, the Debentureholders, and their respective successors hereunder, any paying agent, any Person maintaining the record of the Debentureholders pursuant to Section 2.13, any

Transfer Agent and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

### **Section 1.17 Unclaimed Debentures**

Subject to Applicable Law, all amounts held or set aside for the payment of Debentures together with any interest thereon which remain unclaimed after a period of three calendar years from the Maturity Date shall be forfeited and shall revert to the Corporation.

### **Section 1.18 Schedules**

The following Schedules form part of this Indenture:

Schedule 1.1	Obligors/Permitted Liens
Schedule 2.2	Form of Debenture Certificate
Schedule 2.20	Form of Regulation S Rule 904 Transfer Certificate

### **Section 1.19 Benefits of Indenture through Trustee**

For greater certainty, this Indenture is being entered into with the Trustee for the benefit of the Holders and the Trustee declares that it holds all rights, benefits and interests of this Indenture on behalf of and as the Person holding the power of attorney of, the Holders and each such Person who becomes a Holder of the Debentures from time to time.

### **Section 1.20 English Language**

The Corporation, the Trustee and, by their acceptance of Debentures and the benefits of this Indenture, the Holders acknowledge having consented to and requested that this Indenture, each Debenture and each document related hereto and thereto be drawn up in the English language only. *La Société, le fiduciaire des débentures et, par leur acceptation des débentures et des avantages de la présente convention, les porteurs, reconnaissent avoir accepté et demandé que la présente convention, chaque débenture et chaque document relié à celles-ci soient rédigés en langue anglaise.*

## **ARTICLE 2 THE DEBENTURES**

### **Section 2.1 Limit of Issue and Designation of Debentures**

The Debentures authorized to be issued hereunder are limited to \$10,000,000 aggregate principal amount issued on the date of this Indenture, and shall be designated as "12.0% Senior Secured Convertible Debentures due June 30, 2022".

### **Section 2.2 Form and Terms of Debentures**

- (1) The Debentures shall be dated as of the Issue Date and issued as Certificated Debentures or Uncertificated Debentures. The Debentures shall bear interest from and including Issue Date at the rate of 12.0% per annum (after as well as before Maturity, default and judgment, with interest on overdue interest at the said rate), payable in lawful money of Canada in equal semi-

annual instalments in arrears on each Interest Payment Date, and the Debentures shall mature on the Maturity Date. The first Interest Payment Date on June 30, 2020 will include interest accrued from and including the Issue Date to, but excluding, June 30, 2020. The outstanding principal of the Debentures will be payable to the Holder on the Maturity Date in lawful money of Canada against surrender thereof by said Holder at the Corporate Trust Office or at such place or places as may be designated by the Corporation for that purpose.

- (2) The Debentures shall be issued in denominations of \$1,000 and integral multiples of \$1,000.
- (3) The Debentures and the certificate of the Trustee endorsed thereon shall be substantially in the form set forth in Schedule 2.2 hereto.
- (4) All Debentures issued in the United States or to, or for the account or benefit of, a U.S. Person (other than Original QIB Purchasers) shall be issued as fully-registered Certificated Debentures.

### **Section 2.3 Interest**

- (1) Each Debenture issued hereunder, whether issued originally or in exchange for another Debenture, shall bear interest from and including the Issue Date or from and including the last Interest Payment Date on which interest shall have been paid or made available for payment on the Debentures then Outstanding, whichever shall be the later, to but excluding the earlier of:
  - (a) the following Interest Payment Date;
  - (b) if purchased in accordance with Section 3.5, the date of payment;
  - (c) if repurchased in accordance with Section 3.3, the Change of Control Repurchase Date;
  - (d) if converted in accordance with Article 4, the Conversion Date;
  - (e) if redeemed in accordance with any other provision of this Indenture, the Redemption Date; and
  - (f) the Maturity Date;

as the case may be (the "**Interest Period**"). The interest payable per \$1,000 principal amount of Debentures in respect of an Interest Period other than an Interest Period that ends on an Interest Payment Date shall be calculated by multiplying \$1,000 by the interest rate of 12.0% per annum, computed on the basis of a 360-day year composed of twelve 30-day months. For certainty, the first interest payment will include interest accrued from May 24, 2019 to, but excluding June 30, 2020, which will be equal to \$132.33 for each \$1,000 principal amount of the Debentures. For each other interest payment representing a semi-annual installment, the interest amount shall be equal to \$60 for each \$1,000 principal amount of the Debentures.

- (2) On the Maturity Date, the Corporation shall pay to the Debentureholders all outstanding principal thereon and all accrued and unpaid interest thereto, up to but excluding the Maturity Date.
- (3) So long as the Debentures or any portion thereof are issued in the form of or represented by

Uncertificated Debentures, then all payments of interest on such Uncertificated Debentures shall be made by 11:00 a.m. (Calgary time) at least one Business Day prior to the related Interest Payment Date by electronic funds transfer to the Trustee for the payment to the Depository or its nominee for subsequent payment to Beneficial Holders of the applicable interests in such Uncertificated Debentures, unless the Corporation and the Depository otherwise agree.

- (4) For purposes of this Indenture, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Debentures on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Trustee will be prima facie evidence, for the purposes of such determination.
- (5) In this Indenture, each rate of interest which is calculated with reference to a period (the “deemed interest period”) that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest Act* (Canada), equivalent to a rate based on a calendar year calculated by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing by the number of days in the deemed interest period.
- (6) To the extent permitted by applicable Law, the provisions of the *Judgment Interest Act* (Alberta) will not apply to the Indenture Documents and are hereby expressly waived by the Corporation.

#### **Section 2.4 Prescription**

The right of the Debentureholders to exercise their rights under this Indenture shall become void unless the Debentures are presented for payment within a period of three years from the Maturity Date. The Corporation shall have satisfied its obligations under the Debentures upon irrevocable remittance to the Trustee for the account of the Debentureholders, upon repurchase or at the Maturity Date, of any and all consideration due hereunder in cash and such remittance shall for all purposes be deemed a payment to the Debentureholders, and to that extent such Debentures shall thereafter not be considered as Outstanding and the Debentureholders shall have no right, except to receive payment out of the moneys so paid and deposited upon surrender of its Debentures.

#### **Section 2.5 Issue of Debentures**

Debentures in such aggregate principal amounts as the Board of Directors shall determine in accordance with the terms hereof and in lawful money of Canada shall be executed by the Corporation from time to time and, forthwith after such execution, shall be delivered to the Trustee and shall be Authenticated by the Trustee and delivered to the Corporation in accordance with the terms of Section 2.7. Other than as contemplated by Section 2.14, the Trustee shall receive no consideration for the certification or Authentication of Debentures.

#### **Section 2.6 Execution of Certificated Debentures**

All Certificated Debentures shall be signed (either manually or by electronic signature) by any one Responsible Officer of the Corporation holding office at the time of signing. An electronic signature upon a Certificated Debenture shall for all purposes of this Indenture be deemed to be the signature of the Person whose signature it purports to be. Notwithstanding that any Person whose signature, either manual or in facsimile, appears on a Certificated Debenture as a director or officer may no longer hold such office at the date of the Certificated Debenture or at the date of the certification and delivery thereof, such Certificated Debenture shall be valid and binding upon the

Corporation and the registered holders thereof entitled to the benefits of this Indenture. In addition, any Uncertificated Debenture shall, subject to Section 2.7, be valid and binding upon the Corporation and the registered holder thereof will be entitled to the benefits of this Indenture.

### **Section 2.7 Authentication**

- (1) Only such Debentures as shall have been Authenticated shall be enforceable against the Corporation and entitled to the benefits of this Indenture at any time or be valid or obligatory for any purpose.
- (2) Authentication by Trustee of any Certificated Debenture executed by the Corporation shall be conclusive evidence that the Holder is entitled to the benefits of this Indenture.
- (3) No Debenture (which for greater certainty shall include any Debenture issued as an Uncertificated Debenture) shall be issued or, if issued, shall be valid for any purpose, enforceable against the Corporation or entitle the registered holder to the benefit hereof or thereof until it has been Authenticated. Such Authentication shall be conclusive evidence that such Debenture is a valid and binding obligation of the Corporation and that the holder is entitled to the benefits of this Indenture. The Authentication by the Trustee of any such Debenture hereunder shall not be construed as a representation or warranty by the Trustee as to the validity of this Indenture or of such Debenture or its issuance (except the due Authentication thereof) or as to the performance by the Corporation of its obligations under this Indenture and the Trustee shall in no respect be liable or answerable for the use made of the Debentures or any of them or the proceeds thereof.

### **Section 2.8 Uncertificated Debentures**

- (1) Subject to Section 2.27 and the other provisions hereof, at the Corporation's option, Debentures may be issued and registered in the name of CDS or its nominee as Uncertificated Debentures and:
  - (a) the deposit of which may be confirmed electronically by the Trustee to a particular Participant through CDS; and
  - (b) the Debentures shall be identified by CUSIP – 45783JAA4, ISIN – CA45783JAA49.
- (2) If the Corporation issues Debentures, Beneficial Holders of such Debentures shall not receive Debenture Certificates in definitive form and shall not be considered owners or holders thereof under this Indenture or any supplemental indenture. Beneficial interests in Debentures registered and deposited with CDS will be represented only through the NCI. Transfers of Debentures registered and deposited with CDS between Participants shall occur in accordance with the rules and procedures of CDS. Neither the Corporation nor the Trustee shall have any responsibility or liability for any aspects of the records relating to or payments made by CDS or its nominee, on account of the beneficial interests in Debentures registered and deposited with CDS. Nothing herein shall prevent the Beneficial Holders of Uncertificated Debentures from voting such Debentures using duly executed proxies or voting instruction forms
- (3) All references herein to actions by, notices given or payments made to, Debentures shall, where Debentures are held through CDS, refer to actions taken by, or notices given or payments made to, CDS upon instruction from the Participants in accordance with its rules

and procedures in the case of actions by CDS. For the purposes of any provision hereof requiring or permitting actions with the consent of or the direction of Debentureholders evidencing a specified percentage of the aggregate Debentures outstanding, such direction or consent may be given by Beneficial Holders acting through CDS and the Participants owning Debentures evidencing the requisite percentage of the Debentures. The rights of a Beneficial Holder whose Debentures are held established by law and agreements between such holders and CDS and the Participants upon instructions from the Participants. The Trustee and the Corporation may deal with CDS for all purposes (including the making of payments) as the authorized representative of the respective Debentures or Debenture holders and such dealing with CDS shall constitute satisfaction or performance, as applicable, of their respective obligations hereunder.

- (4) For so long as Debentures are held through CDS, if any notice or other communication is required to be given to Debentureholders, the Trustee will give such notices and communications to CDS.
- (5) If CDS resigns or is removed from its responsibility as Depository and the Trustee is unable or does not wish to locate a qualified successor, CDS shall provide the Trustee with instructions for registration of Debentures in the names and in the amounts specified by CDS, and the Corporation shall issue and the Trustee shall certify and deliver the aggregate number of Debentures then outstanding in the form of Certificated Debentures representing such Debentures.
- (6) The rights of Beneficial Holders who hold securities entitlements in respect of the Debentures through the NCI shall be limited to those established by Applicable Law and agreements between the Depository and the Participants and between such Participants and the Beneficial Holders who hold securities entitlements in respect of the Debentures through the NCI, and such rights must be exercised through a Participant in accordance with the rules and procedures of the Depository.
- (7) Notwithstanding anything herein to the contrary, none of the Corporation nor the Trustee nor any agent thereof shall have any responsibility or liability for:
  - (a) the electronic records maintained by the Depository relating to any ownership interests or other interests in the Debentures or the depository system maintained by the Depository, or payments made on account of any ownership interest or any other interest of any Person in any Debenture represented by an electronic position in the NCI (other than the Depository or its nominee);
  - (b) for maintaining, supervising or reviewing any records of the Depository or any Participant relating to any such interest; or
  - (c) any advice or representation made or given by the Depository or those contained herein that relate to the rules and regulations of the Depository or any action to be taken by the Depository on its own direction or at the direction of any Participant.
- (8) The Corporation may terminate the application of this Section 2.8 in its sole discretion in which case all Debentures shall be evidenced by Certificated Debenture registered in the name of a Person other than the Depository.

## **Section 2.9 Persons Entitled to Payment**

- (1) Prior to due presentment for registration of transfer of any Debenture, the Corporation, the Trustee and any other Person, as the case may be, may treat the Person in whose name any Debenture is registered in the applicable register as the absolute and sole owner of such Debenture for all purposes including receiving payment of the principal of, and any premium, if any, interest or other amount on such Debenture, receiving any notice to be given to the Holder of such Debenture, and taking any Act of Holders with respect to such Debenture, whether or not any payment with respect to such Debenture shall be overdue, and none of the Corporation, the Trustee or any other Person, as the case may be, shall be affected by notice to the contrary.
- (2) Delivery of a Debenture to the Trustee by or on behalf of the Holder thereof shall, upon payment of such Debenture, be a valid discharge to the Corporation of all obligations evidenced by such Debenture. None of the Corporation, the Trustee or any other Person shall be bound to inquire into the title of any such Holder.
- (3) In the case of the death of one or more joint registered Holders of a Debenture, the principal of, and premium, if any, interest and any other amounts on such Debenture may be paid to the survivor or survivors of such registered Holders whose receipt of such payment, accompanied by the delivery of such Debenture, shall constitute a valid discharge to the Corporation and the Trustee.

## **Section 2.10 Payment of Principal and Interest on Debentures**

- (1)
  - (a) In the case of fully registered Debentures, the Corporation shall establish and maintain with the Trustee a maturity account for the Debentures ("**Maturity Account**"). On or before 11:00 a.m. (Calgary time) on the Business Day immediately prior to the Maturity Date for the Debentures, the Corporation shall deposit in the applicable Maturity Account by wire transfer or certified cheque an amount sufficient to pay all amounts payable in respect of the outstanding Debentures (less any taxes required by law to be deducted or withheld therefrom). The Trustee will pay to each Holder of such Debentures entitled to receive payment, the principal amount of, and interest (if any) on, such Debentures, upon surrender of such Debentures at any branch of the Trustee designated for such purpose from time to time by the Corporation and the Trustee. The deposit or making available of such amounts into the applicable Maturity Account will satisfy and discharge the liability of the Corporation for the Debentures to which the deposit or making available of funds relates to the extent of the amount deposited or made available (plus the amount of any taxes deducted or withheld as aforesaid) and such Debentures will thereafter not be considered as outstanding under this Indenture to such extent and such Holder will have no other right than to receive out of the money so deposited or made available the amount to which it is entitled. Failure to make a deposit or make funds available as required to be made pursuant to this Section 2.10(1) will constitute Default in payment on the Debentures in respect of which the deposit or making available of funds was required to have been made; and
  - (b) in the case of any Debentures issued and outstanding in the form of or represented by Uncertificated Debentures, on or before 11:00 a.m. (Calgary time) on the Business Day immediately prior to the Maturity Date for such Debentures, the Corporation shall deliver to the Depository by electronic funds transfer an amount sufficient to pay the amount payable in respect of such Uncertificated Debentures (less any Taxes required by law to be deducted or withheld therefrom). The Corporation shall pay to the Depository the principal amount of, and interest (if

any) on, such Uncertificated Debentures, against receipt of the relevant Uncertificated Debentures. The delivery of such electronic funds to the Depository will satisfy and discharge the liability of the Corporation for the Debentures to which the electronic funds relates to the extent of the amount deposited or made available (plus the amount of any Taxes deducted or withheld as aforesaid) and such Debentures will thereafter not be considered as outstanding under this Indenture unless such electronic funds transfer is not received. Failure to make delivery of funds available as required pursuant to this Section 2.10(1) will constitute Default in payment on the Debentures in respect of which the delivery or making available of funds was required to have been made.

- (2) As interest becomes due on each fully registered Debenture (except on conversion or redemption thereof, when interest may at the option of the Corporation be paid upon surrender of such Debentures), the Corporation, either directly or through the Trustee or any agent of the Trustee, shall send or forward by prepaid ordinary mail, electronic transfer of funds or such other means as may be agreed to by the Trustee, payment of such interest (less any taxes required by law to be deducted or withheld therefrom) to the order of the Holder of such Debentures at the close of business on the record date immediately preceding the applicable Interest Payment Date and addressed to the Holder at the Holder's last address appearing on the register (or in the case of joint Holders, to such address of one of the joint Holders), unless such Holder otherwise directs. If payment is made by cheque, such cheque shall be forwarded at least two days prior to each Interest Payment Date and if payment is made by other means (such as electronic transfer of funds, provided the Trustee must receive confirmation of receipt of funds prior to being able to wire funds to Holders), such payment shall be made in a manner whereby the Holder receives credit for such payment on the Interest Payment Date. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any taxes deducted or withheld as aforesaid, satisfy and discharge all liability for interest on such Debentures to such extent, unless in the case of payment by cheque, such cheque is not paid at par on presentation. In the event of non-receipt of any cheque for or other payment of interest by the Person to whom it is so sent as aforesaid, the Corporation shall issue to such Person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Corporation is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on any Debentures in the manner provided above, the Corporation may make payment of such interest or make such interest available for payment in any other manner acceptable to the Trustee with the same effect as though payment had been made in the manner provided above. If payment is made through the Trustee, by 11:00 a.m. (Calgary time) at least one Business Day prior to the related Interest Payment Date for a Debenture or to the date of mailing the cheques for the interest due on such Interest Payment Date, whichever is earlier, the Corporation shall deliver sufficient funds to the Trustee by electronic transfer or certified cheque or make such other arrangements for the provision of funds as may be agreeable between the Trustee and the Corporation in order to effect such interest payment hereunder.

So long as the Debentures or any portion thereof are issued in the form of or represented by an Uncertificated Debenture, then all payments of interest on such Uncertificated Debentures shall be made by 11:00 a.m. (Calgary time) at least one Business Day prior to the related Interest Payment Date by electronic funds transfer to the Trustee for the payment of to the Depository or its nominee for subsequent payment to Beneficial Holders of the applicable interests in that Uncertificated Debenture, unless the Corporation and the Depository otherwise agree.

- (3) The Trustee is authorized by the Corporation to make payments of interest and principal to Holders, by electronic funds transfer, upon the request of such Holder and the Trustee's fees in respect thereof will be for the account of the Holder.
- (4) If a Debenture or a portion thereof is called or presented for purchase, repurchase or redemption and the payment date is subsequent to a Payment Record Date but prior to the related Interest Payment Date, interest accrued on such Debenture will be paid upon presentation and surrender of such Debenture to the Corporate Trust Office up to but excluding the payment date.
- (5) Subject to the foregoing provisions of this section, each Debenture delivered upon the transfer of or in exchange for or in lieu of any other Debenture shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Debenture.

### **Section 2.11 Security and Guarantees**

#### (1) Security

- (a) To secure the payment, performance and satisfaction in full of its Obligations, each Obligor hereby (subject to the exceptions contained herein):
  - (i) assigns, transfers, mortgages, pledges and charges in favour of the Collateral Agent and grants to and in favour of the Collateral Agent a continuing Security Interest in and to all of such Obligor's present and after-acquired personal property; and
  - (ii) assigns, transfers, mortgages, pledges and charges as and by way of a floating charge to and in favour of the Debenture Trustee in and to all of the undertaking and all the property and assets, rights and things of such Obligor both present and future, legal or equitable, of which such Obligor may be possessed or to which it may be entitled or which may hereafter be acquired by such Obligor, including all its right, title, estate and interest in and to any and all real, personal or mixed property, now owned or hereafter acquired by such Obligor and all proceeds and all products of, and all accessions to, any of the foregoing;

to have and to hold the Collateral and the Charge and all rights hereby conferred unto the Collateral Agent.

- (b) Each Obligor acknowledges conclusively that such Obligor and the Collateral Agent intend the Charge in the Collateral to attach immediately upon the execution of this Indenture, except in the case of Collateral in which such Obligor subsequently acquires rights, in which case the Charge shall attach contemporaneously with such Obligor acquiring rights therein without the need for any further or other deed, act or consideration. The Charge shall be effective and shall attach as of the date hereof whether the monies hereby secured or any part thereof shall become owing by such Obligor before or after or upon the date of execution of this Indenture. Each Obligor acknowledges conclusively that value has been given.
- (c) The last day of any term reserved by any lease, oral or written, or any agreement therefor, now held or hereafter acquired by any Obligor, is hereby excepted out of the

Charge and does not and shall not form part of the Collateral, but each Obligor shall stand possessed of the reversion remaining in such Obligor of any leasehold premises for the time being demised as aforesaid upon trust to assign and dispose thereof as the Debenture Trustee shall direct and upon any sale of the leasehold premises, or any part thereof, the Debenture Trustee, for the purpose of vesting the aforesaid reversion of any such term or any renewal thereof in any purchaser or purchasers thereof, shall be entitled by deed or writing to appoint such purchaser or purchasers or any other person or persons as trustee or trustees of the aforesaid reversion of any such term or any renewal thereof in the place of such Obligor and to vest same accordingly in the new trustee or trustees so appointed freed and discharged from any obligation respecting same.

- (d) In the event the validity and effectiveness of the Charge over any of the Collateral requires the consent, approval or waiver of a third person in order to be effective as against such third person, the Charge with respect to any such Collateral shall be effective as against each Obligor and all persons other than such third person and shall be effective as against such third person when the applicable consent, approval or waiver is obtained, retroactively, to the fullest extent legally possible, to the later of the date hereof or the date such consent, approval or waiver is obtained or becomes effective, as applicable, and until such consent, approval or waiver is obtained, such Obligor shall (subject to the other terms hereof) stand possessed of such Collateral upon trust to assign and dispose thereof as the Debenture Trustee shall for such purposes direct.
- (e) If the Collateral at anytime includes investment property which is or is to be credited to a securities account established by any Obligor with a securities intermediary, such Obligor shall notify the Collateral Agent and, at the request of the Collateral Agent, shall procure that the relevant securities intermediary shall enter into an agreement with the Collateral Agent which includes such terms as may be required by the Collateral Agent to ensure that the Collateral Agent has exclusive control over all investment property held in the relevant securities account following the an Event of Default including, but not limited to, an agreement of the securities intermediary that it will comply with entitlement orders that are originated by the Collateral Agent without the further consent of such Obligor.
- (f) Neither the Collateral Agent nor any receiver shall: (a) be responsible or liable for any debts contracted by it, for damages to persons or property, for salaries or for non-fulfilment of contracts during any period when the Collateral Agent or any Receiver shall manage or be in possession of the Collateral; (b) be liable to account as mortgagee in possession or for anything except actual receipts or be liable for any loss on realization or for any default or omission for which a mortgagee in possession may be liable; (c) be bound to do, observe or perform or to see to the observance or performance by any Obligor of any obligations or covenants imposed upon such Obligor; or (d) in the case of any chattel paper, security or instrument, be obligated to preserve rights against any other persons. Each Obligor hereby waives any provision of Applicable Laws permitted to be waived by it which imposes higher or greater obligations upon the Collateral Agent or any Receiver than aforesaid.
- (g) Subject to Section 2.11(1)(h), all rights, remedies, and powers provided herein may be exercised only to the extent that the exercise thereof does not violate any mandatory

provision of Applicable Laws and all the provisions of this Indenture are intended to be subject to all mandatory provisions of Applicable Laws which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Indenture invalid, unenforceable or not entitled to be recorded, registered or filed under any mandatory provisions of Applicable Laws. Subject to Section 2.11(1)(h), if any mandatory provision of Applicable Laws shall provide for different or additional requirements than or to those specified herein as prerequisites to or incidental to the realization, sale or foreclosure of the Charge or any part thereof, then, to that extent, such laws shall be deemed to have been set forth herein at length, and any conflicting provisions hereof shall be disregarded, and the method of realization, sale or foreclosure of the Charge required by any such laws shall, insofar as may be necessary, be substituted herein as the method of realization, sale or foreclosure in lieu of that set forth above. Any provision hereof contrary to mandatory provisions of Applicable Laws shall be deemed to be ineffective and shall be severable from and not invalidate any other provision of this Indenture.

- (h) To the extent not prohibited by Applicable Laws, each Obligor hereby waives its rights, if any, under all provisions of Applicable Laws that would in any manner, limit, restrict or otherwise affect the Collateral Agent's rights and remedies hereunder or impose any additional obligations on the Collateral Agent.
- (i) Each Obligor hereby covenants and agrees that it will at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, mortgages, transfers, assignments and assurances as the Collateral Agent may reasonably require for the better accomplishing and effectuating the purpose of this Indenture, including the execution and delivery of indentures supplemental hereto more particularly describing the Collateral or to correct or amplify the description of the Collateral or to better assure, convey and confirm unto the Collateral Agent any of the Collateral. Upon the execution of any supplemental indenture under this Section, this Indenture shall be modified in accordance therewith, and each such supplemental indenture shall form part of this Indenture for all purposes.
- (j) Each Obligor will ensure that this Indenture and all documents, caveats, security notices and financing statements in respect thereof are promptly filed and re-filed, registered and re-registered and deposited and re-deposited, in such manner, in such offices and places, and at such times and as often as may be required by Applicable Laws or as may be necessary or desirable to perfect and preserve the Charge and the rights conferred or intended to be conferred upon the Collateral Agent by the Charge and will promptly provide the Collateral Agent with evidence (satisfactory to the Collateral Agent) of such filing, registration and deposit.
- (k) Subject to the provisions of Article 6, upon the full and final payment and performance of the Obligations, this Indenture and the rights hereby granted shall, at the request of the Corporation, be terminated and thereupon the Collateral Agent shall at the request and at the expense of the Corporation cancel and discharge the Charge and execute and deliver to each Obligor such deeds and other instruments as shall be requisite to cancel and discharge the Charge. Further, this Indenture shall continue to be effective or be reinstated, as the case may be, if for any reason at any time any payment or performance of the Obligations, or any part thereof, is rescinded, reversed, nullified, rendered void or voidable or such payment must otherwise be restored, refunded, returned or reimbursed

by the Collateral Agent or a Debentureholder.

- (l) No postponement or partial release or discharge of the Charge in respect of all or any part of the Collateral shall in any way operate or be construed so as to release and discharge the Charge except as therein specifically provided, or so as to release or discharge any Obligor from its liability to fully pay and satisfy the Obligations.
  - (m) Nothing in this Indenture contained shall detract from or limit the absolute obligation of each Obligor to make payment of this Indenture and of all monies owing hereunder at the time and in the manner provided in this Indenture and to perform or observe any other act or condition which it is required to perform or observe hereunder whether or not the Charge is operative, and the rights under this Indenture shall be in addition to and not in substitution for any other Security Interests of any and every character now or hereafter held by the Collateral Agent for the Obligations.
- (2) Guarantee.
- (a) Subject to this Section 2.11(2), the Guarantors hereby, jointly and severally, unconditionally guarantee (the “**Guarantee**”) to each Holder and to the Collateral Agent and Trustee and their respective successors and assigns, irrespective of the validity and enforceability of this Indenture, the Debentures or the obligations of the Corporation under this Indenture or under the Debentures:
    - (i) the prompt payment in full and interest on, the Debenture Liabilities;
    - (ii) the prompt payment and performance by the Corporation of and all other obligations of the Corporation to the Debentureholders or the Trustee under this Indenture or under the Debentures, all in accordance with the terms of the Indenture and the Debentures; and
    - (iii) in case of any extension of time of payment or renewal of any Debentures or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, each Guarantor will be jointly and severally obligated to pay and perform the same immediately.

The Guarantors hereby agree that their respective obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Debentures or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Debentureholders with respect to any provisions of this Indenture or the Debentures, the recovery of any judgment against the Corporation, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of the Guarantor. The Guarantors hereby waive diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Corporation, any right to require a proceeding first against the Corporation, protest, notice and all demands whatsoever and covenant that this Guarantee will not be discharged except by complete performance of the obligations contained in the Debentures and this Indenture. This Guarantee by the Guarantor is a guarantee of payment

and not of collection.

If any Debentureholder or the Trustee is required by any court or otherwise to return to any the Corporation or any of the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to the Corporation or any of the Guarantors, any amount paid by either to the Trustee or such Debentureholder, this Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Debentureholders in respect of any obligations guaranteed hereby until payment and performance in full of all obligations guaranteed hereby. Each Guarantor further agrees that, (i) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 10 for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such obligations as provided in Article 10, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantor for the purpose of this Guarantee.

- (b) Each Guarantor acknowledges and agrees that the Trustee may, subject to the terms and conditions of this Indenture:
- (i) renew or extend all or any portion of Debenture Liabilities;
  - (ii) make changes in the dates specified for payments of any sums payable under this Indenture or the Debentures;
  - (iii) otherwise modify the terms of this Indenture or the Debentures with the consent of the Corporation;
  - (iv) take and hold the Security for the performance of the Debenture Liabilities and exchange, enforce, waive and release any such Security;
  - (v) enforce the Security and direct the order or manner of sale thereof as Debenture Trustee in its sole discretion may determine if permitted under Article 7; and
  - (vi) release, substitute or add any one or more guarantors of the Debenture Liabilities,

all of the foregoing without prejudice to or in any way releasing, discharging, terminating, limiting, reducing, lessening, impairing or in any way affecting the obligations of each Guarantor under this Guarantee.

- (c) Each Guarantor hereby waives as against the Trustee to the fullest extent permitted by applicable law, any defence relating to:
- (i) any defence based upon any incapacity, disability or lack or limitation of status or power of the Guarantor, or any other person or of the directors, officers, employees, partners or agents thereof, or that any other person may not be a legal entity;
  - (ii) any change in the existence, structure, constitution, name, control or ownership

of the Guarantor, or any other person;

- (iii) any limitation, postponement, prohibition, subordination or other restriction on the rights of the Trustee to payment of all of any part of the Debenture Liabilities or to take any steps in respect thereof;
  - (iv) any defence arising by reason of any failure of the Trustee to proceed against any other person, to proceed against, apply or exhaust any of the Security held from the Guarantor, or any other person, or to proceed against or to pursue any other remedy in the power of the Trustee whatsoever;
  - (v) the benefit of any law which provides that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal obligation or which reduces a guarantor's obligation in proportion to the principal obligations;
  - (vi) any defence arising by reason of any failure by the Trustee to obtain, perfect or maintain a perfected (or any) Security Interest in or lien or encumbrance upon any Collateral or by reason of any interest of the Trustee in any property, whether as owner thereof or the holder of a Security Interest therein or lien or encumbrance thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment by the Trustee of any right to recourse or collateral;
  - (vii) any defence arising by reason of the failure of the Trustee to marshal any assets;
  - (viii) any dealing whatsoever with the Guarantor, or other Person or any security, or any failure to do so; and
  - (ix) any other circumstances which might otherwise constitute a defence available to, or a discharge of the Guarantor, any other act or omission to act or delay of any kind by the Guarantor or any other person or any other circumstance whatsoever, whether similar or dissimilar to the foregoing, which might, but for the provisions of this Section 2.11(2)(c), constitute a legal or equitable discharge, limitation or reduction of the obligations of the Guarantor hereunder (other than the payment or satisfaction in full of all of the Debenture Liabilities).
- (d) Each Guarantor hereby agrees that its Guarantee set forth in Section 2.11(2)(a) will remain in full force and effect until released in accordance with Section 2.11(2)(e).

If an officer or director of a Guarantor (or in the case of a Guarantor that is a general partnership, by a director or officer of the general partner of such general partnership) whose signature is on this Indenture or on the Guarantee no longer holds that office at the time the Trustee authenticates the Debenture, the Guarantee will be valid nevertheless.

The delivery of any Debenture by the Corporation, after the authentication thereof hereunder, will constitute due delivery of the Guarantee set forth in this Indenture on behalf of each Guarantor.

- (e) The Guarantee contemplated hereby constitutes a continuing guarantee and remains in

full force and effect until (i) satisfaction and discharge of this Indenture as set forth under Article 8; or (ii) upon payment and performance in full and discharge of all Debentures outstanding under this Indenture and all obligations that are then outstanding, due and payable under this Indenture at the time the Debentures are paid in full and discharged.

- (f) The Guarantee contemplated in this Indenture is in addition to and not in substitution for any other security or guarantee given by anyone whomsoever and shall not prejudice any and all security furnished to the Trustee or any of the Debentureholders by anyone whomsoever, and held by it or them at any time whatsoever. Neither the Debenture Trustee nor any of the Debentureholders shall be bound to rank or marshal its security or to apply such principle to any sums of money which it shall be entitled to receive or to other assets upon which it may possess rights.
- (g) The Trustee shall not be obliged to exercise any of its rights, remedies or recourses against the Corporation or against others, or to discuss any of the Security or any other security which it may hold from time to time, before being entitled to the performance and payment by each Guarantor of the obligations guaranteed hereunder and it shall not be bound to offer or to deliver its security, if any, before being paid in full. Each Guarantor renounces to the benefits of discussion and division.

### **Section 2.12 Rank**

The Debentures issued under this Indenture rank *pari passu* with one another, and, subject to the Tilray Promissory Note, shall rank senior in payment to all of the Corporation's existing Indebtedness.

### **Section 2.13 Register and Transfer**

- (1) The Corporation shall cause to be kept by and at the principal office of the Trustee in Calgary, Alberta and by the Trustee or such other registrar as the Corporation, with the approval of the Trustee, may appoint at such other place or places, if any, as the Corporation may designate with the approval of the Trustee, a register in which shall be entered the names and addresses of the holders of Debentures and particulars of the Debentures held by them respectively and of all transfers of Debentures. Such registration shall be noted on any Certificated Debentures by the Trustee or other registrar unless a new Certificated Debenture shall be issued upon such transfer.
- (2) No transfer of any Debenture shall be valid unless entered on the register referred to in Section 2.13, and upon surrender of any Certificated Debentures together with a duly executed form of transfer acceptable to the Trustee, or in the case of Uncertificated Debentures in accordance with the procedures prescribed by the Depository and, if applicable, upon compliance with such other reasonable requirements as the Trustee or other registrar may prescribe, and in any case, (a) in accordance with or pursuant to an exemption or exclusion from Applicable Securities Laws, the U.S. Securities Act and U.S. state securities laws and (b) pursuant to the terms of any legends on such Debentures and the other provisions hereof. In the case of Certificated Debentures, the Trustee shall rely on the Form of Certificate of Transfer signed by the transferor without further enquiry. Transfers within the systems of CDS are not the responsibility of the Trustee and will not be noted on the register maintained by the Trustee, provided however that the full position of Debentures held by or through CDS shall at all times appear on the register.

- (3) None of the Corporation, the Trustee or any agent of the Trustee will be liable or responsible to any Person for any aspect of the records related to or payments made on account of beneficial interests in any Uncertificated Debenture or for maintaining, reviewing, or supervising any records relating to such beneficial interests.

**Section 2.14     Certificated Debentures; Transfers and Exchanges**

- (1) Any Certificated Debenture issued to a transferee upon transfers contemplated by this Section 2.13 shall bear the appropriate legend, as set forth in Section 2.27.
- (2) The Trustee shall not register a transfer of a Certificated Debenture unless the transferor has provided the Trustee with the Debenture and the Form of Assignment, in the form included in Schedule 2.2, stating that the transfer is being made, and the offer of the securities being transferred was made pursuant to, and in compliance with, Rule 904 of Regulation S, Rule 144A or Rule 144 under the U.S. Securities Act, or another available exemption from the registration requirement of the U.S. Securities Act and in compliance with all applicable U.S. state securities laws. Notwithstanding the forgoing, the Trustee shall not register any transfer being made under Rule 904 of Regulation S if the Trustee has reason to believe that the transferee is a Person in the United States or a U.S. Person or is acquiring the Debentures evidenced thereby for the account or benefit of a Person in the United States or a U.S. Person.

**Section 2.15     Uncertificated Debentures; Transfers and Exchanges**

- (1) Notwithstanding any other provision of this Indenture, Uncertificated Debentures may be transferred in the following circumstances and Certificated Debentures may be issued to Beneficial Holders in the following circumstances or as otherwise specified in a resolution of the Board of Directors, Officers' Certificate, or supplemental indenture:
- (a) Uncertificated Debentures may be transferred by a Depository to a nominee of such Depository or by a nominee of a Depository to such Depository or to another nominee of such Depository or by a Depository or its nominee to a successor Depository or its nominee;
- (b) Uncertificated Debentures may be transferred at any time after the Depository for such Uncertificated Debentures (i) has notified the Trustee, or the Corporation has notified the Trustee, that it is unwilling or unable to continue as Depository for such Uncertificated Debentures, or (ii) ceases to be eligible to be a Depository, provided that at the time of such transfer the Corporation has not appointed a successor Depository for such Uncertificated Debentures;
- (c) Uncertificated Debentures may be transferred at any time after the Corporation has determined, in its sole discretion, to terminate the NCI in respect of such Uncertificated Debentures and has communicated such determination to the Trustee in writing;
- (d) Uncertificated Debentures may be transferred at any time after an Event of Default has occurred and is continuing with respect to the Debentures of the series issued as Uncertificated Debentures, provided that Beneficial Holders representing, in the aggregate, not less than 25% of the aggregate principal amount of the Debentures of such series advise the Depository in writing, through the Depository

Participants, that the continuation of the NCI for such series of Debentures is no longer in their best interest and also provided that at the time of such transfer the Trustee has not waived the Event of Default pursuant to Section 14.2;

- (e) Uncertificated Debentures may be transferred or exchanged for Certificated Debentures at any time after a Depository has determined, in its sole discretion, that such transfer or exchange is required to effect conversion and/or redemption rights in accordance with the terms hereof and has communicated such determination to the Trustee in writing;
- (f) Uncertificated Debentures may be transferred if required by applicable law;
- (g) Uncertificated Debentures may be transferred at any time after the NCI ceases to exist; or
- (h) if requested by a Beneficial Holder and provided that such transfer or exchange for Certificated Debentures is permitted by Applicable Law and conducted in accordance with any procedures required under the NCI,

following which Certificated Debentures shall be issued to the beneficial owners of such Debentures or their nominees, as directed by the Holder. The Corporation shall provide an Officer's Certificate giving notice to the Trustee of the occurrence of any event outlined in this Section 2.15.

- (2) With respect to the Uncertificated Debentures, unless and until Certificated Debentures have been issued to Beneficial Holders pursuant to Section 2.15(1), Section 2.8 shall continue to apply:

#### **Section 2.16 Transferee Entitled to Registration**

The transferee of a Debenture shall be entitled, after the appropriate form of transfer is lodged with the Trustee or other registrar and upon compliance with all other conditions in that behalf required by this Indenture or by law, to be entered on the register as the owner of such Debenture free from all equities or rights of set-off, compensation or counterclaim between the Corporation and the transferor or any previous holder of such Debenture, save in respect of equities of which the Corporation is required to take notice by statute or by order of a court of competent jurisdiction.

#### **Section 2.17 No Notice of Trusts**

Neither the Corporation nor the Trustee nor any registrar shall be bound to take notice of or see to the execution of any trust (other than that created by this Indenture) whether express, implied or constructive, in respect of any Debenture, and may transfer the same on the direction of the Person registered as the holder thereof, whether named as trustee or otherwise, as though that Person were the beneficial owner thereof.

#### **Section 2.18 Registers Open for Inspection**

The registers referred to in Section 2.13 shall be open for inspection by the Corporation, the Trustee or any Debentureholder. Every registrar, including the Trustee, shall from time to time when requested so to do by the Corporation or by the Trustee, in writing, furnish the Corporation or the Trustee, as the case may be, with a list of names and addresses of holders of registered Debentures entered on the

register kept by them and showing the principal amount of the Debentures held by each such holder, provided the Trustee shall be entitled to charge a reasonable fee to provide such a list.

### **Section 2.19 Exchanges of Debentures**

- (1) Subject to Section 2.14 and Section 2.20, Certificated Debentures in any authorized form or denomination, may be exchanged for Certificated Debentures in any other authorized form or denomination, of the same series and date of maturity, bearing the same interest rate and of the same aggregate principal amount as the Certificated Debentures so exchanged.
- (2) In respect of exchanges of Certificated Debentures permitted by Section 2.19(1), Certificated Debentures of any series may be exchanged only at the principal office of the Trustee in the city of Calgary, Alberta or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the Corporation with the approval of the Trustee. Any Certificated Debentures tendered for exchange shall be surrendered to the Trustee. The Corporation shall execute and the Trustee shall Authenticate all Certificated Debentures necessary to carry out exchanges as aforesaid. All Certificated Debentures surrendered for exchange shall be cancelled.
- (3) Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect.
- (4) Transfers of beneficial ownership of any Uncertificated Debenture will be effected only (i) with respect to the interest of a Depository Participant, through records maintained by the Depository or its nominee for such Debentures, and (ii) with respect to the interest of any Person other than a Participant through records maintained by Depository Participants.

### **Section 2.20 Closing of Registers**

- (1) Neither the Corporation nor the Trustee nor any registrar shall be required to:
  - (a) make transfers or exchanges of or convert any Debentures on any Interest Payment Date for such Debentures or during the five preceding Business Days;
  - (b) make transfers or exchanges of or convert any Debentures on any Change of Control Repurchase Date for such Debentures or during the five preceding Business Days;
  - (c) make transfers or exchanges of, or convert any Debentures on the Redemption Date or during the preceding Business Day; or
  - (d) make exchanges of any Debentures which have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures shall not be redeemed.
- (2) Subject to any restriction herein provided, the Corporation with the approval of the Trustee may at any time close any register for any series of Debentures, other than those kept at the principal office of the Trustee in Calgary, Alberta, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and

thereafter such Debentures shall be deemed to be registered on such other register. Notice of such transfer shall be given to the holders of such Debentures.

### **Section 2.21 Charges for Registration, Transfer and Exchange**

For each Debenture exchanged, registered, transferred or discharged from registration, the Trustee or other registrar, except as otherwise herein provided, may make a reasonable charge for its services and in addition may charge a reasonable sum for each new Debenture issued (such amounts to be agreed upon from time to time by the Trustee and the Corporation), and payment of such charges and reimbursement of the Trustee or other registrar for any stamp taxes or governmental or other charges required to be paid shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Debentureholder hereunder for:

- (a) any exchange of Uncertificated Debentures as contemplated in Section 2.15;
- (b) any exchange of any Debenture resulting from a partial redemption under Section 3.1;
- (c) for any exchange of any Debenture resulting from a partial conversion under Section 4.1;  
or
- (d) for any exchange of any Debenture resulting from a partial purchase under Section 3.3 or Section 3.4.

### **Section 2.22 Ownership of Debentures**

- (1) Unless otherwise required by law, the Person in whose name any registered Debenture is registered shall for all purposes of this Indenture be and be deemed to be the owner thereof and payment of or on account of the principal of and premium, if any, on such Debenture and interest thereon shall be made to such registered holder.
- (2) The registered holder for the time being of any registered Debenture shall be entitled to the principal, premium, if any, and/or interest evidenced by such instruments, respectively, free from all equities or rights of set-off, compensation or counterclaim between the Corporation and the original or any intermediate holder thereof and all Persons may act accordingly and the receipt of any such registered holder for any such principal, premium or interest shall be a good discharge to the Trustee, any registrar and to the Corporation for the same and none shall be bound to inquire into the title of any such registered holder.
- (3) Where Debentures are registered in more than one name, the principal, premium, if any, and interest from time to time payable in respect thereof shall be paid to the order of all such holders, and the receipt of any one of such holders therefor shall be a valid discharge, to the Trustee, any registrar and to the Corporation.
- (4) In the case of the death of one or more joint holders of any Debenture the principal, premium, if any, and interest from time to time payable thereon may, upon the delivery of such reasonable requirements as the Trustee may prescribe, be paid to the order of the survivor or survivors of such registered holders and the receipt of any such survivor or survivors therefor shall be a valid discharge to the Trustee and any registrar and to the Corporation.

**Section 2.23 Withholding Matters**

- (1) Any payments made by or on behalf of the Corporation under or with respect to the Debentures will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (collectively, "Taxes"), unless the Corporation or any other payor is required to withhold or deduct Taxes by Applicable Law or by the interpretation or administration thereof by a relevant Governmental Authority. If the Corporation or any other payor of any amount under or in respect of the Debentures (including any amount paid in respect or proceeds of disposition of the Debenture to a Debentureholder) is so required to withhold or deduct any amount for or on account of Taxes from any payment made under or with respect to the Debentures in respect of any such payment by the Corporation, the Corporation will make such withholding or deduction and will remit the full amount withheld or deducted to the relevant Governmental Authority as and when required by Applicable Law and, provided that the Corporation forthwith remits such amount to the relevant Governmental Authority, the amount of any such deduction or withholding will be considered an amount paid in satisfaction of the Corporation's obligations under the Debentures. There is no obligation on the Company to gross-up or pay additional amounts to a holder of Debentures in respect of such deductions or withholdings. For greater certainty, if any amount is required to be deducted or withheld in respect of Withholding Taxes upon a conversion of a Debenture, the Company shall be entitled to liquidate such number of Common Shares (or other securities) issuable as a result of such conversion as shall be necessary in order to satisfy such requirement. The Company shall provide the Trustee with copies of receipts or other communications relating to the remittance of such withheld amount or the filing of any forms received from such government authority or agency promptly after receipt thereof.
- (2) Within 90 days after the date the payment of any Taxes is due pursuant to Applicable Law, the Trustee will furnish to the Corporation copies of tax receipts, if any, evidencing such payment by the Trustee.

**Section 2.24 Cancellation of Debentures**

- (1) All Debentures surrendered for payment of the final amount required to be paid thereon, or that have been surrendered to the Trustee for registration of exchange or transfer, shall be promptly cancelled by the Trustee on receipt. The Trustee shall give prompt written notice to the Corporation of the particulars of any Debentures cancelled by it upon its request for this information, and the Corporation shall pay the Trustee's reasonable fees in connection therewith.
- (2) The Corporation may, in its discretion at any time, deliver to the Trustee for cancellation any Debentures which the Corporation has purchased as provided for in this Indenture, and all such Debentures so delivered shall be cancelled by the Trustee.
- (3) All Debentures which have been cancelled by the Trustee shall be destroyed by the Trustee in accordance with its standard practices, and the Trustee shall furnish to the Corporation a destruction certificate setting forth the numbers and denominations of the Debentures so destroyed.

**Section 2.25 Mutilated, Lost, Stolen or Destroyed Debentures**

- (1) If any Debenture has been mutilated or defaced or has or has been alleged to have been

lost, stolen or destroyed, then, on application by the applicable Holder to the Trustee, the Corporation may, in its discretion, execute, and upon such execution the Trustee shall certify and deliver, a new Debenture of the same date and amount as the defaced, mutilated, lost, stolen or destroyed Debenture in exchange for and in place of the defaced or mutilated Debenture, and in lieu of and in substitution for the lost, stolen or destroyed Debenture. Notwithstanding the foregoing, no Debenture shall be delivered as a replacement for any Debenture which has been mutilated or defaced otherwise than upon surrender of the mutilated or defaced Debenture, and no Debenture shall be delivered as a replacement for any Debenture which has been lost, stolen or destroyed unless the applicant for the replacement Debenture has furnished to the Corporation and the Trustee evidence, satisfactory in form and substance to the Corporation and the Trustee, of its ownership of, and of such loss, theft or destruction of, such Debenture and has provided such a surety bond and indemnity to the Corporation and the Trustee in amount, form and substance satisfactory to each of them. Any instructions by the Corporation to the Trustee under this section shall include such indemnity for the protection of the Trustee as the Trustee may reasonably require.

- (2) If any mutilated, defaced, lost, stolen or destroyed Debenture has become or is about to become due and payable, the Corporation, in its discretion, may, instead of executing a replacement Debenture, pay to the Holder thereof the full amount outstanding on such mutilated, defaced, lost, stolen or destroyed Debenture.
- (3) Upon the issuance of a replacement Debenture, the Corporation may require the applicant for such replacement Debenture to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such issuance and any other expenses (including the fees and expenses of the Trustee and the Corporation) connected with such issuance.
- (4) Each replacement Debenture shall bear a unique serial number and legend, if applicable, and be in a form otherwise identical to the Debenture it replaces and shall be entitled to the benefits of this Indenture to the same extent and in the same manner as the Debenture it replaces.
- (5) Unless the Corporation instructs otherwise, the Trustee shall, in accordance with its practice, destroy each mutilated or defaced Debenture surrendered to and cancelled by it and in respect of which a replacement Debenture has been delivered or moneys have been paid and shall, as soon as reasonably practicable, furnish to the Corporation, upon its receipt of a written request, a certificate as to such destruction specifying in numerical sequence the serial numbers of the Debentures so destroyed.

**Section 2.26 Intentionally Deleted.**

**Section 2.27 US Legend on Debentures**

Neither the Debentures nor the Common Shares issuable upon conversion of the Debentures have been or will be registered under the U.S. Securities Act or under any United States state securities laws, and may not be offered, sold, pledged or otherwise transferred in the United States or to a U.S. Person, unless an exemption from the registration requirements of the U.S. Securities Act and applicable state securities laws is available, and the holder agrees not to offer, sell, pledge or otherwise transfer the Debentures or Common Shares in the United States or to a U.S. Person, unless registered under the U.S. Securities Act or an exemption from registration under the U.S. Securities Act and applicable state securities laws is available. Any Debentures or Common Shares issued in the United States or to, or for the account or benefit of, a U.S. Person, (other than Original QIB Purchasers), and any certificates issued in replacement

thereof or in substitution therefor, must be issued only in certificated form.

Any certificates representing Debentures transferred to, or for the account or benefit of, a person in the United States or a U.S. Person, or Common Shares issued on conversion of Debentures issued to, or for the account or benefit of, a Person in the United States or a U.S. Person, and any certificates issued in replacement thereof or in substitution therefor, shall, until such time as the same is no longer required under applicable requirements of the U.S. Securities Act or applicable state securities laws, bear a legend in substantially the following form (the "**U.S. Legend**"):

"THE SECURITIES REPRESENTED HEREBY [if for the Debentures, the legend shall also include: AND THE SECURITIES ISSUABLE UPON CONVERSION HEREOF] HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), OR UNDER ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY ACQUIRING SUCH SECURITIES, AGREES FOR THE BENEFIT OF INNER SPIRIT HOLDINGS LTD. (THE "CORPORATION") THAT THE SECURITIES REPRESENTED HEREBY MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY: (A) TO THE CORPORATION, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE LOCAL LAWS, (C) PURSUANT TO THE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT PROVIDED BY (1) RULE 144A THEREUNDER, IF AVAILABLE, OR (2) RULE 144 THEREUNDER, IF AVAILABLE, AND IN EITHER CASE, IN COMPLIANCE WITH APPLICABLE U.S. STATE SECURITIES LAWS, OR (D) PURSUANT TO ANOTHER EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS, AND PROVIDED THAT, IN THE CASE OF TRANSFERS PURSUANT TO (C)(2) OR (D) ABOVE, THE HOLDER OF THE SECURITIES HAS, FURNISHED TO THE CORPORATION AN OPINION OF COUNSEL OF RECOGNIZED STANDING, OR OTHER EVIDENCE, IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE CORPORATION TO SUCH EFFECT. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON A STOCK EXCHANGE IN CANADA.

provided that, if any such Debentures and any such Common Shares issued on conversion of such Debentures are being sold outside the United States in compliance with Rule 904 of Regulation S, if available, and in compliance with applicable local securities laws and regulations, the legend set forth above may be removed by the transferor providing a declaration to the Corporation and to the trustee and/or transfer agent for such securities in the form set forth in Schedule 2.20 hereto or as the Corporation may prescribe from time to time, together with such documentation as the Corporation may reasonably request, including an opinion of counsel of recognized standing in form and substance reasonably satisfactory to the Corporation;

provided further that, if any such securities are being sold pursuant to Rule 144 under the U.S. Securities Act, if available, or with the prior written consent of the Corporation pursuant to another exemption from registration under the U.S. Securities Act and applicable U.S. state securities laws, the legend may be removed by delivery to the Corporation and to the trustee and/or transfer agent for the securities of an opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the

Corporation, to the effect that such legend is no longer required under applicable requirements of the U.S. Securities Act or U.S. state securities laws.

In addition, Debentures or Common Shares issuable upon conversion of Debentures may forgo the legend above by delivery to the Corporation and to the trustee and/or transfer agent for the securities of an opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that such U.S. Legend is not required under applicable requirements of the U.S. Securities Act or state securities laws (a "**Legend Removal Opinion**").

**Section 2.28 Intentionally Deleted.**

**ARTICLE 3 REPURCHASE AND CANCELLATION OF DEBENTURES**

**Section 3.1 Redemption of Debentures**

On or after December 31, 2020, the Debentures may be redeemed, in whole at any time or in part from time to time in multiples of \$1,000, at the option of the Corporation and in accordance with and subject to the provisions set out in this Indenture, including those relating to the payment of any required redemption price ("**Redemption Price**"), provided that the VWAP of the Common Shares on the CSE is equal to or greater than \$0.35 for the 20 consecutive trading days preceding the five trading days prior to the date on which the Redemption Notice provided in respect of such redemption, and subject to such redemption being permitted under the policies of the CSE at the time of such redemption. Notwithstanding the foregoing, the Corporation may not redeem any Debentures as contemplated under this Article 3 if a transaction that would result in a Change of Control has been publicly announced, offered or made and not withdrawn or expired, as the case may be.

**Section 3.2 Redemption Notice**

Any notice of redemption of the Debentures pursuant to this Indenture (a "**Redemption Notice**") shall be given by the Corporation to the Trustee and Holders to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "**Redemption Date**") and in the manner provided in Section 13.2 and Section 13.3. Every such Redemption Notice shall specify the aggregate principal amount of Debentures called for redemption, the Redemption Date, the Redemption Price and the places of payment and shall state that interest upon the principal amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date. Redemption Notices may, at the Corporation's discretion, be subject to one or more conditions precedent. In addition, unless all the Outstanding Debentures are to be redeemed, the Redemption Notice shall specify: (i) the distinguishing letters and numbers of the Debentures which are to be redeemed (as are registered in the name of such Holder); (ii) if such Debentures are selected by terminal digit or other similar system, such particulars as may be sufficient to identify the Debentures so selected; (iii) in the case of Uncertificated Debentures, that the redemption will take place in such manner as may be agreed upon by the Depository, the Trustee and the Corporation; and (iv) in all cases, the principal amounts of such Debentures or, if any such Debenture is to be redeemed in part only, the principal amount of such part. Notwithstanding Section 13.2, in the event that all Notes to be redeemed are Uncertificated Debentures, publication of the Redemption Notice shall not be required.

**Section 3.3 Repurchase of Debentures at Option of the Holder upon a Change of Control**

- (1) If a Change of Control occurs prior to the Maturity Date, the Corporation shall make an offer to each Holder to:

- (a) purchase all or a portion of the Debentures of such Holder for a cash payment equal to the Change of Control Repurchase Price (with respect to the Debentures so converted) (the "**Repayment Offer**"); or
- (b) convert all or a portion of the Debentures of such Holder into such number of Common Shares equal to the Change of Control Repurchase Price (with respect to the Debentures so converted) divided by the Conversion Price (the "**Conversion Offer**", together with the Repayment Offer, the "**Change of Control Offer**"),

in each case, to occur on the Change of Control Repurchase Date, provided that in the event that a Debentureholder does not accept or exercise the Change of Control Offer in accordance with the terms of this Indenture, the Corporation will have the right, but not the obligation, in its sole discretion, to carry out either the purchase or conversion pursuant to the Change of Control Offer, in its sole discretion, on the Change of Control Repurchase Date.

- (2) As promptly as practicable following the date on which the Corporation announces the Change of Control, but in no event less than 30 days prior to the anticipated date of completion of a Change of Control, the Corporation shall mail a written notice of the Change of Control to the Trustee and to each Holder (and to beneficial Holders as required by Applicable Securities Laws) (the "**Change of Control Notice**"). The Change of Control Notice shall include the form of a Change of Control Repurchase Notice (as defined below) to be completed by the Holder and shall state the Change of Control Offer and the following: (i) the events causing such Change of Control; (ii) the date of such Change of Control; (iii) the last date by which the Change of Control Repurchase Notice must be delivered to elect an option pursuant to this Section 3.3; (iv) the Change of Control Repurchase Date; (v) the Change of Control Repurchase Price; (vi) the Holder's right to require the Corporation to purchase all or a portion of the Debentures, or to convert all or a portion of the Debentures, pursuant to the Change of Control Offer; (vii) the name and address of the Trustee; (viii) the procedures that the Holder must follow to exercise rights under this Section 3.3; (ix) the procedures that the Holder must follow to withdraw a Change of Control Repurchase Notice; (x) that, unless the Corporation fails to pay such Change of Control Repurchase Price, Debentures covered by any Change of Control Repurchase Notice will cease to be outstanding and interest will cease to accrue on and after the Change of Control Repurchase Date; (xi) that in the event that such Holder does not accept or exercise the Change of Control Offer in accordance with the terms of this Indenture, the Corporation will have the right, but not the obligation, to carry out the repurchase or conversion pursuant to the Change of Control Offer, in its sole discretion, on the Change of Control Repurchase Date, and that Debentures so purchased or converted by the Corporation will cease to be outstanding and interest will cease to accrue on and after the Change of Control Purchase Date; and (xii) the CUSIP number of the Debentures.

At the Corporation's request, the Trustee shall give such Change of Control Notice in the Corporation's name, at the Corporation's expense, and within the notice period set out above; provided, that, in all cases, the text of such Change of Control Notice shall be prepared by the Corporation.

- (3) A Holder may exercise its rights specified in this Section 3.3 upon delivery of a written notice and which may be delivered by letter, overnight courier, hand delivery, electronic transmission or in any other written form and, in the case of Uncertificated Debentures, may be delivered electronically or by other means in accordance with the Depository's applicable procedures) of the exercise of such rights (a "**Change of Control Repurchase Notice**") to the Corporation or the

Trustee at any time prior to the close of business on the fifth Business Day prior to the Change of Control Repurchase Date, subject to extension to comply with Applicable Laws.

- (4) The Change of Control Repurchase Notice shall state: (i) the certificate number of the Debenture which the Holder will deliver to be purchased or exchanged (or, if the Debenture is in Uncertificated Debenture form, any other items required to comply with the applicable procedures), (ii) the portion of the principal amount of the Debenture which the Holder will deliver to be purchased or converted, in integral multiples of \$1,000, and (iii) that such Debenture shall be purchased or converted as of the Change of Control Repurchase Date pursuant to the terms and conditions specified in the Debentures and in this Indenture.
- (5) The delivery of a Debenture for which a Change of Control Repurchase Notice has been timely delivered to the Trustee and not validly withdrawn prior to, on or after the Change of Control Repurchase Date (together with all necessary endorsements) at the office of the Trustee shall be a condition to the receipt by the Holder of the Change of Control Repurchase Price or Common Shares therefor.
- (6) The Corporation shall only be obliged to purchase or exchange, pursuant to this Section 3.3, a portion of a Debenture if the principal amount of such portion is \$1,000 or an integral multiple of \$1,000 (provisions of this Indenture that apply to the purchase of all of a Debenture also apply to the purchase of such portion of such Debenture).
- (7) Notwithstanding anything herein to the contrary, any Holder delivering to the Trustee the Change of Control Repurchase Notice contemplated by this Section 3.3 shall have the right to withdraw such Change of Control Repurchase Notice in whole or in a portion thereof that is a principal amount of \$1,000 or in an integral multiple thereof, at any time prior to the close of business on the fifth Business Day prior to the Change of Control Repurchase Date by delivery of a written notice of withdrawal to the Trustee in accordance with the procedures set out in the Change of Control Notice or, if not set out therein, then in accordance with this Section 3.3(7).
- (8) The Trustee shall promptly notify the Corporation of the receipt by it of any Change of Control Repurchase Notice or written withdrawal thereof.
- (9) Anything herein to the contrary notwithstanding, in the case of Uncertificated Debentures, any Change of Control Repurchase Notice may be delivered or withdrawn and such securities may be surrendered or delivered for purchase in accordance with the applicable procedures of the Depository as in effect from time to time.
- (10) Upon receipt by the Trustee of a properly completed Change of Control Repurchase Notice from a Holder, the Holder of the Debenture in respect of which such Change of Control Repurchase Notice was given shall (unless such Change of Control Repurchase Notice is withdrawn as specified in Section 3.3(11)), thereafter be entitled to receive the Change of Control Repurchase Price or Common Shares thereof, as the case may be, with respect to such Debenture, subject to there being no Event of Default then occurring including a continuation thereof (other than a default in the payment of the Change of Control Repurchase Price). The Change of Control Repurchase Price shall be paid or the Common Shares issued to such Holder promptly following the later of (i) the Change of Control Repurchase Date and (ii) the time of delivery of such Debenture to the Trustee by the Holder thereof in the manner required by this Section 3.3.
- (11) A Change of Control Repurchase Notice may be withdrawn by means of a written notice (which

may be delivered by mail, overnight courier, hand delivery, electronic transmission or in any other written form and, in the case of Uncertificated Debentures, may be delivered electronically or by other means in accordance with the applicable procedures of the Depository) of withdrawal delivered by the Holder to the Trustee at any time prior to the close of business on the fifth Business Day immediately prior to the Change of Control Repurchase Date, specifying (1) the principal amount of the Debenture or portion thereof (which must be a principal amount of \$1,000 or an integral multiple of \$1,000 in excess thereof), with respect to which such notice of withdrawal is being submitted, (2) if Certificated Debentures have been issued, the certificate number of the Debentures being withdrawn in whole or in withdrawable part (or if the Debentures are not Uncertificated Debentures, such written notice must comply with the applicable procedures of the Depository) and (3) the portion of the principal amount of the Debentures that will remain subject to the Change of Control Repurchase Notice, which portion must be a principal amount of \$1,000 or an integral multiple thereof.

- (12) On or before 12:00 p.m. (Calgary time) on the Business Day prior to the applicable Change of Control Repurchase Date, the Corporation shall deposit with the Trustee an amount of money (in immediately available funds if deposited on or after such Change of Control Repurchase Date), sufficient to pay the aggregate Change of Control Repurchase Price of all the Debentures or portions thereof that are to be purchased as of such Change of Control Repurchase Date, and/or shall deposit with the Trustee or cause to be issued such number of Common Shares as is equal to the number of Common Shares to be issued to Holders on the Change of Control Repurchase Date pursuant to the conversion of the Debentures.
- (13) If a Trustee holds, in accordance with the terms hereof, money sufficient to pay the Change of Control Repurchase Price, and/or such number of Common Shares as is necessary to satisfy the conversion, of any Debenture for which a Change of Control Repurchase Notice has been tendered and not withdrawn in accordance with this Indenture then, on the Business Day following the applicable Change of Control Repurchase Date, such Debenture will cease to be outstanding, whether or not the Debenture is delivered to the Trustee, and interest shall cease to accrue, and the rights of the Holder in respect of the Debenture shall terminate (other than the right to receive the Change of Control Repurchase Price and/or Common Shares as aforesaid). The Corporation shall publicly announce the principal amount of Debentures purchased and/or converted on or as soon as practicable after the Change of Control Repurchase Date.
- (14) The Trustee will promptly return to the respective Holders thereof any Debentures with respect to which a Change of Control Repurchase Notice has been withdrawn in compliance with this Indenture and which has not been repurchased or converted by the Corporation in accordance with the terms of this Indenture.
- (15) If a Change of Control Repurchase Date falls after an Payment Record Date and on or before the related Interest Payment Date, then interest on the Debentures payable on such Interest Payment Date will be payable to the Holders in whose names the Debentures are registered at the close of business on such Payment Record Date.

### **Section 3.4 Optional Redemption of Outstanding Debentures on Change of Control Repurchase Date**

- (1) In the event that a Debentureholder does not accept or exercise the Change of Control Offer in accordance with the terms of this Indenture, the Corporation shall have the right, but not the obligation, on the Change of Control Repurchase Date of such Change of Control Offer, to

redeem in accordance with the Repayment Offer, or convert in accordance with the Conversion Offer, all or a portion of the Debentures held by such Debentureholder that are then Outstanding, on the Change of Control Date of such Change of Control Offer.

- (2) Upon the Debentures being redeemed or converted as provided for in this Section 3.4, the Corporation shall deposit with the Trustee or for the account of the Trustee, at least one Business Day prior to the Change of Control Repurchase Date, such sums as are sufficient to pay the Redemption Amount of the Debentures and/or such number of Common Shares as is equal to the number of Common Shares issuable to Debentureholders pursuant to the conversion of the Debentures. From the sums or Common Shares so deposited, the Trustee shall pay or cause to be paid and/or issue or cause to be issued, to the Holders, upon the deemed surrender of the Debentures, the Redemption Amount thereof or the number of Common Shares issuable upon conversion thereof.

### **Section 3.5 Purchase of Debentures**

Provided that no Event of Default has occurred and is continuing, the Corporation may at any time and from time to time purchase all or any of the Debentures in the market (which shall include purchase from or through an investment dealer or a firm holding membership on a Recognized Stock Exchange) or by tender or by private contract, at any price, subject to compliance with Applicable Securities Laws and the provisions of this Indenture. Debentures so purchased by the Corporation shall be submitted to the Trustee for cancellation in accordance with Section 2.24. If an Event of Default has occurred and is continuing, the Corporation will not have the right to purchase any Debentures except as permitted by this Indenture.

If, upon an invitation for tenders, more Debentures than the Corporation is prepared to accept are tendered at the same lowest price, the Debentures to be purchased by the Corporation will be selected by the Trustee on a pro rata basis or in such other manner (which may include selection by lot, random selection by computer or any other method) as the Trustee acting reasonably and in consultation with the Corporation and in accordance with Applicable Securities Laws, from the Debentures tendered by each tendering Debentureholder who tendered at such lowest price. For this purpose the Trustee may make, and may from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made shall be valid and binding upon all Debentureholders, notwithstanding the fact that as a result thereof one or more such Debentures becomes subject to purchase in part only. The Holder of any Debenture of which a part only is purchased upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such Holder, a replacement Debenture for and evidencing the same obligation as the unpurchased part so surrendered, and the Trustee shall certify and deliver such replacement Debenture upon receipt of the Debenture so surrendered.

### **Section 3.6 Debentures Purchased in Part**

Any Debenture that is to be purchased only in part pursuant to this Article 3 shall be surrendered at the office of the Trustee, and promptly after the date of such purchase, the Corporation shall execute and the Trustee shall authenticate and deliver to the Holder of such Debenture, without service charge, a new Debenture or Debentures, of such authorized denomination or denominations as may be requested by such Holder (which must be equal to \$1,000 principal amount or any integral thereof), in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Debenture so surrendered that is not purchased.

**Section 3.7 Compliance with Applicable Securities Law upon Purchase of Debentures**

In connection with any offer to purchase Debentures under this Article 3, the Corporation shall comply with all Applicable Securities Laws in connection with such offer to purchase or purchase of Debentures, all so as to permit the rights of the Holders and obligations of the Corporation under this Article 3 to be exercised in the time and in the manner specified therein. To the extent that compliance with any Applicable Securities Laws would result in a conflict with any of the terms thereof, this Indenture is hereby modified to the extent required for the Corporation to comply with such Applicable Securities Laws.

**Section 3.8 Debentures Due on Redemption Dates**

Upon a Redemption Notice having been given as provided in Section 3.2, all the Debentures so called for redemption or the principal amount to be redeemed of the Debentures called for redemption, as the case may be, shall thereupon be and become due and payable at the Redemption Price, together with accrued interest to but excluding the Redemption Date, on the Redemption Date specified in such notice, in the same manner and with the same effect as if it were the Maturity Date specified in such Debentures, anything therein or herein to the contrary notwithstanding. From and after such Redemption Date, if the monies necessary to redeem such Debentures shall have been deposited as provided in Section 3.9 and affidavits or other proof satisfactory to the Trustee as to the publication and/or mailing of such Redemption Notices shall have been lodged with it, interest upon the Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Trustee whose decision shall be final and binding upon all parties in interest.

**Section 3.9 Deposit of Redemption Monies**

Upon Debentures being called for redemption, the Corporation shall deposit with the Trustee or any Paying Agent to the order of the Trustee, on or before 11:00 a.m. (Calgary time) on the Business Day immediately prior to the Redemption Date specified in the Redemption Notice, such sums of money as may be sufficient to pay the Redemption Price of the Debentures so called for redemption, plus accrued and unpaid interest thereon up to but excluding the Redemption Date, less any Taxes required by law to be deducted or withheld therefrom. The Corporation shall also deposit with the Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, the Trustee shall pay or cause to be paid, to the Holders of such Debentures so called for redemption, upon surrender of such Debentures, the principal and interest (if any) to which they are respectively entitled on redemption.

Payment of funds to the Trustee upon redemption of Debentures shall be made by electronic transfer or certified cheque or pursuant to such other arrangements for the provision of funds as may be agreed between the Corporation and the Trustee in order to effect such payment hereunder. Notwithstanding the foregoing, all payments in excess of \$25,000,000 (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the LVTS; and in the event that payment must be made to the Depository, the Corporation shall remit payment to the Trustee by LVTS. The Trustee shall have no obligation to disburse funds pursuant to this Section 3.9 unless it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay in full all amounts due and payable on the applicable Redemption Date. The Trustee shall, if it accepts any funds received by it in the form of uncertified cheques, be entitled to delay the time for release of such funds until such uncertified cheques shall be determined to have cleared the financial institution upon which the same are drawn.

### **Section 3.10 Repayment to the Corporation**

To the extent that the aggregate amount of cash deposited by the Corporation pursuant to the provisions of this Article 3 exceeds the aggregate purchase, repurchase or redemption amount or portions thereof that the Corporation is obligated to purchase, repurchase or redeem, then the Trustee shall return any such excess cash to the Corporation as soon as practicable following the completion of the applicable requirements hereunder.

### **Section 3.11 Cancellation of Purchased Debentures**

All Debentures purchased or redeemed in whole or in part pursuant to this Article 3 shall be forthwith delivered to and cancelled by the Trustee and may not be reissued or resold and no Debentures shall be issued in substitution therefor.

## **ARTICLE 4 CONVERSION OF DEBENTURES**

### **Section 4.1 Right to Convert**

- (1) Upon and subject to the provisions and conditions of this Article 4, the Holder of each Debenture shall have the right at such Holder's option, at any time prior to the close of business on the earlier of (i) the Business Day immediately preceding the Maturity Date of the Debentures; (ii) if the Debentures are called for redemption by notice to the holders of Debentures in accordance with Article 3, on the Business Day immediately preceding the date specified by the Corporation for redemption of the Debentures; and (iii) the Business Day immediately preceding the fifth Business Day prior to a Change of Control Repurchase Date; (the earlier of which will be a "**Time of Expiry**" in respect of the Debentures), to convert any part, being \$1,000 or an integral multiple thereof, of the principal amount of a Debenture into Common Shares at the Conversion Price in effect on the Date of Conversion. To the extent a redemption is a redemption in part only of the Debentures, such right to convert, if not exercised prior to the applicable Time of Expiry, shall survive as to any Debentures not redeemed or converted and be applicable to the next succeeding Time of Expiry.
- (2) The Conversion Price in effect on the date hereof for each Common Share to be issued upon the conversion of Debentures shall be equal to \$0.25 such that 4000 Common Shares shall be issued for each \$1,000 principal amount of Debentures so converted. Except as provided below, no adjustment in the number of Common Shares to be issued upon conversion will be made for dividends or distributions on Common Shares issuable upon conversion, the record date for the payment of which precedes the date upon which the holder becomes a holder of Common Shares in accordance with Article 4. No fractional Common Shares will be issued, any fraction of a Common Share that would otherwise be issued will be rounded down to the nearest whole number and holders will receive a cash payment in satisfaction of any fractional interest based on the Current Market Price as of the Date of Conversion (provided, however, that the Corporation shall not be required to make any payment of less than \$10.00). The Conversion Price applicable to, and the Common Shares, securities or other property receivable on the conversion of, the Debentures is subject to adjustment pursuant to the provisions of Section 4.5.
- (3) Holders converting Debentures will receive, in addition to the applicable number of Common Shares, accrued and unpaid interest in respect of the Debentures surrendered for conversion up to but excluding the Date of Conversion from, and including, the most recent Interest Payment Date in accordance with Section 4.4(5).

- (4) Notwithstanding any other provisions of this Indenture, if a Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the Person or persons entitled to receive Common Shares in respect of the Debenture so surrendered for conversion shall not become the holder or holders of record of such Common Shares until the Business Day following such Interest Payment Date.
- (5) A Debenture in respect of which a holder has accepted a notice in respect of a Change of Control Purchase Offer pursuant to the provisions of Article 3 may be surrendered for conversion only if such notice is withdrawn in accordance with this Indenture.
- (6) Such right of conversion shall extend only to the maximum number of whole Common Shares into which the aggregate principal amount of the Debenture or Debentures surrendered for conversion at any one time by the holder thereof may be converted. Fractional interests in Common Shares shall be adjusted for in the manner provided in Section 4.6.
- (7) Subject to regulatory approval and this Article 4, the Corporation shall have the right at its option to force the conversion of the then outstanding Debentures at the Conversion Price, upon the VWAP of the Common Shares being greater than \$0.35 for 20 consecutive trading days after December 31, 2020, on the following terms and conditions (a "**Mandatory Conversion Event**"):
  - (a) at any time following the occurrence of a Mandatory Conversion Event, the Corporation shall deliver to the Trustee, and the Trustee shall promptly deliver to the Holders of the Debentures, a notice stating that the Corporation intends to exercise its mandatory conversion rights under this Indenture and specifying the circumstances or events giving rise to such intention, effective on a day that is not less than 30 days after the date of such notice (the "**Mandatory Conversion Date**");
  - (b) except as provided below, no adjustment in the number of Common Shares to be issued upon conversion will be made for dividends or distributions on Common Shares issuable upon conversion, the record date for the payment of which precedes the date upon which the holder becomes a holder of Common Shares in accordance with this Article 4, or for interest accrued on Debentures surrendered;
  - (c) no fractional Common Shares will be issued, and the number of Common Shares so issuable will be rounded down to the nearest whole number, on any conversion of the Debentures and no cash or other consideration will be paid in lieu of fractional Common Shares;
  - (d) the Conversion Price applicable to, and the Common Shares, securities or other property receivable on the conversion of, the Debentures is subject to adjustment pursuant to the provisions of this Article 4;
  - (e) Debentureholders will receive, in addition to the applicable number of Common Shares, accrued and unpaid interest (less any taxes required to be deducted) in respect of the Debentures surrendered for conversion up to and including the Mandatory Conversion Date from, and including, the most recent Interest Payment Date;
  - (f) the Conversion Price will not be adjusted for accrued interest;
  - (g) the rights of such holder under the terms of the Debentures and this Indenture cease

effective as of the Mandatory Conversion Date provided the Company has issued the corresponding number of Common Shares in accordance with this Indenture and thereafter the Debentures shall not be considered to be outstanding and the Holder shall not have any right except to receive such Holder's Common Shares upon surrender and delivery of such Holder's Debentures in accordance with this Indenture; and

- (h) notwithstanding the foregoing, the Corporation may not convert any Debentures before the Stated Maturity thereof as contemplated under this Section 4.1(8) if a transaction that would result in a Change of Control has been publicly announced, offered or made and not withdrawn or expired, as the case may be.

#### **Section 4.2 Notice of Expiry of Conversion Privilege**

Notice of the expiry of the conversion privileges of the Debentures shall be given by or on behalf of the Corporation, not more than 60 days and not less than 40 days prior to the date fixed for the Time of Expiry, in the manner provided in Section 13.2.

#### **Section 4.3 Revival of Right to Convert**

If the redemption of any Debenture called for redemption by the Corporation is not made or the payment of the purchase price of any Debenture which has been tendered in acceptance of an offer by the Corporation to purchase Debentures for cancellation is not made, in the case of a redemption upon due surrender of such Debenture or in the case of a purchase on the date on which such purchase is required to be made, as the case may be, then, provided the Time of Expiry has not passed, the right to convert such Debentures shall revive and continue as if such Debenture had not been called for redemption or tendered in acceptance of the Corporation's offer, respectively.

#### **Section 4.4 Manner of Exercise of Right to Convert**

- (1) The holder of a Debenture desiring to convert such Debenture in whole or in part into Common Shares shall surrender such Debenture to the Trustee at its principal office in the City of Calgary, Alberta together with the conversion notice attached hereto as Schedule "C" or any other written notice in a form satisfactory to the Trustee, in either case duly executed by the holder or his or her executors or administrators or other legal representatives or his or her attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Trustee, exercising his or her right to convert such Debenture in accordance with the provisions of this Article; provided that with respect to Uncertificated Debentures, registration and surrender of interests in the Debentures will be made only through the Depository's non-certificated system. Thereupon such Debentureholder or, subject to payment of all applicable stamp or security transfer taxes or other governmental charges and compliance with all reasonable requirements of the Trustee, his nominee(s) or assignee(s) shall be entitled to be entered in the books of the Corporation as at the Date of Conversion (or such later date as is specified in Section 4.1(1) and Section 4.4(2)) as the holder of the number of Common Shares into which such Debenture is convertible in accordance with the provisions of this Article and, as soon as practicable thereafter, the Corporation shall deliver to such Debentureholder or, subject as aforesaid, his nominee(s) or assignee(s), a certificate or certificates for such Common Shares and make or cause to be made any payment of interest to which such holder is entitled in accordance with Section 4.4(5).
- (2) For the purposes of this Article, a Debenture shall be deemed to be surrendered for conversion on the date (herein called the "**Date of Conversion**") on which it is so surrendered when the register

of the Trustee is open and in accordance with the provisions of this Article or, in the case of Uncertificated Debentures which the Trustee received notice of and all necessary documentation in respect of the exercise of the conversion rights and, in the case of a Debenture so surrendered by post or other means of transmission, on the date on which it is received by the Trustee at its principal office specified in Section 4.4(1); provided that if a Debenture is surrendered for conversion on a day on which the register of Common Shares is closed, the Person or Persons entitled to receive Common Shares shall become the holder or holders of record of such Common Shares as at the date on which such registers are next reopened.

- (3) Any part, being \$1,000 or an integral multiple thereof, of a Debenture in a denomination in excess of \$1,000 may be converted as provided in this Article and all references in this Indenture to conversion of Debentures shall be deemed to include conversion of such parts.
- (4) The holder of any Debenture of which only a part is converted shall, upon the exercise of his right of conversion surrender such Debenture to the Trustee in accordance with Section 4.4(1), and the Trustee shall cancel the same and shall without charge forthwith Authenticate and deliver to the holder a new Debenture or Debentures in an aggregate principal amount equal to the unconverted part of the principal amount of the Debenture so surrendered. It is understood and agreed by the parties hereto that, unless the Trustee is otherwise in a position to perform electronic conversions, in every instance where Uncertificated Debentures held through the NCI are to be converted in whole or in part, such Debentures being converted shall not be represented by Certificated Debentures, and it shall be sufficient for the Trustee to convert such Debentures upon receiving either the attached exercise form executed by the Depository or an NCI Letter of Instruction in a form agreed upon by the Trustee and the Depository, or such other form that they may require from time to time.
- (5) The holder of a Debenture surrendered for conversion in accordance with this Section 4.4 shall be entitled (subject to any applicable restriction on the right to receive interest on conversion of Debentures of any series) to receive accrued and unpaid interest in respect thereof from the date of the last Interest Payment Date up to but excluding the Date of Conversion (less applicable withholding taxes, if any), and the Common Shares issued upon such conversion shall rank only in respect of distributions or dividends declared in favour of shareholders of record on and after the Date of Conversion or such later date as such holder shall become the holder of record of such Common Shares pursuant to Section 4.4(2), from which applicable date they will for all purposes be and be deemed to be issued and outstanding as fully paid and non-assessable Common Shares.

#### **Section 4.5      Adjustment of Conversion Price**

Subject to the requirements of the CSE (or such other exchange on which the Debentures are then listed), the Conversion Price in effect at any date shall be subject to adjustment from time to time as set forth below.

- (a) If and whenever at any time prior to the Time of Expiry the Corporation shall (i) subdivide, redivide or change the outstanding Common Shares into a greater number of shares, (ii) reduce, combine or consolidate the outstanding Common Shares into a smaller number of shares, or (iii) issue Common Shares or securities convertible into Common Shares to the holders of all or substantially all of the outstanding Common Shares by way of a dividend or distribution (other than cash dividends or distributions for which an adjustment would be made under Section 4.5(b)) (a

"**Common Share Reorganization**"), the Conversion Price in effect on the date of this Indenture of such subdivision, redivision, reduction, combination or consolidation or on the record date for such issue of Common Shares or securities convertible into Common Shares by way of a dividend or distribution, as the case may be, shall be adjusted effective immediately after the record date at which the holders of Common Shares are determined for the purpose of the Common Share Reorganization by multiplying the Conversion Price in effect immediately prior to such record date by a fraction: the denominator of which shall be the number of Common Shares outstanding immediately after giving effect to such Common Share Reorganization (including, in the case where securities exchangeable for or convertible into Common Shares are distributed, the number of Common Shares that would have been outstanding had such securities been exchanged for or converted into Common Shares on such record date, assuming in any case where such securities are not then convertible or exchangeable but subsequently become so, that they were convertible or exchangeable on the record date on the basis upon which they first become convertible or exchangeable); and (2) the numerator of which shall be the number of Common Shares outstanding on such record date before giving effect to such Common Share Reorganization. Such adjustment shall be made successively whenever any event referred to in this Section 4.5 shall occur. Any such issue of Common Shares or securities convertible into Common Shares by way of a dividend or distribution shall be deemed to have been made on the record date for the dividend or distribution for the purpose of calculating the number of outstanding Common Shares under subsections (c) and (d) of this Section 4.5.

- (b) If and whenever at any time prior to the Time of Expiry the Corporation shall fix a record date for the payment of a cash dividend or distribution to the holders of all or substantially all of the outstanding Common Shares in respect of any Applicable Period, the Conversion Price shall be adjusted immediately after such record date so that it shall be equal to the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the denominator shall be the Current Market Price per Common Share on such record date and of which the numerator shall be the Current Market Price per Common Share on such record date minus the amount in cash per Common Share distributed to holders of Common Shares. Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such cash dividend or distribution is not paid, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed.
- (c) If and whenever at any time prior to the Time of Expiry the Corporation shall fix a record date for the issuance of options, rights or warrants to all or substantially all the holders of its outstanding Common Shares entitling them, for a period expiring not more than 45 days after such record date, to subscribe for or purchase Common Shares (or securities convertible into Common Shares) at a price per share (or having a conversion or exchange price per share) less than 95% of the Current Market Price of a Common Share on such record date, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date plus a number of Common Shares equal to the number arrived at by dividing the

aggregate price of the total number of additional Common Shares offered for subscription or purchase (or the aggregate conversion or exchange price of the convertible securities so offered) by such Current Market Price per Common Share, and of which the denominator shall be the total number of Common Shares outstanding on such record date plus the total number of additional Common Shares offered for subscription or purchase (or into which the convertible securities so offered are convertible). Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such options, rights or warrants are not so issued or any such options, rights or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon the number of Common Shares (or securities convertible into Common Shares) actually issued upon the exercise of such options, rights or warrants were included in such fraction, as the case may be.

- (d) If and whenever at any time prior to the Time of Expiry, there is a reclassification of the Common Shares or a capital reorganization of the Corporation other than as described in Section 4.5(a) or a consolidation, amalgamation, arrangement, binding share exchange, merger of the Corporation with or into any other Person or other entity or acquisition of the Corporation or other combination pursuant to which the Common Shares are converted into or acquired for cash, securities or other property; or a sale or conveyance of the property and assets of the Corporation as an entirety or substantially as an entirety to any other Person (other than a direct or indirect wholly-owned subsidiary of the Corporation) or other entity or a liquidation, dissolution or winding-up of the Corporation, any holder of a Debenture who has not exercised its right of conversion prior to the effective date of such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, share exchange, acquisition, combination, sale or conveyance or liquidation, dissolution or winding-up, upon the exercise of such right thereafter, shall be entitled to receive and shall accept, in lieu of the number of Common Shares then sought to be acquired by it, such amount of cash or the number of shares or other securities or property of the Corporation or of the Person or other entity resulting from such merger, amalgamation, arrangement, acquisition, combination or consolidation, or to which such sale or conveyance may be made or which holders of Common Shares receive pursuant to such liquidation, dissolution or winding-up, as the case may be, that such holder of a Debenture would have been entitled to receive on such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, share exchange, acquisition, combination, sale or conveyance or liquidation, dissolution or winding-up, if, on the record date or the date of this Indenture thereof, as the case may be, the holder had been the registered holder of the number of Common Shares sought to be acquired by it and to which it was entitled to acquire upon the exercise of the conversion right. If determined appropriate by the Board of Directors, to give effect to or to evidence the provisions of this Section 4.5(d), the Corporation, its successor, or such purchasing Person or other entity, as the case may be, shall, prior to or contemporaneously with any such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, share exchange, acquisition, combination, sale or conveyance or liquidation, dissolution or winding-up, enter into an indenture which shall provide, to the extent possible, for the application of the provisions set forth in this Indenture with respect to the rights and interests thereafter of the holder of Debentures to the end that

the provisions set forth in this Indenture shall thereafter correspondingly be made applicable, as nearly as may reasonably be, with respect to any cash, shares or other securities or property to which a holder of Debentures is entitled on the exercise of its acquisition rights thereafter. Any indenture entered into between the Corporation and the Trustee pursuant to the provisions of this Section 4.5(d) shall be a supplemental indenture entered into pursuant to the provisions of Section 14.4. Any indenture entered into between the Corporation, any successor to the Corporation or such purchasing Person or other entity and the Trustee shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 4.5(d) and which shall apply to successive reclassifications, capital reorganizations, amalgamations, consolidations, mergers, share exchanges, acquisitions, combinations, sales or conveyances. For greater certainty, nothing in this Section 4.5(d) shall affect or reduce the requirement for any Person to make a Change of Control Purchase Offer, and notice of any transaction to which this Section 4.5(d) applies shall be given in accordance with Section 4.10.

- (e) If the Corporation shall make a distribution to all holders of Common Shares of shares in the capital of the Corporation, other than Common Shares, or evidences of indebtedness or other assets of the Corporation, including securities (but excluding (i) any issuance of rights or warrants for which an adjustment was made pursuant to Section 4.5(c), and (ii) any dividend or distribution paid exclusively in cash for which an adjustment was made pursuant to Section 4.5(b) (the "**Distributed Securities**")), then in each such case (unless the Corporation distributes such Distributed Securities to the holders of Debentures on such dividend or distribution date (as if each holder had converted such Debenture into Common Shares immediately preceding the record date with respect to such distribution)) the Conversion Price in effect immediately preceding the distribution date fixed for the dividend or distribution shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately preceding such distribution date by a fraction of which the denominator shall be the VWAP for the Common Shares for the five consecutive trading days immediately prior to the ex-distribution date and of which the numerator shall be the VWAP for the Common Shares for the first five consecutive trading days that occur immediately following ex distribution date. Such adjustment shall be made successively whenever any such distribution is made and shall become effective five Business Days immediately following the distribution date. In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if the securities distributed by the Corporation to all holders of its Common Shares consist of capital stock of, or similar equity interests in, a Subsidiary or other business of the Corporation (the "**Spinoff Securities**"), the Conversion Price shall be adjusted, unless the Corporation makes an equivalent distribution to the holders of Debentures, so that the same shall be equal to the rate determined by multiplying the Conversion Price in effect on the record date fixed for the determination of shareholders entitled to receive such distribution by a fraction, the denominator of which shall be the sum of: (A) the VWAP for the Common Shares for the 20 consecutive trading day period (the "**Spinoff Valuation Period**") commencing on

and including the fifth trading day after the date on which dividend trading commences for such distribution on the CSE, or such other national or regional exchange or market on which the Common Shares are then listed or quoted and (B) the product of: (i) the weighted average trading price (calculated in substantially the same way as the Current Market Price is calculated for the Common Shares) over the Spinoff Valuation Period of the Spinoff Securities or, if no such prices are available, the fair market value of the Spinoff Securities as reasonably determined by the Board of Directors (which determination shall be conclusive and shall be evidenced by an Officers' Certificate delivered to the Trustee) multiplied by (ii) the number of Spinoff Securities distributed in respect of one Common Share and the numerator of which shall be the VWAP for the Common Shares for the Spinoff Valuation Period, such adjustment to become effective immediately preceding the opening of business on the 25th trading day after the date on which dividend trading commences; provided, however, that the Corporation may in lieu of the foregoing adjustment elect to make adequate provision so that each holder of Debentures shall have the right to receive upon conversion thereof the amount of such Spinoff Securities that such holder of Debentures would have received if such Debentures had been converted on the record date with respect to such distribution.

- (f) If any issuer bid made by the Corporation or any of its Subsidiaries for all or any portion of Common Shares shall expire, then, if the issuer bid shall require the payment to shareholders of consideration per Common Share having a fair market value (determined as provided below) that exceeds the Current Market Price per Common Share on the last date (the "**Expiration Date**") tenders could have been made pursuant to such issuer bid (as it may be amended) (the last time at which such tenders could have been made on the Expiration Date is hereinafter sometimes called the "**Expiration Time**"), the Conversion Price shall be adjusted so that the same shall equal the rate determined by multiplying the Conversion Price in effect immediately preceding the close of business on the Expiration Date by a fraction of which: (i) the denominator shall be the sum of (A) the fair market value of the aggregate consideration (the fair market value as determined by the Board of Directors, whose determination shall be conclusive evidence of such fair market value and which shall be evidenced by an Officers' Certificate delivered to the Trustee) payable to shareholders based on the acceptance (up to any maximum specified in the terms of the issuer bid) of all Common Shares validly tendered and not withdrawn as of the Expiration Time (the Common Shares deemed so accepted, up to any such maximum, being referred to as the "**Purchased Common Shares**") and (B) the product of the number of Common Shares outstanding (less any Purchased Common Shares and excluding any Common Shares held in the treasury of the Corporation) at the Expiration Time and the Current Market Price per Common Share on the Expiration Date and (ii) the numerator of which shall be the product of the number of Common Shares outstanding (including Purchased Common Shares but excluding any Common Shares held in the treasury of the Corporation) at the Expiration Time multiplied by the Current Market Price per Common Share on the Expiration Date, such increase to become effective immediately preceding the opening of business on the day following the Expiration Date. In the event that the Corporation is obligated to purchase Common Shares pursuant to any such issuer bid, but the Corporation is permanently prevented by applicable law from effecting any or all such purchases or any or all such purchases are rescinded, the Conversion Price shall again

be adjusted to be the Conversion Price which would have been in effect based upon the number of Common Shares actually purchased, if any. If the application of this clause (f) of Section 4.5 to any issuer bid would result in a decrease in the Conversion Price, no adjustment shall be made for such issuer bid under this clause (f).

For purposes of this Section 4.5(f), the term "issuer bid" shall mean an issuer bid under Applicable Securities Law or a take-over bid under Applicable Securities Law by a Subsidiary of the Corporation for the Common Shares and all references to "purchases" of Common Shares in issuer bids (and all similar references) shall mean and include the purchase of Common Shares in issuer bids and all references to "tendered Common Shares" (and all similar references) shall mean and include Common Shares tendered in issuer bids.

- (g) In any case in which this Section 4.5 shall require that an adjustment shall become effective immediately after a record date for an event referred to herein, the Corporation may defer, until the occurrence of such event, issuing to the holder of any Debenture converted after such record date and before the occurrence of such event the additional Common Shares issuable upon such conversion by reason of the adjustment required by such event before giving effect to such adjustment; provided, however, that the Corporation shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Common Shares upon the occurrence of the event requiring such adjustment and the right to receive any distributions made on such additional Common Shares declared in favour of holders of record of Common Shares on and after the Date of Conversion or such later date as such holder would, but for the provisions of this Section 4.5(g), have become the holder of record of such additional Common Shares pursuant to Section 4.4(2).
- (h) The adjustments provided for in this Section 4.5 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section, provided that, notwithstanding any other provision of this Section, no adjustment of the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Conversion Price then in effect; provided however, that any adjustments which by reason of this Section 4.5(h) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.
- (i) For the purpose of calculating the number of Common Shares outstanding, Common Shares owned by or for the benefit of the Corporation shall not be counted.
- (j) In the event of any question arising with respect to the adjustments provided in this Section 4.5, such question shall be conclusively determined by a firm of nationally recognized chartered accountants appointed by the Corporation and acceptable to the Trustee (who may be the Auditors of the Corporation); such accountants shall have access to all necessary records of the Corporation and such determination shall be binding upon the Corporation, the Trustee, and the Debentureholders.
- (k) In case the Corporation shall take any action affecting the Common Shares other than action described in this Section 4.5, which in the opinion of the Board of Directors, would materially affect the rights of Debentureholders, the Conversion Price shall be

adjusted in such manner and at such time, by action of the Board of Directors, subject to the prior written consent of the CSE (or such other exchange on which the Debentures are then listed), as the Board of Directors, in their sole discretion may determine to be equitable in the circumstances. Failure of the directors to make such an adjustment shall be conclusive evidence that they have determined that it is equitable to make no adjustment in the circumstances.

- (l) Subject to the prior written consent of the CSE or such other exchange on which the Debentures are then listed, no adjustment in the Conversion Price shall be made in respect of any event described in Section 4.5(a), Section 4.5(b), Section 4.5(c), Section 4.5(e) or Section 4.5(f) other than the events described in Section 4.5(a)(i) or Section 4.5(a)(ii) if the holders of the Debentures are entitled to participate in such event on the same terms *mutatis mutandis* as if they had converted their Debentures prior to the date of this Indenture or record date, as the case may be, of such event.
- (m) Except as stated above in this Section 4.5, no adjustment will be made in the Conversion Price for any Debentures as a result of the issuance of Common Shares at less than the Current Market Price for such Common Shares on the date of issuance or the then applicable Conversion Price.

#### **Section 4.6 No Requirement to Issue Fractional Common Shares**

The Corporation shall not be required to issue fractional Common Shares upon the conversion of Debentures pursuant to this Article. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of whole Common Shares issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of such Debentures to be converted. If any fractional interest in a Common Share would, except for the provisions of this Section, be deliverable upon the conversion of any principal amount of Debentures, any fraction of a Common Share that would otherwise be issued will be rounded down to the nearest whole number and the Corporation shall, in lieu of delivering any certificate representing such fractional interest, make a cash payment to the holder of such Debenture of an amount equal to the fractional interest which would have been issuable multiplied by the Current Market Price (provided, however, that the Corporation shall not be required to make any payment of less than \$10.00).

#### **Section 4.7 Corporation to Reserve Common Shares**

The Corporation covenants with the Trustee that it will at all times reserve and keep available out of its authorized Common Shares (if the number thereof is or becomes limited), solely for the purpose of issue upon conversion of Debentures as in this Article provided, and conditionally allot to Debentureholders who may exercise their conversion rights hereunder, such number of Common Shares as shall then be issuable upon the conversion of all outstanding Debentures. The Corporation covenants with the Trustee that all Common Shares which shall be so issuable shall be duly and validly issued as fully-paid and non-assessable.

#### **Section 4.8 Cancellation of Converted Debentures**

Subject to the provisions of Section 4.4 as to Debentures converted in part, all Debentures converted in whole or in part under the provisions of this Article shall be forthwith delivered to and cancelled by the Trustee and no Debenture shall be issued in substitution for those converted.

#### **Section 4.9 Certificate as to Adjustment**

The Corporation shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 4.5, deliver an Officers' Certificate to the Trustee specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based, which certificate and the amount of the adjustment specified therein shall be verified by an opinion of a firm of nationally recognized chartered accountants appointed by the Corporation and acceptable to the Trustee (who may be the Auditors of the Corporation) and shall be conclusive and binding on all parties in interest. When so approved, the Corporation shall, except in respect of any subdivision, redivision, reduction, combination or consolidation of the Common Shares, forthwith give notice to the Debentureholders in the manner provided in Section 4.3 specifying the event requiring such adjustment or readjustment and the results thereof, including the resulting Conversion Price.

#### **Section 4.10 Notice of Special Matters**

The Corporation covenants with the Trustee that so long as any Debenture remains outstanding, it will give notice to the Trustee, and to the Debentureholders in the manner provided in Section 13.2, of its intention to fix a record date for any event referred to in Section 4.5(a), Section 4.5(b), Section 4.5(c) or Section 4.5(e) (other than the subdivision, redivision, reduction, combination or consolidation of its Common Shares) which may give rise to an adjustment in the Conversion Price, and, in each case, such notice shall specify the particulars of such event and the record date and the date of this Indenture for such event; provided that the Corporation shall only be required to specify in such notice such particulars of such event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than 14 days in each case prior to such applicable record date.

In addition, the Corporation covenants with the Trustee that so long as any Debenture remains outstanding, it will give notice to the Trustee, and to the Debentureholders in the manner provided in Section 13.2, at least 30 days prior to the: (i) date of this Indenture of any transaction referred to in Section 4.5(d) stating the consideration into which the Debentures will be convertible after the date of this Indenture of such transaction; and (ii) Expiration Date of any transaction referred to in Section 4.5(f) stating the consideration paid per Common Share in such transaction.

#### **Section 4.11 Protection of Trustee**

Subject to Section 10.1, the Trustee:

- (a) shall not at any time be under any duty or responsibility to any Debentureholder to determine whether any facts exist which may require any adjustment in the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making the same;
- (b) shall not be accountable with respect to the validity or value (or the kind or amount) of any Common Shares or of any shares or other securities or property which may at any time be issued or delivered upon the conversion of any Debenture; and
- (c) shall not be responsible for any failure of the Corporation to make any cash payment or to issue, transfer or deliver Common Shares or share certificates upon the surrender of any

Debenture for the purpose of conversion, or to comply with any of the covenants contained in this Article.

#### **Section 4.12 U.S. Legends on Common Shares**

Each certificate representing Common Shares issued upon conversion of Debentures bearing the U.S. Legend (or in lieu of cash as interest thereon) shall have imprinted or otherwise reproduced thereon the U.S. Legend with appropriate adjustments, unless the beneficial owner at the time of conversion of such Debentures either: (a) (i) is not in the United States; (ii) is not a U.S. Person and is not converting such Debentures on behalf of a U.S. Person or a person in the United States; and (iii) did not execute or deliver the notice of the owner's intention to convert such Debentures in the United States; or (b) has delivered a Legend Removal Opinion.

### **ARTICLE 5 CONDITIONS PRECEDENT**

No Debentures shall be issued hereunder unless each of the following conditions precedent are satisfied on or prior to the Issue Date, it being understood that the said conditions are included for the exclusive benefit of the Debentureholders:

#### **Section 5.1 Indenture Documents**

The Trustee shall have received fully executed original copies of all Indenture Documents (other than this Indenture and the Debentures), each of which shall be consistent with the terms and conditions of this Indenture and otherwise satisfactory to the Trustee, acting reasonably.

#### **Section 5.2 Corporate Certificates**

The Trustee shall have received:

- (a) certified copies of the resolutions of the Board of Directors approving, as appropriate, the issue of the Debentures, this Indenture and the other Indenture Documents, and all other documents, if any, to which the Corporation is a party and evidencing authorization with respect to such documents; and
- (b) a certificate of the secretary, an assistant secretary, a director or equivalent of the Corporation, dated as of the date of this Indenture, and certifying (i) the name, title and true signature of each officer of the Corporation authorized to execute this Indenture and the other Indenture Documents to which it is a party, (ii) the name, title and true signature of each officer of the Corporation authorized to provide the certifications required pursuant to this Indenture, and (iii) that attached thereto is a true and complete copy of the articles of incorporation and bylaws, constitution or equivalent document of the Corporation, as amended to date, and a recent certificate of status, certificate of compliance, good standing certificate or analogous certificate.

#### **Section 5.3 Legal Opinions**

The Trustee shall have received a favourable written opinion (addressed to the Trustee and dated the date of this Indenture) for the Corporation in respect of such matters relating to the Corporation, this Indenture and the other Indenture Documents as the Trustee shall reasonably request (together with

copies of all factual certificates and legal opinions referred to in such opinions).

**Section 5.4 Registrations; Execution and Delivery of Other Documentation**

Each Obligor shall have complied with Section 6.11 hereof to effect the Registrations on or prior to the date of this Indenture.

**Section 5.5 Performance of Other Covenants**

All other covenants contained in this Indenture required to be performed by any Obligor on or prior to the Issue Date shall have been performed, to the satisfaction of the Trustee, acting reasonably.

**ARTICLE 6 COVENANTS**

As long as any Debentures remain outstanding, the Corporation hereby covenants and agrees and to the extent applicable, each Guarantor hereby covenants and agrees, with the Trustee for the benefit of the Trustee and the Holders, as follows (unless and for so long as the Corporation and/or one or more of its Subsidiaries are the only Holders (or Beneficial Holders) of the outstanding Debentures, in which case the following provisions of this Article 6 shall not apply):

**Section 6.1 Payment of Principal, Premium and Interest**

The Corporation shall duly and punctually pay the principal of (and premium, if any), and interest on the Debentures in accordance with their terms and this Indenture.

**Section 6.2 Existence; Books of Account**

- (1) The Corporation shall and shall cause each Guarantor to, do or cause to be done all things necessary to preserve and keep in full force and effect the corporate, partnership or other legal existence, as applicable, and the corporate, partnership or other legal power and capacity, as applicable, of the Corporation and each Guarantor to own its properties and assets.
- (2) Each Obligor covenants and agrees that it will keep or cause to be kept proper books of account in accordance with IFRS.

**Section 6.3 Compliance Certificate**

The Corporation shall deliver to the Trustee within 120 days after the end of each Fiscal Year (and at any other reasonable time upon demand by the Trustee) beginning with the Fiscal Year ending December 31, 2019 an Officer's Certificate stating that the Corporation has complied with all requirements of the Corporation contained in this Indenture and stating whether or not a Default or an Event of Default has occurred. If a Default or an Event of Default shall have occurred, the certificate shall describe the nature and particulars of the Default or Event of Default and its current status and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.

**Section 6.4 Notice of Default**

The Corporation shall promptly notify the Trustee upon becoming aware of the occurrence of any Default or Event of Default.

## **Section 6.5 Securities Laws**

The Corporation shall:

- (a) take all reasonable steps and actions and do all such acts and things as may be required to: (i) as long as it meets the minimum listing requirements of such institutions, maintain the listing and posting for trading of the Debentures on a Recognized Stock Exchange and (ii) maintain its status as a reporting issuer or equivalent in good standing or equivalent under the Applicable Securities Laws in each of the Jurisdictions, provided that the foregoing covenant shall not prevent or restrict the Corporation from carrying out a transaction to which Article 12 would apply if carried out in compliance with Article 12 even if as a result of such transaction the Corporation ceases to be a "reporting issuer" in any of the Jurisdictions or the Common Shares or Debentures cease to be listed on a Recognized Stock Exchange; and
- (b) at the relevant times and upon exercise of the relevant rights or elections, comply and take all measures necessary to comply at all times with Applicable Securities Laws including, without limitation, make application for any order, ruling, registration or filing or give any notice required under Applicable Securities Laws.

The Trustee shall have no obligation to verify information relating to the Corporation's compliance with this Section 6.5 and may act and rely upon all information provided by the Corporation with respect to such compliance, without independent inquiry.

## **Section 6.6 Reporting**

- (1) The Corporation shall file with the Trustee and provide Holders with the continuous disclosure documents that must be sent to its shareholders, as applicable, pursuant to Applicable Securities Laws in each of the Jurisdictions within 15 days from the date such documents are sent to its shareholders, as applicable; provided, however, that the Corporation will be deemed to have complied with this Section 6.6 (1) by making such documentation available at [www.SEDAR.com](http://www.SEDAR.com).
- (2) In the event the Corporation is no longer subject to Applicable Securities Laws, the Corporation shall continue to provide to the Trustee, the Holders, and, upon request, Beneficial Holders, (a) within 120 days after the end of each fiscal year, copies of its annual financial statements and related management's discussion and analysis ("**MD&A**"), and (b) within 60 days after the end of each of the first three fiscal quarters of each Fiscal Year, interim financial statements and related MD&A which shall, at a minimum, contain such information required to be provided in such documents pursuant to Applicable Securities Laws in the Jurisdictions. Each of such continuous disclosure documents will be prepared in accordance with disclosure requirements of Applicable Securities Laws of the Jurisdictions.
- (3) No duty shall rest with the Trustee to analyze any continuous disclosure documents provided to it pursuant to this Section 6.6.

## **Section 6.7 Maintenance**

The Obligors shall maintain the Collateral and all equipment and systems related to the Collateral in good repair, working order and condition (reasonable wear and tear excepted) in compliance with

Applicable Law and from time to time make or cause to be made all necessary repairs, replacements and improvements thereto.

#### **Section 6.8 Conduct of Business**

Each Obligor shall do or cause to be done all things necessary to carry on its business in a commercially reasonable manner in accordance with normal industry standards and Applicable Law.

#### **Section 6.9 Title**

Each of the Obligors shall warrant and defend its right, title and interest in and to the Collateral and every part thereof against the claims of all Persons whomsoever, subject only to Permitted Liens, and do, observe and perform all of its obligations herein in all material respects.

#### **Section 6.10 Payment of Trustee's Remuneration**

The Corporation will pay on demand the Trustee's reasonable remuneration for its services as Trustee hereunder (including reimbursement for distributions which include legal services) and will repay to the Trustee on demand all moneys which shall have been paid by the Trustee out of its own funds in and about the execution of the trusts hereby created with interest at such reasonable rate as shall have been set by the Trustee from time to time, from the date of expenditure until repayment, with a reasonable rate of interest to be charged by the Trustee on any overdue accounts of the Corporation. The said remuneration shall continue to be payable until the trusts hereof are finally wound up and whether or not the trusts of this Indenture shall be in course of administration by or under the direction of the court. This Section 6.12 shall survive the resignation of the Trustee or the termination of this Agreement. Notwithstanding the foregoing, the Corporation need not pay or reimburse the Trustee for expenses, disbursements or advances if the Trustee incurred such expenses, disbursements or advances as a result of its fraud, wilful misconduct or gross negligence of a right, duty or obligation by the Trustee.

#### **Section 6.11 Registrations**

Each Obligor agrees to record, file or register, at its own expense, applications for registration or financing statements (and continuation or financing change statements when applicable), and make any other registrations or filings, including where required, the registration of the security documents or, in respect of an application, filing or registration which can only be effected by the Collateral Agent, to provide all information and assistance required by the Collateral Agent in order to make any such applications or registrations, and to indemnify the Collateral Agent on demand in connection with such applications or registrations (collectively, "**Registrations**") with respect to the Collateral now existing and hereafter acquired, created or arising and the creation of Liens therein under and as contemplated by the Security Documents, meeting the requirements of Applicable Law, in such manner and in such jurisdictions as are necessary or desirable to effect, protect, perfect and maintain the protection and perfection of, such Liens on a first priority basis (subject only to Permitted Liens), and to deliver a file stamped copy of each such Registration or other evidence of such Registration to the Collateral Agent on or prior to the date of this Indenture. Without limiting the Obligors' obligation to provide notice in accordance with (e) hereof, if any Obligor (i) makes any change in its name, identity or corporate structure, (ii) changes the location of its assets, its domicile, chief place of business or chief executive office, or (iii) takes any other action, which in any such case would, under the Applicable Law, require the amendment of any Registration recorded or the filing of an additional Registration, registered and filed in accordance with the provisions hereof, such

Obligor shall within 10 days after a change referred to in clause (i) or prior to the taking of any action referred to in clause (ii) or (iii), promptly file such Registrations as may be necessary or desirable to continue the perfection of the Liens in the Collateral intended under the Security Documents. The Collateral Agent shall be under no obligation whatsoever to record, file or register any Registration, or to make any other recording, filing or registration in connection herewith.

### **Section 6.12 Insurance**

The Corporation shall maintain, and shall cause each Obligor to maintain, property and liability insurance to insure their respective businesses and operations against loss or damage with responsible insurers on a basis consistent with insurance obtained by reasonably prudent participants in comparable businesses. On the Issue Date, the Corporation shall deliver to the Trustee a copy of a certificate of insurance from an insurance broker in respect of the Corporation and each Obligor, dated as of or near the date of the closing, identifying insurers, types of insurance, insurance limits, policy terms, names of insureds, additional insureds or loss payees (including the designation of the Trustee as loss payee and additional insured with respect to all property and liability insurance).

### **Section 6.13 Dividends**

The Corporation shall not declare or pay any dividend to the holders of its issued and outstanding Common Shares after the occurrence of an Event of Default unless and until such default shall have been cured or waived or shall have ceased to exist.

### **Section 6.14 Negative Covenants**

So long as any obligations remain outstanding under the Debentures or (commencing on the date of this Indenture) this Indenture, each Obligor covenants and agrees that it will not do or permit any of the following:

- (a) at any time permit, create, grant, assume or suffer to exist any Lien or any debt secured by a Lien upon any Collateral other than the Permitted Liens;
- (b) directly or indirectly, incur, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to any Indebtedness, other than:
  - (i) the Debentures;
  - (ii) the Tilray Promissory Note;
  - (iii) Indebtedness that is expressly subordinate and postponed in right of payment to the Debentures;
  - (iv) trade payables incurred by the Obligors in the ordinary course of business;
  - (v) Indebtedness among the Obligors;
  - (vi) Hedging Obligations entered into in the ordinary course of business and not for speculative purpose;

- (vii) Indebtedness for the deferred purchase price of property or services or other purchase money Indebtedness including those arising under any conditional sale or title retention agreements and obligations under capital or synthetic leases and sale and leaseback transactions, all to a maximum amount of \$500,000; or
- (viii) guarantee of any of the foregoing;
- (c) enter into or be a party to any transaction with any Affiliates thereof (that is not a Obligor) except in the ordinary course of and pursuant to the reasonable requirements of such Obligor's business and upon fair and reasonable terms that are no less favourable to such Obligor than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of such Obligor; or
- (d) issue any Equity Interests which have interest, dividend, payment or redemption rights or payments permitted in priority payments on the Debentures.

### **Section 6.15 No Reorganization**

Subject to Article 12, each of the Obligors covenants and agrees that they will not enter into any scheme or arrangement for any reconstruction or reorganization involving any of the Corporation or for any consolidation, amalgamation, merger, arrangement or similar transaction involving the Corporation and any other Person.

### **Section 6.16 Additional Negative Covenants**

The Corporation hereby covenants and agrees that, except with the prior written consent of the Trustee, acting reasonably, it will not:

- (a) permit transfers or issues, or permits the transfer or issuance of, any equity securities of any Obligor (other than the Corporation) to any Person that is not the Corporation or an Obligor or allows any one thereof to cease to be a direct or indirect, as applicable, Subsidiary of the Corporation;
- (b) enters into any transaction with any non-arm's length parties other than on commercially reasonable terms; or
- (c) in the case of the Corporation, advance, transfer, loan to or otherwise pay to any Subsidiary any proceeds of the Offering unless and until such time as all security as required by the terms hereof is in place against any such Subsidiary.

### **Section 6.17 Cannabis Compliance**

- (1) the extent that the Corporation currently has cannabis-related activities or interests, the Corporation represents, warrants and agrees that, in addition to any other representation and warranty in this Indenture:
  - (a) its Cannabis Permits are in good standing and it has all permits and licences required by any Canadian or other applicable Governmental Authority that are necessary or desirable to lawfully conduct or maintain, directly or indirectly, its cannabis-related activities and

interests;

- (b) it does not have or hold cannabis or cannabis-related operations or interests in the United States of America (including, without limiting the generality of the foregoing, royalty entitlements or investments in a cannabis business), or sell or distribute cannabis into the United States of America; and
  - (c) it does not have or hold cannabis or cannabis-related operations or interests in any other country (including, without limiting the generality of the foregoing, royalty entitlements or investments in a cannabis business) where the production, distribution or possession of cannabis is prohibited as a matter of the law of the applicable country.
- (2) To the extent that the Corporation has cannabis-related activities or interests now or in the future, the Corporation covenants and agrees that, in addition to any other covenant or obligation in this Indenture, it shall:
- (a) immediately provide to the Trustee any (i) existing Cannabis Permits; and, (ii) other permits and licences required by any other applicable Governmental Authority that it currently holds;
  - (b) obtain Cannabis Permits from any required Governmental Authority, and upon receipt of same immediately provide such Cannabis Permits to the Trustee;
  - (c) at all times keep and maintain in good standing its Cannabis Permits, and shall notify the Trustee of any breach of this requirement immediately upon obtaining knowledge thereof;
  - (d) ensure at all times that it continues to have all permits and licences required by any Canadian or other applicable Governmental Authority that are necessary or desirable to lawfully conduct or maintain, directly or indirectly, its cannabis-related activities and interests;
  - (e) notify the Trustee immediately of, and provide it with a copy of, any and all correspondence and notices that could reasonably be expected to result in a loss of, or a penalty or other sanction under, any Cannabis Permit or applicable law;
  - (f) deliver to the Trustee, (i) at any reasonable time upon demand by the Trustee; (ii) in any event, immediately upon the breach of any representation, warranty or covenant contained in this Article; and, (iii) within 120 days after the end of each calendar year, an Officer's Certificate (or a supplement to an Officer's Certificate otherwise being provided) as to the knowledge of such officer(s) of the Corporation's compliance or non-compliance with this Article, in each case attaching evidence of the current status of all Cannabis Permits;
  - (g) meet all record keeping and reporting requirements set out by all applicable Governmental Authorities, including but not limited to, keeping records of all cannabis-related activities and inventories, as well as filing ongoing reports; which, at a minimum, must include, among other things, the total amounts (i) produced; (ii) released for sale; (iii) received from other licensed producers; (iv) sold or transferred to registered clients, other licensed producers and licensed dealers; or, (v) otherwise retailed, with the

associated revenues;

- (h) deliver to the Trustee, (i) at any reasonable time upon demand by the Trustee; and, (ii) at a minimum annually, an Officer's Certificate attaching and certifying to the aggregate records described in Section 6.17(2)(g) above, for the preceding twelve (12) months;
  - (i) carry on and conduct its activities in accordance with all applicable laws and regulations of all Governmental Authorities;
  - (j) meet all listing requirements for each stock exchange upon which it is listed relating to compliance with applicable law in all jurisdictions in which the Corporation has interests;
  - (k) in no event, acquire or hold cannabis or cannabis-related operations or interests in the United States of America (including, without limiting the generality of the foregoing, royalty entitlements or investments in a cannabis business), or sell or distribute cannabis into the United States of America, so long as the production, distribution or possession of cannabis remains prohibited as a matter of any federal, territorial or state laws of the United States of America or is prohibited as a matter of any applicable United States of America Governmental Authority; and
  - (l) in no event, acquire or hold cannabis or cannabis-related operations or interests in any other country (including, without limiting the generality of the foregoing, royalty entitlements or investments in a cannabis business) if the production, distribution or possession of cannabis is prohibited as a matter of the law of the applicable country.
- (3) The Corporation acknowledges and agrees that notwithstanding any other provision of this Indenture, any default of any provision of this Section 6.17 or any disruption of the market for financial services provided to cannabis businesses will result in the right of the Trustee, at its sole discretion, to resign as Trustee effective immediately, and the Corporation hereby acknowledges such right of the Trustee to immediately resign. For greater certainty, no cure period or advance notice is required to be given by the Trustee before the Trustee may exercise such discretion.
- (4) The Corporation acknowledges and agrees, in addition to any other provision herein relating to the resignation or replacement of the Trustee, that the Trustee may resign its trust and be discharged from all further duties and liabilities hereunder, without notice, if the Trustee reasonably determines that (i) the Corporation has become unable to continue to lawfully operate any part of its cannabis or cannabis-related business or to own or maintain, directly or indirectly, its cannabis or cannabis-related investments or operations; or (ii) the Trustee would be prejudiced by continuing to act as Trustee hereunder.
- (5) The Corporation shall cause all of its Subsidiaries to comply with the provisions of this Article as if such Subsidiaries were expressly referred to in such provisions in replacement of references to the Corporation, *mutatis mutandis*.

### **Section 6.18 Further Instruments and Acts**

Upon request of the Trustee, each of the Obligor will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture, including all such acts as may be required to maintain the effectiveness and perfection of the Security and its first position priority (subject only to Permitted Liens).

### **Section 6.19 Performance of Covenant by Trustee**

If any Obligor fails to perform any of its covenants contained in this Indenture, the Trustee may itself perform any of such covenants capable of being performed by it, but will be under no obligation to do so. All sums expended or advanced by the Trustee for such purpose will be repayable as provided in Section 6.12 of this Indenture. No such performance or advance by the Trustee shall relieve any Obligor of any default hereunder or its continuing obligations hereunder.

## **ARTICLE 7 EVENTS OF DEFAULT AND REMEDIES**

### **Section 7.1 Events of Default and Enforcement**

- (1) If and when any one or more of the following events (herein called an "**Event of Default**") shall happen on or after the date of this Indenture, namely:
- (a) a default in payment of principal (and premium, if any) on any Debentures when due, whether at maturity, upon a Change of Control or otherwise (whether such payment is due in cash, Common Shares or other securities or property or a combination thereof);
  - (b) a default in payment of interest (or any other amount owing hereunder other than as prescribed by Section 7.1(1)(a)) on any Debentures when due and payable and the continuance of such default for 10 days;
  - (c) a default by the Corporation in performing or observing any of the material covenants, conditions, agreements or obligations of the Corporation, as the case may be, as described herein or the Security Documents, and the continuance of such default for 30 days after the date on which written notice of such default has been given to the Corporation by the Trustee or by the Holders of not less than 25% in principal amount of Outstanding Debentures specifying such default and requiring the Corporation to rectify same;
  - (d) the failure to make a Change of Control Offer upon the occurrence of a Change of Control;
  - (e) if a decree or order of a court having jurisdiction is entered adjudging the Corporation or any Material Subsidiary a bankrupt or insolvent under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws, or issuing sequestration or process of execution against, or against any substantial part of, the property of the Corporation or any Material Subsidiary, or appointing a receiver of, or of any substantial part of, the property of the Corporation or any Material Subsidiary or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of 30 days;
  - (f) if the Corporation or any Material Subsidiary institutes proceedings to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws, or consents to the filing of any such petition or to the appointment of a receiver of, or of any substantial part of, the property of the Corporation or any Material Subsidiary or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due;

- (g) if a resolution is passed for the winding-up or liquidation of the Corporation or any Material Subsidiary except in the course of carrying out or pursuant to a transaction in respect of which the conditions of Section 12.1 are duly observed and performed;
- (h) if, after the date of this Indenture, any proceedings with respect to the Corporation or any Material Subsidiary are taken with respect to a compromise or arrangement, with respect to creditors of the Corporation or any Material Subsidiary generally, under the applicable legislation of any jurisdiction; or
- (i) if, any one or more of the Security Documents, ceases to constitute a valid and perfected first priority charge or secured interest, subject to Permitted Liens, upon all of the property it purports to charge or encumber in favour of the Trustee for and on behalf of the holders of the Debentures,

then, and in each and every such case which has happened and is continuing (other than an Event of Default specified in clause (e) or (f) above), the Trustee may, in its discretion, and shall, upon the written request of the Holders of not less than 25% in principal amount of the Outstanding Debentures at such time, declare the principal of (and premium, if any) together with accrued interest on all such Debentures to be due and payable immediately, by a Notice in writing to the Corporation (and to the Trustee if given by the Holders), and upon any such declaration such principal amount and premium, if any, together with accrued interest thereon, shall become immediately due and payable. If the Trustee fails to notify in writing the Corporation pursuant to the terms hereof, the Debentureholders having provided the written request to the Trustee may do so. If an Event of Default specified in clause (e) or (f) occurs, then the principal of (and premium, if any) together with accrued interest on all Outstanding Debentures shall immediately become due and payable without delivery of any Notice or other act on the part of either the Trustee or any Holder.

### **Section 7.2 Notice of Event of Default**

The Trustee shall, within thirty (30) days after the Trustee becomes aware of the occurrence of a Default or an Event of Default, give to the Holders by way of written Notice, Notice of every Event of Default so occurring and continuing at the time the Notice is given to the Holders. When a Notice of the occurrence of an Event of Default is given by the Trustee pursuant to this Section 7.2 and the Event of Default is thereafter cured, the Trustee shall, within 5 Business Days after the Corporation provides written Notice to the Trustee that the Event of Default has been cured and is no longer outstanding, give to all Holders to whom Notice of the occurrence of the Event of Default was given, Notice that the Event of Default is no longer outstanding.

### **Section 7.3 Waiver of Default**

- (1) The Holders of more than 50% in aggregate principal amount of the Outstanding Debentures may on behalf of the Holders of all Debentures, by written Notice to the Trustee approved by an instrument in writing signed in one or more counterparts by such Holders or their duly appointed proxies or agents, instruct the Trustee to waive any past Default or Event of Default hereunder and its consequences.
- (2) Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**Section 7.4 Intentionally Deleted.****Section 7.5 Other Remedies**

- (1) If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of (and premium, if any) or interest on Debentures or to enforce the performance of any terms of the Debentures or this Indenture, and may instruct the Collateral Agent to take any action permitted by this Indenture in connection therewith.
- (2) The Trustee (or the Collateral Agent) may maintain a Proceeding even if it does not possess any Debentures or does not produce any of them in the Proceeding. A delay or omission by the Trustee, Collateral Agent or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default.

**Section 7.6 Application of Money Collected**

Any money collected by the Trustee pursuant to this Article 7 in respect of Debentures shall (subject to any claims having priority under Applicable Law) be applied in the following order, at the dates fixed by the Trustee and, in case of the distribution of such money on account of principal of (and premium, if any) or interest, upon presentation of Debentures and the notation thereon of the payment (if only partially paid) and upon surrender thereof (if fully paid):

- (a) first, to the payment of all amounts due to the Trustee of its compensation, costs, charges, expenses, borrowing, advances or other moneys furnished or provided under this Indenture with respect to such Debentures;
- (b) second, to the payment of accrued interest on such Debentures;
- (c) third, to the payment of the principal of (and premium, if any) on such Debentures;
- (d) fourth, to the payment of any other amounts with respect to such Debentures; and
- (e) fifth, to whomever may be lawfully entitled to receive the balance of such money.

**Section 7.7 Control by Holders**

- (1) The Holders of at least a majority in principal amount of the Outstanding Debentures may:
  - (a) direct the time, method and place in the Province of Alberta of conducting any Proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it with respect to the Debentures; and
  - (b) take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of Debentures under any provisions of this Indenture or under Applicable Law.
- (2) the Trustee may refuse, however, to follow any direction that Counsel to the Trustee advises conflicts with Applicable Law or this Indenture.

### **Section 7.8 Limitation on Suits**

- (1) No Holder of any Debenture will have any right to pursue any remedy (including any action, suit or proceeding authorized or permitted by this Indenture or pursuant to Applicable Law) with respect to this Indenture or the Debentures unless: (i) the Holder gives to the Trustee notice of a continuing Event of Default; (ii) the Holders by Extraordinary Resolution or by written instrument signed by Holders of at least 25% in principal amount of the then Outstanding Debentures make a request to the Trustee to pursue the remedy; (iii) the Trustee shall have been afforded reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose; (iv) such Holder or Holders offer or provide to the Trustee sufficient funding and indemnity in form satisfactory to the Trustee against any loss, liability or expense; (v) the Trustee does not comply with the request within a reasonable time after receipt of such request and indemnity; and (v) during such reasonable period the Holders of a majority in principal amount of Outstanding Debentures do not give the Trustee a direction inconsistent with the request.
- (2) Holders may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

### **Section 7.9 Collection Suit by Trustee**

If an Event of Default occurs and is continuing, the Trustee may recover judgment in its own name and as trustee against the Corporation for the whole amount of principal (and premium, if any) and interest remaining unpaid on the Debentures and any other amounts owing under the terms of this Indenture.

### **Section 7.10 Trustee May File Proofs of Claim**

The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders lodged or allowed in any judicial proceedings relative to the Corporation, its creditors or its property.

### **Section 7.11 Undertaking for Costs**

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defences made by the party litigant. This Section 7.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 7.8, or a suit by any Holder or group of Holders of more than 50% in aggregate principal amount of the Outstanding Debentures.

### **Section 7.12 Delay or Omission Not Waiver**

No delay or omission of the Trustee or of any Holder of any Debenture to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

### **Section 7.13 Remedies Cumulative**

No remedy herein conferred upon or reserved to the Trustee or upon or to the Holders is intended to be exclusive of any other remedy, but each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or statute.

### **Section 7.14 Judgment Against the Corporation**

The Corporation covenants and agrees with the Trustee that, in case of any Proceeding to obtain judgment for payment of the principal of, premium, if any, or interest, if any, on the Debentures, judgment may be rendered against it in favour of the Holders or in favour of the Trustee, as holder of a power of attorney for the Holders, for the amount which may remain due in respect of the Debentures and the interest and premium, if any, thereon.

### **Section 7.15 Rights of Holders to Receive Payment**

Notwithstanding any other provision of this Indenture, the right of any Holder of a Debenture to receive payment of the principal amount, Change of Control Repurchase Price and interest, if any, in respect of the Debentures held by such Holder, on or after the respective due dates expressed in the Debentures and this Indenture (whether upon repurchase or otherwise), and to bring suit for the enforcement of any such payment on or after such respective due dates is, subject to compliance with the provisions of Section 7.8, absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

## **ARTICLE 8 SATISFACTION AND DISCHARGE**

### **Section 8.1 Non-Presentation of Debentures**

If any Debentureholder fails to present any Debentures for payment on the date on which the principal of, premium, if any, or interest thereon, becomes payable, whether on a payment date, Maturity Date or any other repayment date, or shall not accept payment on account thereof and give such receipt therefore, if any, as the Trustee may require:

- (a) the Corporation shall thereafter be entitled to pay or deliver to the Trustee and direct the Trustee to set aside;
- (b) in respect of moneys in the hands of the Trustee which may or should be applied to the payment of the Debentures, the Corporation shall thereafter be entitled to direct the Trustee to set aside; or
- (c) if the redemption was made pursuant to any Notice given by the Trustee, the Trustee may itself thereafter set aside;

the principal of, premium, if any, and interest on such Holder's Debentures, in trust to be paid to such Debentureholder upon due presentation or surrender of such Debentures in accordance with the provisions of this Indenture; and thereupon the principal of, premium, if any, and interest payable on each Debenture in respect whereof such moneys have been set aside shall be deemed to have been paid and the Holder thereof shall thereafter have no right in respect thereof except to receive delivery and payment of the moneys so set aside by the Trustee upon due presentation and surrender thereof, subject to the provisions of Section 2.4.

## **Section 8.2 Discharge**

The Trustee shall at the written request of the Corporation release and discharge this Indenture and all security granted hereunder or under any other Indenture Document and execute and deliver such instruments as it shall be advised by Counsel are requisite for that purpose and release the Corporation from its covenants herein contained (other than the provisions relating to the indemnification of the Trustee), upon proof being given to the reasonable satisfaction of the Trustee that the principal of, premium, if any, and interest on (including interest on amounts in default, if any) all of the Debentures and all other moneys payable hereunder have been paid or satisfied or that, all of the Debentures having matured or having been called for redemption in accordance with Article 3, payment of the principal of, premium, if any, and interest (including interest on amounts in default, if any) on such Debentures and all other moneys payable hereunder have been duly and effectually provided for in accordance with the provisions hereof.

## **ARTICLE 9 CONCERNING THE TRUSTEE**

### **Section 9.1 Duties of Trustee**

In the exercise of its rights, duties and obligations prescribed or conferred by this Indenture, the Trustee shall act honestly and in good faith and shall exercise that degree of care, diligence and skill that a reasonably prudent corporate trustee would exercise in comparable circumstances. Subject to the foregoing, the Trustee shall be liable only for an act or failure to act arising from or in connection with fraud, wilful misconduct, or gross negligence by the Trustee. The Trustee shall not be liable for any act or default on the part of any agent employed by it or for permitting any agent or co-trustee to receive and retain any moneys payable to the Trustee under this Indenture, except as aforesaid.

### **Section 9.2 Employ Agents**

The Trustee may, but is not required to employ (at the expense of the Corporation) such Counsel, agents and other assistants as it may reasonably require for the proper determination and discharge of its duties under this Indenture, and shall not be responsible for any negligence or misconduct on the part of any such Counsel, agent or other assistant or for any liability incurred by any Person as a result of not employing such Counsel, agent or other assistant, and may pay reasonable remuneration for all services performed for it with respect to this Indenture, and shall be entitled to receive reimbursement for all reasonable disbursements, costs, liabilities and expenses made or incurred by it with respect to this Indenture. All such disbursements, costs, liabilities and expenses in relation to this Indenture and all expenses incidental to the preparation, execution, creation and issuance of the Debentures, whether done or incurred at the request of the Trustee or the Corporation, shall bear interest at the posted annual rate of interest charged by the Trustee from time to time to its corporate trust customers from the date which is 30 days following receipt by the Corporation of an invoice from the Trustee with respect to such expenses until the date of reimbursement and shall (together with such interest) be paid by the Corporation immediately upon receipt of such invoice.

### **Section 9.3 Reliance on Evidence of Compliance**

In the exercise of its rights, duties and obligations under this Indenture, the Trustee may, if it is acting in good faith, act and rely, as to the truth of the statements and the accuracy of the opinions expressed therein, upon statutory declarations, Opinions of Counsel, reports, directions, orders, certificates and Certificates of the Corporation required by the Trustee to be furnished to it in the

exercise of its rights, duties and obligations under this Indenture, if the Trustee examines such statutory declarations, Opinions of Counsel, reports, directions, orders, certificates or Certificates of the corporation and determines that they indicate compliance with the applicable requirements of this Indenture.

#### **Section 9.4 Provision of Evidence of Compliance to Trustee**

In addition to any other provisions of this Indenture, the Trustee may, at any time any action is taken which relates to any of paragraphs (a) through (c) below, and acting in good faith, require evidence of compliance with the conditions precedent provided for in this Indenture relating to:

- (a) the certification and delivery of Debentures;
- (b) the satisfaction and discharge of this Indenture; or
- (c) the taking of any other action or step to be taken by the Trustee at the request, or on the application, of the Corporation.

#### **Section 9.5 Contents of Evidence of Compliance**

Evidence of compliance required by Section 9.4 shall consist of:

- (a) an Officer's Certificate that the conditions precedent referred to in such Certificate have been complied with in accordance with the terms of this Indenture;
- (b) in the case of conditions precedent compliance with which are, pursuant to this Indenture, made subject to review or examination by Counsel, an Opinion of Counsel to the Corporation that such conditions precedent have been complied with in accordance with the terms of this Indenture; and
- (c) in the case of conditions precedent compliance with which are subject to the review or examination by auditors or appraisers, an opinion or report of a chartered accountant or appraiser, as the case may be, approved by the Trustee acting reasonably, that such conditions precedent have been complied with in accordance with the terms of this Indenture.

#### **Section 9.6 Advice of Experts**

The Trustee may act or not act and rely or not rely, and shall be protected in acting or not acting and relying or not relying in good faith, on the opinion, advice or information (including the Opinion of Counsel) obtained from any counsel, auditor, valuer, engineer, surveyor or other expert, whether obtained by the Trustee or by the Corporation, and, if acting in good faith, may rely as to the truth of the statements and the accuracy of the opinions expressed in any report or opinion furnished by such Person and may obtain such assistance as may be necessary to the proper determination and discharge of its duties and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid, including the disbursements of any legal or other advisor or assistants.

#### **Section 9.7 Trustee May Deal in Debentures**

In its personal capacity or any other capacity, the Trustee, and each Affiliate of the Trustee, may buy, sell, lend upon, become a pledgee of and deal in the Debentures and generally contract and enter into

financial transactions with the Corporation and any Affiliate of the Corporation without being liable to account for any profits made thereby.

### **Section 9.8 Conditions Precedent to Trustee's Obligation to Act**

- (1) The Trustee shall not be bound to give any notice, or to do, observe or perform or see to the observance or performance by the Corporation of any of the obligations imposed under this Indenture or to supervise or interfere with any of the activities of the Corporation, or to do or take any act, action or Proceeding by virtue of the powers conferred on it by this Indenture, unless and until it shall have been required to do so under the terms of this Indenture; nor shall the Trustee be required to take notice of any Default or Event of Default, other than in payment of any moneys required by this Indenture to be paid to the Trustee, unless and until notified in writing of such Default or Event of Default by the Corporation or by any Holder, which notice shall distinctly specify such Default or Event of Default, and in the absence of any such notice the Trustee may conclusively assume that no Default or Event of Default has occurred. Any such notice or requisition shall in no way limit any discretion given to the Trustee in this Indenture to determine whether or not to take action with respect to any Default or Event of default or with respect to any such requisition.
- (2) The obligation of the Trustee to do any of the actions referred to in (1), including to commence or to continue any Proceeding or any right of the Trustee or the Holders, shall be conditional upon the Holders furnishing, when required by notice in writing by the Trustee, sufficient funds to commence or continue such action and an indemnity satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges, expenses and liabilities which may result from such action and any loss and damage the Trustee may suffer by reason of such action.

### **Section 9.9 Trustee Not Required to Give Security**

The Trustee shall not be required to grant any Lien or give security for its conduct or administration under this Indenture.

### **Section 9.10 Resignation or Removal of Trustee; Conflict of Interest**

- (1) The Trustee represents and warrants to the Corporation that at the time of the execution and delivery of this Indenture no material conflict of interest exists with respect to the Trustee's role as a fiduciary hereunder.
- (2) The Trustee may resign as trustee hereunder by giving not less than 60 days notice in writing to the Corporation or such shorter notice as the Corporation may accept as sufficient. The Trustee shall resign if a material conflict of interest arises with respect to its role as trustee under this Indenture that is not eliminated within 90 days after the Trustee becomes aware of such conflict of interest. Immediately after the Trustee becomes aware that it has a material conflict of interest it shall provide the Corporation with written notice of the nature of that conflict. Upon any such resignation, the Trustee shall be discharged from all further duties and liabilities under this Indenture. None of the validity and enforceability of this Indenture or the Debentures shall be affected in any manner whatsoever by reason only of the existence of a material conflict of interest on the part of the Trustee (whether arising prior to or after the date of this Indenture). If the Trustee does not comply with this section, any Holder or the Corporation may apply to the Court of Queen's Bench sitting in Calgary for

an order that the Trustee be replaced as trustee under this Indenture.

- (3) In the event of the Trustee resigning or being removed by the Holders by Extraordinary Resolution or by the Corporation or being dissolved, becoming insolvent or bankrupt, going into liquidation or otherwise becoming incapable of acting as trustee under this Indenture, the Corporation shall immediately appoint a successor Trustee unless a successor Trustee has already been appointed by the Holders; failing such appointment by the Corporation, the retiring Trustee or any other Holder may apply to a judge of the Court of Queen's Bench sitting in Calgary, on such notice as such judge may direct, for the appointment of a successor Trustee. The successor Trustee so appointed by the Corporation or by such court shall be subject to removal by the Holders by way of an Act of Holders. Any successor Trustee appointed under any provision of this section shall be a corporation authorized to carry on the business of a trust company in Alberta or Canada. On any appointment of the successor Trustee, the successor Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named in this Indenture as Trustee. The expenses of all acts, documents and Proceedings required under this section will be paid by the Corporation in the same manner as if the amount thereof were fees payable to the Trustee under this Indenture.
- (4) Any successor Trustee shall, immediately upon appointment, become vested with all the estates, properties, rights, powers and trusts of its predecessor in the trusts under this Indenture, with like effect as if originally named as Trustee hereunder. Nevertheless, upon the written request of the successor Trustee or of the Corporation and upon payment of all outstanding fees and expenses, the Trustee ceasing to act shall execute and deliver a document assigning and transferring to such successor Trustee, upon the trusts expressed in this Indenture, all the rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver all property (including money) held by such Trustee to the successor Trustee in its place. Should any deed, conveyance or other document in writing from the Corporation be required by any successor Trustee for more fully and certainly vesting in and confirming to it such estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and other documents in writing shall, on the request of the successor Trustee, be made, executed, acknowledged and delivered by the Corporation.
- (5) Any corporation into which the Trustee is amalgamated or with which it is consolidated or to which all or substantially all of its corporate trust business is sold or is otherwise transferred or any corporation resulting from any consolidation or amalgamation to which the Trustee is a party shall be a successor Trustee under this Indenture without the execution of any document or any further act; provided that such successor Trustee is a corporation qualified to carry on the business of a trust company in Canada or any province thereof and shall not have a material conflict of interest in its role as a fiduciary under this Indenture.

### **Section 9.11 Authority to Carry on Business; Resignation**

The Trustee represents and warrants to the Corporation that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in Alberta. If the Trustee ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the Debentures issued hereunder shall not be affected in any manner by reason only of such event but the Trustee shall, within 90 days after ceasing to be authorized to carry on the business of a trust company in Canada or a province thereof, either become so authorized or resign in the manner and with the effect specified in Section 9.10.

**Section 9.12 Protection of Trustee**

By way of supplement to any Applicable Law from time to time relating to trustees and in addition to any other provision of this Indenture for the relief of the Trustee, it is expressly agreed that:

- (a) the Trustee shall not be liable for or by reason of any statements of fact or recitals in this Indenture or in the Debentures (except the representations and warranties contained in Section 9.1 and Section 9.13 which are being given by the Trustee in its personal capacity) or required to verify the same, but all such statements or recitals are and shall be deemed to be made by the Corporation;
- (b) the Trustee shall not be bound to give to any Person notice of the execution of this Indenture unless and until an Event of Default and declaration of acceleration has occurred, and the Trustee has determined or become obliged to enforce the same;
- (c) the Trustee shall not incur any liability or be in any way responsible for the consequence of any breach on the part of the Corporation of any of the covenants contained in this Indenture or of any acts of the agents or servants of the Corporation;
- (d) the Corporation indemnifies and saves harmless the Trustee and its officers, directors and employees and agents from and against any and all liabilities, losses, costs, claims, actions, expenses (including legal fees and disbursements on a solicitor and client basis) or demands whatsoever which may be brought against the Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations under this Indenture including those arising out of or related to actions taken or omitted to be taken by the Trustee contemplated by this Indenture, and including legal fees and disbursements on a solicitor and client basis and costs and expenses incurred in connection with the enforcement of this indemnity, which the Trustee may suffer or incur, whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of its duties as Trustee, save only in the event of the gross negligence, wilful misconduct, or fraud of the Trustee. It is understood and agreed that this indemnification shall survive the termination or discharge of this Indenture or the resignation or removal of the Trustee;
- (e) without limiting the generality of (d), the Corporation will indemnify and hold harmless the Trustee and upon written request reimburse the Trustee for the amount of (i) any taxes levied or imposed and paid by the Trustee as a result of payments made under or with respect to the Debentures, (ii) any liability (including penalties and interest) arising therefrom or with respect thereto paid by the Trustee as a result of payments made under or with respect to the Debentures and (iii) any taxes levied or imposed and paid by the Trustee with respect to reimbursement under clauses (i) and (ii) of this Section 10.12(e), but excluding any taxes on the Trustee's net income arising from fees for acting as the trustee hereunder or in respect of the Trustee's capital.
- (f) the Trustee may, in the exercise of all or any of the trusts, powers and discretion vested in it under this Indenture, act by the responsible officers of the Trustee; the Trustee may delegate to any Person the performance of any of the trusts and powers vested in it

by this Indenture, and any delegation may be made upon such terms and conditions and subject to such regulations as the Trustee may think to be in the best interest of the Holders;

- (g) the Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any matter under this Indenture, unless the Trustee shall have received from the Corporation or a Holder written notice stating the matter in respect of which the Trustee should have notice or actual knowledge;
- (h) the Trustee shall not be bound to act in accordance with any direction or request of the Corporation until an executed copy of the document containing the direction or request has been delivered to the Trustee, and the Trustee shall be fully empowered to act and shall be fully protected from all liability in acting upon any document purporting to be a Debenture and believed by the Trustee to be genuine; and
- (i) the Trustee shall not be responsible for any error made or act done by it resulting from reliance upon the signature of any Person on behalf of the Corporation or of any Person on whose signature the Trustee may be called upon to act or refrain from acting under this Indenture.

### **Section 9.13 Additional Representations and Warranties of Trustee**

The Trustee represents and warrants to the Corporation that:

- (a) the Trustee is a trust company validly existing under the laws of its jurisdiction of incorporation;
- (b) the Trustee has full power, authority and right to execute and deliver and perform its obligations under this Indenture, and has taken all necessary action to authorize the execution, delivery and performance by it of this Indenture; and
- (c) this Indenture has been duly executed and delivered by the Trustee.

### **Section 9.14 Third Party Interests**

The Corporation hereby represents to the Trustee that any account to be opened by, or interest to be held by, the Trustee in connection with this Indenture for or to the credit of the Corporation, either: (i) is not intended to be used by or on behalf of any third party; or (ii) is intended to be used by or on behalf of a third party, in which case the Corporation agrees to complete and execute forthwith a declaration in the Trustee's prescribed form as to the particulars of such third party.

### **Section 9.15 Trustee Not Bound to Act**

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

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

### **Section 9.16 Compliance with Privacy Laws**

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, the "**Privacy Laws**") applies to obligations and activities under this Indenture. Despite any other provision of this Indenture, no party to this Indenture shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Corporation shall, prior to transferring or causing to be transferred personal information to the Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Trustee agrees: (a) to have a designated chief privacy officer; (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (c) to use personal information solely for the purposes of providing its services under or ancillary to this Indenture and not to use it for any other purpose except with the consent of or direction from the Corporation or the individual involved; (d) not to sell or otherwise improperly disclose personal information to any third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

## **ARTICLE 10 COLLATERAL AGENT MATTERS**

### **Section 10.1 Appointment and Duties**

- (1) Computershare Trust Company of Canada is hereby appointed collateral agent and shall act as collateral agent and shall be authorized to appoint co-Collateral Agents as necessary in its sole discretion.
- (2) The Collateral Agent is authorized and directed to (i) enter into the Security Documents, (ii) bind the Holders on the terms as set forth in the Security Documents, and (iii) perform and observe its obligations under the Security Documents.

### **Section 10.2 Limitation of Liability**

- (1) Except as otherwise explicitly provided herein or in the Security Documents, neither the Collateral Agent nor any of its respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof.
- (2) The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the Collateral Agent nor any of its officers, directors, employees or agents shall be responsible for any act or failure to act hereunder, except for its own wilful misconduct, gross negligence or bad faith.

### **Section 10.3 Financing Statements**

The Collateral Agent shall not be liable for any failure, omission or defect in identifying, perfecting or maintaining the security interests granted pursuant to the Security Documents and shall have no responsibility to make or maintain any security registrations.

### **Section 10.4 Experts, Advisers and Agents**

Subject to Section 10.6, the Collateral Agent may:

- (1) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuator, engineer, surveyor, appraiser or other expert, whether obtained by the Collateral Agent, the Trustee or by the Corporation, or otherwise, and shall not be liable for acting, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid; and
- (2) employ such legal counsel, agents and other assistants as it may reasonably require for the proper determination and discharge of its duties hereunder, and may pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) and shall not be responsible for the negligent actions or misconduct of such parties, in the discharge of its duties hereof and compensation for all disbursements, costs and expenses made or incurred by it in the discharge of its duties hereunder and in the management of the obligations hereof and any solicitors employed or consulted by the Collateral Agent may, but need not be, solicitors for the Corporation.

### **Section 10.5 Capacity of Collateral Agent**

The Collateral Agent has entered into this Indenture and any document delivered in connection herewith in its capacity as collateral agent of the Holders (and in such capacity is herein only referred to as the "**Collateral Agent**"). Whenever any reference is made in this Indenture or in any document delivered in connection herewith, to an act to be performed by the Collateral Agent such reference shall be construed and applied for all purposes as if it referred to an act to be performed by the Collateral Agent for and on behalf of the Holders and not in its personal capacity. Any and all of the representations, undertakings, covenants, indemnities, agreements and other obligations (in this section, collectively "**obligations**") made on the part of the Collateral Agent herein or therein are made and intended not as personal obligations of or by Computershare Trust Company of Canada or for the purpose or with the intention of binding Computershare Trust Company of Canada in its personal capacity, but are made and intended for the purpose of binding only the Collateral Agent in its capacity as agent for the Holders and the Collateral. No property or assets of Computershare Trust Company of Canada, whether owned beneficially by it in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedures with regard to any of the Collateral Agent's obligations hereunder or thereunder, other than any levy, execution or other enforcement procedures for the gross negligence or wilful misconduct of the Collateral Agent. No recourse may be had or taken, directly or indirectly, against Computershare Trust Company of Canada in its personal capacity, or any incorporator, shareholder, officer, director, employee or agent of Computershare Trust Company of Canada or of any predecessor or successor of Computershare Trust Company of Canada, with regard to the Collateral Agent's obligations hereunder.

## **Section 10.6 Reliance by Collateral Agent**

Except for the gross negligence, wilful misconduct or fraud of the Collateral Agent, the Collateral Agent shall be entitled to act and rely on, and shall be fully protected in acting and relying, upon (i) any writing, resolution, notice, consent, certificate, affidavit, letter, email, telecopy, telex or facsimile message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons; or (ii) any advice and/or statements of legal counsel (including, without limitation, Counsel to the Corporation), independent accountants, appraisers or other experts selected by the Collateral Agent; and the Collateral Agent shall not be liable to any other Person for any action taken or omitted under, in connection with, or pursuant to this Indenture or the Security Documents in accordance with any such writing, resolution, notice, consent, certificate, letter, email, telecopy or facsimile message, statement, order or other document or conversation or any advice or statement of legal counsel, independent accountants or other experts. The Collateral Agent shall be fully justified in failing or refusing to take action under this Indenture or the Security Documents, and shall suffer no liability for so doing, unless it shall first receive such advice or concurrence of the Trustee, subject to Section 9.8 and Section 9.15, as is contemplated herein and it shall first be furnished with sufficient funds for such purpose and is indemnified to its reasonable satisfaction by the Trustee against any and all liability and expense which may be incurred by it by reason of taking, continuing to take or refraining from taking any such action. The Collateral Agent, in all cases, shall be fully protected in acting, or in refraining from acting, under this Indenture and the Security Documents in accordance with the provisions herein. The Collateral Agent shall be at liberty to accept as sufficient evidence a certificate signed or purported to be signed on behalf of the Trustee to the effect that any particular dealing, transaction, step or thing is, in the opinion of the Trustee, suitable or expedient or as to any other fact or matter upon which the Collateral Agent may require to be satisfied and the Collateral Agent shall be in no way bound to call for further evidence or to be responsible for any loss that may be occasioned by acting on any such certificate.

## **Section 10.7 Compensation and Indemnity**

- (1) The Corporation shall pay to the Collateral Agent from time to time compensation for its services hereunder as agreed separately by the Corporation and the Collateral Agent, and shall pay or reimburse the Collateral Agent upon its request for all reasonable expenses, disbursements and advances incurred or made by the Collateral Agent in the administration or execution of its duties under this Indenture (including the reasonable and documented compensation and disbursements of its Counsel and all other advisers and assistants not regularly in its employ), both before any Default hereunder and thereafter until all duties of the Collateral Agent under this Indenture shall be finally and fully performed.
- (2) The Corporation hereby indemnifies and saves harmless the Collateral Agent and its directors, officers, employees, agents and shareholders from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Collateral Agent or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations hereunder save only in the event of the gross negligence, wilful misconduct or fraud of the Collateral Agent. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Collateral Agent. The Collateral Agent shall notify the Corporation promptly of any claim for which it may seek indemnity. The Corporation shall defend the claim and the Collateral Agent shall cooperate in the defence. The Collateral Agent may have separate Counsel and the Corporation shall pay the reasonable fees and expenses of such Counsel.

The Corporation need not pay for any settlement made without its consent, which consent must not be unreasonably withheld. This indemnity shall survive the resignation or removal of the Collateral Agent or the discharge of this Indenture.

- (3) The Corporation need not reimburse any expense or indemnify against any loss or liability incurred by the Collateral Agent through gross negligence, wilful misconduct or fraud on the part of the Collateral Agent.

### **Section 10.8 Provision of Information**

Subject to Section 9.15, the Trustee shall provide the Collateral Agent with all necessary directions and information as the Collateral Agent may reasonably require for the purposes of carrying out its duties and obligations under this Indenture and the Security Documents.

### **Section 10.9 Anti-Money Laundering**

The Collateral Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Collateral Agent, in its sole judgment, acting reasonably, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Collateral Agent, in its sole judgment, acting reasonably, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' prior written notice sent to all parties hereto; provided that (i) the written notice shall describe the circumstances of such non-compliance; and (ii) if such circumstances are rectified to the Collateral Agent's satisfaction within such 10 day period, then such resignation shall not be effective.

### **Section 10.10 Privacy**

- (1) The parties hereto acknowledge that the Collateral Agent may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:
  - (a) to provide the services required under this Indenture and other services that may be requested from time to time;
  - (b) to help the Collateral Agent manage its servicing relationships with such individuals;
  - (c) to meet the Collateral Agent's legal and regulatory requirements; and
  - (d) if social insurance numbers are collected by the Collateral Agent, to perform tax reporting and to assist in verification of an individual's identity for security purposes.
- (2) Each party acknowledges and agrees that the Collateral Agent may receive, collect, use and disclose personal information provided to it or acquired by it in the course of providing services under this Indenture for the purposes described above and, generally, in the manner and on the terms described in its privacy code, which the Collateral Agent shall make available on its website or upon request, including revisions thereto. Further, each party agrees that it shall not provide or cause to be provided to the Collateral Agent any personal information relating to an individual who is not a party to this Indenture unless that party has assured itself that such

individual understands and has consented to the aforementioned uses and disclosures.

### **Section 10.11 Duties and Obligations of Collateral Agent**

The only duties and obligations which the Collateral Agent shall have are those set forth in this Indenture and the Security Documents. The Collateral Agent shall not be required to take any action or exercise any rights, remedies, powers or discretions under or in connection with this Indenture or the Security Documents beyond those which the Trustee shall specifically instruct the Collateral Agent in writing to take or exercise and then only to the extent stated by the Trustee in the specific instructions in writing and subject to the Collateral Agent's right to sufficient prior funding and indemnification, pursuant to Section 10.6 and Section 10.13. Notwithstanding the foregoing, the Collateral Agent may refrain from doing anything which would or might in its opinion be contrary to this Indenture or the Security Documents, any law or regulation of any jurisdiction or any order or directive of any court, governmental agency or other regulatory body or which would or might otherwise render it liable to any Person and may do anything which is, in its opinion, necessary to comply with any such law, regulation, order or directive.

### **Section 10.12 Requesting Instructions**

The Collateral Agent may at any time request directions from the Trustee as to any course of action or other matter relating to the performance of its duties under this Indenture or the Security Documents and the Trustee shall promptly comply with such request.

### **Section 10.13 Administrative Actions**

- (1) The Collateral Agent shall have the right (but not the obligation) to take such actions, or omit to take such actions, hereunder and under the Security Documents, not inconsistent with the instructions of the Trustee or the terms of the Security Documents or this Indenture, necessary to comply with any law, regulation, order or directive, including without limitation actions necessary or appropriate to perfect or continue the perfection of the liens on the Collateral for the benefit of the Trustee or to protect or insure the Collateral. The Collateral Agent shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of rights pertaining to the Collateral beyond the safe custody of any Collateral in the Collateral Agent's possession.
- (2) Nothing herein shall be deemed to hold the Collateral Agent responsible for failure by the Corporation or the Obligors to maintain insurance coverage or for any loss arising out of any want, defect or insufficiency in any insurance policy, or because of failure of any insurer to pay the full amount of any loss or damage insured against or from failure of the Corporation or of any of the Collateral Agent's agents or other party acting on its behalf to continue the perfection of the liens of the Collateral for the benefit of the Trustee or any other parties. The Collateral Agent shall be entitled to request and rely absolutely upon an Officers' Certificate from the Corporation stating that the Corporation or the Obligors are in compliance with their covenant to maintain adequate insurance coverage. No duty with respect to effecting or maintaining insurance coverage shall rest with the Collateral Agent.
- (3) The Collateral Agent shall not be required to take notice of any Default or to take any action with respect to such Default involving any expense or liability, unless notice in writing of such Default is formally given to the Collateral Agent and unless it is indemnified and funded, in a manner satisfactory to it, against such expense or liability.

#### **Section 10.14 Exercise of Remedies**

The Collateral Agent shall only be authorized to take such actions under the Security Documents and to enforce or prepare to enforce the remedies available under such Security Documents as are directed in a written notice by the Trustee. In furtherance of the foregoing, the Collateral Agent agrees to make such demands and give such notices under the Security Documents as may be requested by, and to take such action to enforce the Security Documents and to foreclose upon, collect and dispose of the Collateral or any portion thereof as may be directed by the Trustee; provided, however, that the Collateral Agent shall not be required to take any action that is in its opinion contrary to the terms of this Indenture (in this case, as notified in writing by the Corporation) or the Security Documents or the law or regulation of any jurisdiction or any order or directive of any court, governmental agency or other regulatory body, and the Collateral Agent shall not be required to take any action unless it is furnished with sufficient funds for such purpose and is further indemnified by the Trustee or the Corporation, as applicable, in accordance with the provisions of Section 10.6, Section 10.7, Section 10.13 or Section 10.15 hereof, as applicable.

#### **Section 10.15 Application of Proceeds**

Upon any realization upon the Collateral by the Collateral Agent, the proceeds thereof shall be directed by the Trustee to be applied pursuant to the terms set forth in this Indenture and the Security Documents, as applicable, subject to the rights of the Collateral Agent under Section 10.7.

#### **Section 10.16 Replacement of Collateral Agent**

In addition to its rights under Section 10.9, the Collateral Agent may resign as Collateral Agent upon not less than 30 days' written notice to the Trustee (with a copy to the Corporation), such resignation to take effect upon the acceptance by a successor Collateral Agent of its appointment as the Collateral Agent hereunder. In addition, the Trustee may remove the Collateral Agent, with or without cause, each by giving written notice thereof to the Collateral Agent (with a copy to the Corporation). Upon any such resignation or removal, the Trustee shall have the right to appoint a successor Collateral Agent which meets the eligibility requirements of Section 10.18, provided that if no Default or Event of Default has occurred and is continuing, such appointment shall not be effective without the prior written consent of the Corporation, such consent not to be unreasonably withheld, conditional or delayed. If no successor Collateral Agent shall have been so appointed and shall have accepted such appointment in writing within 30 days after the retiring Collateral Agent's giving of notice of resignation or its removal, then the retiring Collateral Agent may, on behalf of the Trustee, apply to a court of competent jurisdiction for the appointment of a successor Collateral Agent, and the Corporation agrees to pay such reasonable fees and expenses of any such appointee as shall be necessary to induce such appointee to agree to become a successor Collateral Agent hereunder. Upon acceptance of appointment as Collateral Agent, such successor shall thereupon and forthwith succeed to and become vested with all the rights, powers and privileges, immunities and duties of the retiring Collateral Agent, and the retiring Collateral Agent, upon the signing, transferring and setting over to such successor Collateral Agent all rights, moneys and other collateral held by it in its capacity as Collateral Agent, shall be discharged and released from its duties and obligations hereunder and under the Security Documents and, except for the immediately following sentence, no longer be entitled to the benefits of a Collateral Agent hereunder and under the Security Documents. After any retiring Collateral Agent's resignation or removal as Collateral Agent, the provisions of this Article 10 shall inure to its benefit as to any actions taken or omitted to be taken by it while it acted as Collateral Agent. Notwithstanding the resignation or removal of the Collateral Agent for any reason, the Collateral Agent shall remain entitled to and be paid all fees and be reimbursed for all expenses and disbursements (to the

extent such fees, expenses and disbursements were earned or incurred on or prior to such resignation or removal) and be entitled to all indemnities that such Collateral Agent would otherwise have been duly entitled to pursuant to this Indenture if not for such resignation or removal.

#### **Section 10.17 Succession or Successor Collateral Agent**

- (1) Any successor Collateral Agent appointed hereunder shall execute, acknowledge and deliver to the Corporation, the Trustee and the predecessor Collateral Agent an instrument in a form acceptable to the Corporation, the Trustee and the predecessor Collateral Agent accepting such appointment, and thereupon such successor Collateral Agent, without any further act, deed, conveyance or transfer, shall become vested with the title to the Collateral, and with all the rights, powers, duties and obligations of the predecessor Collateral Agent in the trust hereunder, with like effect as if originally named as Collateral Agent herein.
- (2) Upon the request of any such successor Collateral Agent, however, the Trustee and the predecessor Collateral Agent shall, at the expense of the Corporation, promptly execute and deliver such instruments of conveyance and further assurance reflecting terms consistent with the terms of the Security Documents then in effect and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Collateral Agent its interest in the Collateral and all such rights, powers, duties and obligations of the predecessor Collateral Agent hereunder, and the predecessor Collateral Agent shall also promptly assign and deliver to the successor Collateral Agent any Collateral subject to the lien and security interest of this Indenture which may then be in its possession.

#### **Section 10.18 Eligibility of Collateral Agent**

Any successor Collateral Agent shall:

- (a) be a company authorized and registered to carry on business as a bank or trust company;
- (b) have no material conflict of interest with regard to the fulfilment of its covenants and obligations hereunder or the Security Documents; and
- (c) be willing and able to accept the duties hereunder upon reasonable and customary terms.

#### **Section 10.19 Investment**

All moneys which in this Indenture are received or held by the Collateral Agent may be invested in the name of the Collateral Agent or any nominee or under the control of the Collateral Agent in any investment, as specified in a written direction by the Trustee as may, from time to time, be an eligible investment in accordance with the practices and procedures of the Collateral Agent, for the time being, authorized by the laws of the Province of Alberta, for the investment by a Person charged with simple administration of the property for others or by placing the same on deposit in the name of the Collateral Agent or any nominee or under the control of the Collateral Agent at such bank or institution (including the Collateral Agent or its affiliates) as the Trustee may direct or in such currency as the Trustee may direct and the Collateral Agent may at any time vary or transfer any such investments for or into other such investments or convert any moneys so deposited into any other currency as the Trustee shall from time to time direct and shall not be responsible for any loss

occasioned thereby, whether by depreciation in value, fluctuation in exchange rates or otherwise except for any loss or liability arising from its own gross negligence or wilful misconduct.

## **ARTICLE 11 MEETINGS OF DEBENTUREHOLDERS**

### **Section 11.1 Purposes for Which Meetings May be Called**

A meeting of Debentureholders may be called at any time and from time to time pursuant to this Article to make, give or take any Act provided by this Indenture to be made, given or taken by Debentureholders.

### **Section 11.2 Call, Notice and Place of Meetings**

- (1) The Trustee may at any time and from time to time and shall, on receipt of a Corporation Request or a requisition in writing made by the Holders of at least 25% in principal amount of the Outstanding Debentures and upon being indemnified and funded to its reasonable satisfaction by the Corporation or upon being funded and indemnified to its reasonable satisfaction by the Holders making such requisition, as the case may be, against the costs which may be incurred in connection with the calling and holding of such meeting, call a meeting of Debentureholders for any purpose specified in Section 11.1, to be held at such time and at such place in the City of Calgary, Province of Alberta, as the Trustee shall determine. Notice of every meeting of Debentureholders, setting forth the time and place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 13.2, not less than 21 or more than 60 days prior to the date fixed for the meeting.
- (2) If at any time the Corporation, pursuant to a Board Resolution, or the Holders of at least 25% in principal amount of the Outstanding Debentures shall have requested the Trustee to call a meeting of the Debentureholders for any purpose specified in Section 11.1, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the mailing of the notice of such meeting within 30 days after receipt of such request, funding and indemnity or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Corporation or the Debentureholders in the amount above specified, as the case may be, may determine the time and the place in the City of Calgary, Province of Alberta, for such meeting and may call such meeting for such purposes by giving notice thereof as provided in (1).

### **Section 11.3 Proxies**

A Debentureholder may be present and vote at any meeting of Debentureholders, and may sign written resolutions and other instruments in writing in lieu of a meeting as contemplated in Section 11.8, by an authorized representative. The Corporation with the approval of the Trustee may, from time to time, make and vary regulations as it shall think fit providing for and governing any or all the following matters for the purpose of enabling the Debentureholders to vote at any such meeting by proxy:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any Person signing on behalf of a Debentureholder;
- (b) the deposit of instruments appointing proxies at such place as the Trustee, the

Corporation or the Debentureholder convening the meeting, as the case may be, may in the notice convening the meeting, direct and the time, if before the holding of the meeting or any adjournment thereof by which the same must be deposited; and

- (c) the deposit of instruments appointing proxies at such approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed, or sent by other electronic communication before the meeting to the Corporation or to the Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

#### **Section 11.4 Persons Entitled to Vote at Meetings**

To be entitled to vote at any meeting of Debentureholders, a Person shall be: (a) a Holder of one or more Outstanding Debentures; or (b) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Debentures by such Holder or Holders. The only persons who shall be entitled to be present or to speak at any meeting of Debentureholders shall be the persons entitled to vote at such meeting and their counsel, any representatives of the Trustee and its Counsel and any representatives of the Corporation and its Counsel.

#### **Section 11.5 Quorum; Action**

- (1) Persons entitled to vote at least 25% in principal amount of Outstanding Debentures shall constitute a quorum for a meeting of Debentureholders. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of Debentureholders, be dissolved. In the absence of a quorum in any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, the Debentureholders present or represented at such adjourned meeting shall constitute the quorum and the business for which the meeting was adjourned may be transacted. Notice of the reconvening of any adjourned meeting shall be given as provided in (1), except that such notice need be given not less than five days prior to the date on which the meeting is scheduled to be reconvened.
- (2) Except as limited by Section 14.2, any resolution presented to a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted only by the affirmative vote of Holders of a majority in principal amount of the Debentures present or represented by proxy at such meeting or adjourned meeting; provided, however, that, except as limited by Section 14.2, any resolution with respect to any Act that this Indenture expressly provides may be made, given or taken by the Holders of a specified percentage, which is less than a majority, in principal amount of Outstanding Debentures may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid by the affirmative vote of the Holders of such specified percentage in principal amount of Outstanding Debentures.
- (3) Any resolution passed or decision taken at any meeting of Debentureholders duly held in accordance with this Section 11.5 will be binding on all Debentureholders, whether or not present or represented at the meeting.

### **Section 11.6 Determination of Voting Rights Chairman; Conduct and Adjournment of Meetings**

- (1) Notwithstanding any other provisions of this Indenture, the Trustee or the Corporation, with the approval of the Trustee, may make and from time to time may vary such reasonable regulations as it may deem advisable for any meeting of Debentureholders in regard to proof of the holding of Debentures and the appointment of proxies and in regard to the appointment and duties of scrutineers of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted by any such regulations, the holding of Debentures shall be proved in the manner specified in Section 1.12 and the appointment of any proxy shall be proved in the manner specified in Section 1.12.
- (2) The Trustee shall, by an instrument in writing, appoint a chairman and secretary of the meeting, unless the meeting shall have been called by the Corporation or by Debentureholders as provided in Section 1.12, in which case the Corporation or the Debentureholders calling the meeting, as the case may be, shall in like manner appoint a chairman and secretary.
- (3) At any meeting of Debentureholders, each Holder of a Debenture or proxy shall be entitled to one vote for each thousand Dollars (\$1,000) principal amount of Debentures held or represented by such Holder; provided, however, that no vote shall be cast or counted at any meeting in respect of any Debenture challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Debenture or proxy.
- (4) Any meeting of Debentureholders duly called pursuant to Section 11.2 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of Outstanding Debentures represented at the meeting and the meeting may be held as so adjourned without further notice.

### **Section 11.7 Counting Votes and Recording Action of Meetings**

The vote upon any resolution submitted to any meeting of Debentureholders shall be by written ballots on which shall be inscribed the signatures of the Debentureholders or of their representatives by proxy and the principal amounts and serial numbers of Outstanding Debentures held or represented by them if such Debentures are not Uncertificated Debentures. The chairman of the meeting shall appoint two scrutineers of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports of all votes cast at the meeting. A record, at least in triplicate, of the proceedings of each meeting of Debentureholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the scrutineers of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 11.2 and, if applicable, Section 11.5. Each copy shall be signed and verified by the affidavits of the chairman and secretary of the meeting and one such copy shall be delivered to the Corporation, and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

### **Section 11.8 Instruments in Writing**

All actions which may be taken and all powers which may be exercised by the Holders at a meeting held as hereinbefore in this Article 11 may also be taken and exercised (i) by the Holders of a majority in principal amount of Outstanding Debentures by an instrument in writing signed in one or more counterparts by such Holders or their duly appointed proxies or agents with respect to resolutions which are not Extraordinary Resolutions and (ii) by the Holders of not less than 66 $\frac{2}{3}$ % in principal amount of Outstanding Debentures by an instrument in writing signed in one or more counterparts by such Holders or their duly appointed proxies or agents with respect to resolutions which are Extraordinary Resolutions and the expression "**Extraordinary Resolution**" when used in this Indenture shall include an instrument so signed.

### **Section 11.9 Holdings by the Corporation Disregarded**

In determining whether Holders holding Debentures evidencing the required number of Debentures are present at a meeting of Holders for the purpose of determining a quorum or for the purpose of determining whether Holders have concurred in any consent, waiver, resolution or other action under this Indenture, the Debentures owned legally or beneficially by the Corporation shall be disregarded.

### **Section 11.10 Persons Entitled to Attend Meetings**

The Corporation and the Trustee, by their respective directors, officers and employees, the auditors of the Corporation and the legal advisers of the Corporation, the Trustee or any Debentureholder may attend and speak at any meeting of the Debentureholders, but shall have no vote as such.

### **Section 11.11 Meaning of "Extraordinary Resolution"**

- (1) The expression "**Extraordinary Resolution**" when used in this Indenture means, subject to the provisions of Section 11.8, and except as hereinafter in this Article provided, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Debentureholders (including an adjourned meeting) duly convened for the purpose and held in accordance with the provisions of this Article at which the holders of not less than 25% of the aggregate principal amount of the Debentures then Outstanding are present in person or by proxy and passed by the favourable votes of the holders of not less than 66 $\frac{2}{3}$ % of the aggregate principal amount of the Debentures present or represented by proxy at the meeting and voted upon on a poll on such resolution.
- (2) If, at any such meeting, the holders of not less than 25% of the aggregate principal amount of the Debentures then Outstanding are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Debentureholders, shall be dissolved but in any other case it shall stand adjourned to such date, being not less than 21 nor more than 60 days later, and to such place and time as may be appointed by the chairman. Not less than 10 days' notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 11.3. Such notice shall state that at the adjourned meeting the Debentureholders present in Person or by proxy shall form a quorum. At the adjourned meeting the Debentureholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed thereat by the affirmative vote of holders of not less than 66 $\frac{2}{3}$ % of the aggregate principal amount of the Debentures present or represented by proxy at the meeting and voted upon on a poll

shall be an Extraordinary Resolution within the meaning of this Indenture, notwithstanding that the holders of not less than 25% in the aggregate principal amount of the Debentures then outstanding are not present in Person or by proxy at such adjourned meeting.

- (3) Votes on an Extraordinary Resolution shall always be given on a poll and no demand for a poll on an Extraordinary Resolution shall be necessary.

### **Section 11.12 Powers Cumulative**

Any one or more of the powers in this Indenture stated to be exercisable by the Debentureholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Debentureholders to exercise the same or any other such power or powers thereafter from time to time.

## **ARTICLE 12 AMALGAMATION, CONSOLIDATION, CONVEYANCE, TRANSFER OR LEASE**

### **Section 12.1 Amalgamation and Consolidations of Corporation and Conveyances Permitted Subject to Certain Conditions**

Neither the Corporation nor any of the Obligors or Guarantors will consolidate with, amalgamate or merge into any other Person or enter into any reorganization or arrangement or effect any conveyance, sale, transfer or lease of all or substantially all of its assets (any such transaction, a "**Subject Transaction**"), other than with or into one or more of the Corporation's Wholly-Owned Subsidiaries and other than such transactions as are permitted under this Indenture, unless in any such case:

- (a) either the Corporation or Obligor shall be the continuing Person, or if not, in the case of a successor Person (or the Person that leases or that acquires by conveyance, sale or transfer all or substantially all of the assets of the Corporation or an Obligor) (such Person being referred to as the "**Successor Entity**"), such Successor Entity shall (in the case where it is a successor Person to the Corporation) (i) be organized and existing under the laws of Canada or of any province thereof, and (ii) expressly assume the due and punctual payment of the principal of, the premium, if any, and interest on all Outstanding Debentures, according to their tenor. Such Successor Entity shall in all instances expressly assume the due and punctual performance and observance of all the covenants and conditions of this Indenture to be performed by the Corporation or Obligor to which it succeeds by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by the Successor Entity and, in addition, in the case of a Successor Entity to any Guarantor but Guarantee satisfactory to the Trustee executed and delivered to the Trustee;
- (b) in the case where the Successor Entity is a successor Person to the Corporation, the Debentures will be valid and binding obligations of the Successor Entity entitling the Holders thereof, as against the Successor Entity, to all the rights of Debentureholders under this Indenture;
- (c) there shall not immediately after the date of this Indenture of the Subject Transaction be a Default or Event of Default; and

- (d) if the Corporation, an Obligor or a Guarantor will not be the continuing Person, the Corporation shall have, at or prior to the date of this Indenture of the Subject Transaction delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the Subject Transaction complies with this Section 12.1 and, if a supplemental indenture is required in connection with the Subject Transaction, such supplemental indenture complies with this Article, and that all conditions precedent herein provided for and relating to the Subject Transaction have been complied with.

Upon the assumption of the Corporation's or any Guarantor's obligations by the Successor Entity, in such circumstances, the Corporation or the Guarantor, as applicable, shall be discharged from all obligations under the Debentures and this Indenture. Although Subject Transactions are permitted under this Indenture subject to compliance with this Article 12, certain Subject Transactions may constitute a Change of Control of the Corporation, permitting each Holder to require the Corporation to purchase the Debentures of such holder as provided in this Indenture.

### **Section 12.2 Rights and Duties of Successor Entity**

- (1) In case of any Subject Transaction and upon any such assumption by the Successor Entity, such Successor Entity shall agree to be bound by the terms of this Indenture as principal obligor in place of the Corporation and, in the case of the Guarantors, the Guarantee, as if it had been named herein as the Corporation or as a Guarantor. Such Successor Entity to the Corporation thereupon may cause to be signed, and may issue either in its own name or in the name of the Corporation, any or all Debentures which theretofore shall not have been signed by the Corporation and delivered to the Trustee. All Debentures so issued shall in all respects have the same legal rank and benefit under this Indenture as Debentures theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Debentures have been issued at the date of the execution hereof.
- (2) In the case of any Subject Transaction, such changes in phraseology and form (but not in substance) may be made in Debentures thereafter to be issued as may be appropriate.

### **Section 12.3 Officer's Certificate and Opinion of Counsel**

- (1) Upon any request or application by the Corporation to the Trustee to take any action under this Indenture, the Corporation shall furnish to the Trustee at the request of the Trustee:
- (a) an Officer's Certificate stating that, in the opinion of the signers, all conditions precedent (including any covenants, compliance with which constitutes a condition precedent), if any, provided for in this Indenture relating to the proposed action have been complied with; and
  - (b) an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent (including any covenants, compliance with which constitutes a condition precedent) have been complied with.
- (2) Each Officer's Certificate and Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture shall include:
- (a) a statement that the Person making such certificate or opinion has read such covenant or condition;

- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (c) statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with;

provided, however, that with respect to matters of fact an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

#### **Section 12.4 Additional Obligors**

The Corporation shall ensure that any Person that becomes a subsidiary of an Obligor shall within 10 days of becoming such a subsidiary become a Guarantor hereunder by delivering to the Trustee a duly completed and executed accession agreement to this Indenture along with any requisite supporting documents, in each case in form and substance satisfactory to the Trustee, acting reasonably.f

### **ARTICLE 13 NOTICES**

#### **Section 13.1 Notice to Corporation and/or Guarantors**

Any Notice to the Corporation and/or Guarantors shall be in writing and shall be valid and effective if delivered, sent by electronic transmission (with receipt confirmed), or mailed to the Corporation, at:

Inner Spirit Holdings Ltd.  
#102, 5740 – 2<sup>nd</sup> Street S.W.  
Calgary, AB T2H 1Y6

Attention: Darren Bondar, Chief Executive Officer  
Email: *[Redacted; personal information]*

With a copy to (not to constitute notice):

Burstall LLP  
Suite 1600, 333 - 7 Avenue S.W.  
Calgary, AB T2P 2Z1

Attention: Robert Verbuck  
Email: *[Redacted; personal information]*

and such Notice shall be deemed to have been received by the Corporation and/or Guarantors, where given by delivery, on the day of delivery, where sent by electronic transmission (with receipt confirmed), on the day of transmittal of such Notice if sent before 5:00 p.m. (Calgary time) on a Business Day and on the next succeeding Business Day if not sent before 5:00 p.m. (Calgary time) on a Business Day, and, where mailed, on the fifth Business Day following the mailing date, but only if sent by first class mail from a destination within Canada, or only airmail, postage prepaid, if sent from a destination outside Canada. The Corporation may from time to time notify the Trustee of a change in address or electronic mail address by Notice given as provided in Section 13.3.

### **Section 13.2 Notice to Holders**

- (1) Any Notice to Debentureholders may be effectively given if delivered, sent by facsimile transmission, or mailed, in each case at post office address appearing in the relevant register and such Notice shall be deemed to have been received by a Holder, where given by delivery, on the day of delivery, where sent by facsimile transmission on the day of transmittal of such Notice if sent before 5:00 p.m. (Calgary time) on a Business Day, and, where mailed, on the fifth Business Day following the mailing date, but only if sent by first class mail to a destination within Canada or only by airmail, postage prepaid, if sent to a destination outside Canada.
- (2) If the regular mail service is suspended or for any other reason it shall be impracticable to give Notice to Debentureholders by mail, then such notification to Debentureholders may be given by the publication of the Notice once in a daily newspaper with national circulation in Canada or in any other manner approved by the Trustee, and it shall constitute sufficient Notice to such Holders for every purpose hereunder. In any case where Notice to Debentureholders is given by mail, neither the failure to mail such Notice nor any defect in any Notice so mailed to any particular Holder shall affect the sufficiency of such Notice with respect to other Debentureholders.
- (3) Any Notice sent to the Debentureholders as provided above shall be effective notwithstanding that any such Notice has accidentally or inadvertently not been delivered or mailed to one or more such Holders.
- (4) Notwithstanding (1) and (2), any Notice to Debentureholders in respect of a meeting convened for the purpose of considering an Extraordinary Resolution shall, in addition to the notice provided pursuant to (1) and (2), be announced via press release disseminated in each of Canada and the United States by nationally recognized wire services.

### **Section 13.3 Notice to Trustee or the Collateral Agent**

Any Notice to the Trustee or the Collateral Agent shall be in writing and shall be valid and effective if delivered, sent by facsimile transmission (with receipt confirmed), or mailed to:

Computershare Trust Company of Canada  
600, 530 – 8 Avenue S.W.  
Calgary, AB T2P 3S8

Attention: Manager, Corporate Trust  
E-mail: [corporatetrust.calgary@computershare.com](mailto:corporatetrust.calgary@computershare.com)  
Fax: (403) 267-6598

and such Notice shall be deemed to have been received by Computershare Trust Company of Canada, where given by delivery, on the day of delivery, where sent by facsimile transmission (with receipt confirmed), on the day of transmittal of such Notice if sent before 5:00 p.m. (Calgary time) on a Business Day and on the next succeeding Business Day if not sent before 5:00 p.m. (Calgary time) on a Business Day, and, where mailed, on the fifth Business Day following the mailing date, but only if sent by first class mail from a destination within Canada, or only by airmail, postage prepaid, if sent from a destination outside Canada. Computershare Trust Company of Canada may from time to time notify the Corporation of a change in address or facsimile number by Notice given as provided in Section 13.1.

### **Section 13.4 Mail Service Interruption**

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Trustee would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to Section 13.3, such notice shall be valid and effective only if delivered at the appropriate address in accordance with Section 13.3.

## **ARTICLE 14 AMENDMENTS, SUPPLEMENTS AND WAIVERS**

### **Section 14.1 Without Consent of Holders**

The Corporation and the Trustee may amend or supplement this Indenture or the Debentures without notice to or consent of any Debentureholder for the purpose of:

- (a) evidencing a successor to the Corporation and the assumption by that successor of the Corporation's obligations under this Indenture and the Debentures;
- (b) adding to the Corporation's covenants for the benefit of the Holders or surrendering any right or power conferred upon the Corporation;
- (c) securing the Corporation's obligations in respect of the Debentures;
- (d) add additional assets as Collateral or grant any Lien in favor of the Collateral Agent to secure the Debentures;
- (e) complying with the requirements of the *Business Corporations Act* (Alberta) applicable to trust indentures;
- (f) evidence and provide for the acceptance of an appointment under the Indenture of a successor trustee or collateral agent; provided that the successor trustee or collateral agent is otherwise qualified and eligible to act as such under the terms of this Indenture;
- (g) curing any ambiguity, omission, inconsistency or correcting or supplementing any defective provision contained in this Indenture; or
- (h) making any other changes to this Indenture that do not adversely affect the interest of the Holders in any material respect (and in the case of a change affecting the rights of the Trustee, with its consent).

### **Section 14.2 With Consent of Holders**

- (a) Subject to Section 14.1 and except as otherwise provided in this Section 14.2, the Corporation, the Collateral Agent and the Trustee may amend or supplement this Indenture, the Security Documents or the Debentures with the approval of the Holders of at least a majority in aggregate principal amount of the Debentures then outstanding. However, without approval thereof by Extraordinary Resolution, an amendment, supplement or waiver may not:
  - (i) alter the manner of calculation or rate of accrual of interest on the Debentures or change the time of payment;

- (ii) change the Stated Maturity of the Debentures; reduce the principal amount, Redemption Price or Change of Control Repurchase Price with respect to the Debentures;
  - (iii) make any change that adversely affects the rights of Holders to require the Corporation to purchase the Debentures at the option of Holders or make any change to any other covenant that adversely affects the rights of the Holders;
  - (iv) amend, supplement or waive any Security Document or the provisions in the Indenture dealing with Security Documents or application of trust moneys in any manner, taken as a whole, that adversely affects the rights of Holders or otherwise release any Collateral, other than in accordance with the Indenture and the Security Documents;
  - (v) change the currency of payment of principal of, or interest on, the Debentures;
  - (vi) release any of the Guarantors from any of their obligations under the Guarantee or this Indenture, except in accordance with this Indenture;
  - (vii) release any of the security from any of their obligations under a guarantee provided for in the Indenture, except in accordance with the Indenture; or
  - (viii) change the provisions in this Indenture that relate to modifying or amending this Indenture.
- (b) After an amendment, supplement or waiver under this Section 14.2 becomes effective, the Corporation shall promptly mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Corporation to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

### **Section 14.3 Additional Powers Exercisable by Extraordinary Resolution**

In addition to the powers conferred upon them by any other provisions of this Indenture (including under Section 14.2) or by law, a meeting of the Debentureholders shall have the following powers exercisable from time to time by Extraordinary Resolution, subject to receipt of the prior approval of the applicable Recognized Stock Exchange, where required:

- (a) power to authorize the Trustee to grant extensions of time for payment of any principal, premium or interest on the Debentures, whether or not the principal, premium or interest, the payment of which is extended, is at the time due or overdue;
- (b) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Debentureholders or, subject to the consent of the Trustee, the Trustee against the Corporation, or against its property, whether such rights arise under this Indenture or the Debentures or otherwise;
- (c) power to assent to any modification of or change in or addition to or omission from the provisions contained in this Indenture or any Debenture which shall be agreed to

by the Corporation and to authorize the Trustee to concur in and execute any indenture supplemental hereto embodying any modification, change, addition or omission;

- (d) power to sanction any scheme for the reconstruction, reorganization or recapitalization of the Corporation or for the consolidation, amalgamation or merger of the Corporation with any other Person or for the sale, leasing, transfer or other disposition of all or substantially all of the undertaking, property and assets of the Corporation or any part thereof, provided that no such sanction shall be necessary in respect of any such transaction if the provisions of Article 12 shall have been complied with;
- (e) power to direct or authorize the Trustee to exercise any power, right, remedy or authority given to it by this Indenture in any manner specified in any such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;
- (f) power to waive, and direct the Trustee to waive, any default hereunder or to cancel any declaration made by the Trustee pursuant to Section 7.1 which is not permitted to be waived or cancelled, as the case may be, in Section 7.3 or Section 7.3 by Holders of more than 50% of the principal amount of the Outstanding Debentures, either unconditionally or upon any condition specified in such Extraordinary Resolution;
- (g) power to restrain any Debentureholder from taking or instituting any suit, action or proceeding for the purpose of enforcing payment of the principal, premium or interest on the Debentures, or for the execution of any trust or power hereunder;
- (h) power to direct any Debentureholder who, as such, has brought any action, suit or proceeding, to stay or discontinue or otherwise deal with the same, if the taking of such suit, action or proceeding shall have been permitted by Article 7, upon payment of the costs, charges and expenses reasonably and properly incurred by such Debentureholder in connection therewith;
- (i) power to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any Voting Securities or other securities of the Corporation;
- (j) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the Trustee to exercise, on behalf of the Debentureholders, such of the powers of the Debentureholders as are exercisable by Extraordinary Resolution or other resolution as shall be included in the resolution appointing the committee. The resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee. Such committee shall consist of such number of persons as shall be prescribed in the resolution appointing it and the members need not be themselves Debentureholders. Every such committee may elect its chairman and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be

binding upon all Debentureholders. Neither the committee nor any member thereof shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith;

- (k) power to remove the Trustee from office and to appoint a new Trustee or Trustees provided that no such removal shall be effective unless and until a new Trustee or Trustees shall have become bound by this Indenture; and
- (l) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Debentureholders or by any committee appointed pursuant to (j).

#### **Section 14.4 Execution of Supplemental Indentures**

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article 14 (a "**Supplemental Indenture**") or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and subject to Section 9.1, shall be fully protected in acting and relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture, is not inconsistent herewith, is a valid and binding obligation of the Corporation, enforceable in accordance with its terms, subject to enforceability being limited by bankruptcy, insolvency or other laws affecting the enforcement of creditor's rights generally and equitable remedies including the remedies of specific performance and injunction being granted only in the discretion of a court of competent jurisdiction and, in connection with a Supplemental Indenture executed pursuant to this Section 14.4, that the Trustee is authorized to execute and deliver such Supplemental Indenture without the consent of the Holders and, in connection with a Supplemental Indenture executed pursuant to Section 14.2, that the requisite consents of the Holders have been validly obtained in accordance with Section 14.2 hereof. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture that adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

#### **Section 14.5 Effect of Supplemental Indentures**

Upon the execution of any Supplemental Indenture under this Article 14, this Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Indenture for all purposes, unless otherwise so specified; and every Holder theretofore or thereafter certified and delivered under this Indenture shall be bound by the Supplemental Indenture.

#### **Section 14.6 Reference in Debentures to Supplemental Indentures**

Debentures certified and delivered after the execution of any Supplemental Indenture pursuant to this Article 14 may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Corporation shall so determine, new Debentures so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such Supplemental Indenture may be prepared and executed by the Corporation and certified and delivered by the Trustee in exchange for Outstanding Debentures.

#### **Section 14.7 Prior Approval of Recognized Stock Exchange**

Notwithstanding anything to the contrary in this Indenture, no supplement or amendment to the terms

of the Debentures or to this Indenture may be made without the prior consent of a Recognized Stock Exchange.

## **ARTICLE 15 MISCELLANEOUS PROVISIONS**

### **Section 15.1 Acceptance of Trusts**

The Corporation and the Trustee hereby specifically acknowledge and agree that the Trustee is acting hereunder in its capacity as the Person holding the power of attorney of the Holders for the purposes of this Indenture and in conformity with and subject to the terms and conditions of this Indenture. Each Holder, by its acceptance thereof, accepts and confirms the appointment of the Trustee as the Person holding the power of attorney of such Holder for the purposes of this Indenture and in conformity with and subject to the terms and conditions of this Indenture.

### **Section 15.2 Protection of Trustee**

The Trustee shall not be obligated under any circumstances whatsoever in the fulfilment of any of the circumstances and obligations hereunder, to expend or risk its funds or otherwise incur financial liability.

### **Section 15.3 Force Majeure**

Except for the payment obligations of the Corporation contained herein, neither party shall be liable to the other, or held in breach of this Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, economic sanctions or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

### **Section 15.4 Counterparts and Formal Date**

This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of which shall together constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear a date as of the date hereof. Without limiting the foregoing, if the signatures on behalf of one party to this Indenture are on different counterparts, this shall be taken to be, and have the same effect as, signatures on the same counterpart and on a single copy of this Indenture.

*[Signature page follows]*

**IN WITNESS WHEREOF** the parties hereto have executed this Indenture as of the date first written above.

**INNER SPIRIT HOLDINGS LTD.**

Per: "Darren Bondar"  
Name: Darren Bondar  
Title: Chief Executive Officer

**SPIRIT LEAF INC.**

Per: "Darren Bondar"  
Name: Darren Bondar  
Title: Chief Executive Officer

**SPIRIT LEAF CORPORATE INC.**

Per: "Darren Bondar"  
Name: Darren Bondar  
Title: Chief Executive Officer

**WATCH IT! CONSOLIDATED LTD.**

Per: "Darren Bondar"  
Name: Darren Bondar  
Title: Chief Executive Officer

**COMPUTERSHARE TRUST COMPANY  
OF CANADA, as Trustee**

Per: "W. Anne Dewaele"  
Name: W. Anne Dewaele  
Title: Corporate Trust Officer

Per: "Luci Scholes"  
Name: Luci Scholes  
Title: Associate Trust Officer

**COMPUTERSHARE TRUST COMPANY  
OF CANADA**, as Collateral Agent

Per: "*W. Anne Dewaele*"  
\_\_\_\_\_  
Name: W. Anne Dewaele  
Title: Corporate Trust Officer

Per: "*Luci Scholes*"  
\_\_\_\_\_  
Name: Luci Scholes  
Title: Associate Trust Officer

## SCHEDULE 1.1 OBLIGORS/ PERMITTED LIENS

### **Obligor**

Inner Spirit Holdings Ltd.  
Spirit Leaf Inc.  
Spirit Leaf Corporate Inc.  
Watch It! Consolidated Ltd.

### **Permitted Liens**

For Inner Spirit Holdings Ltd.:

Promissory note dated March 5, 2019 granted by the Corporation in favour of Tilray, Inc., and the security interest granted thereunder.

For Spirit Leaf Corporate Inc.:

<i>Secured Party</i>	<i>Registration Number (Personal Property Registry)</i>	<i>Jurisdiction</i>
Inner Spirit Holdings Ltd.	19030513769	Alberta
Inner Spirit Holdings Ltd.	19030513815	Alberta

For Spirit Leaf Inc.:

<i>Secured Party</i>	<i>Registration Number (Personal Property Registry)</i>	<i>Jurisdiction</i>
Inner Spirit Holdings Ltd.	18032136245	Alberta
Lansdowne Equity Ventures Ltd.	19032835834	Alberta

For Watch It! Consolidated Ltd.:

<i>Secured Party</i>	<i>Registration Number (Personal Property Registry)</i>	<i>Jurisdiction</i>
Citizen Watch Company of Canada, Ltd.	17070639621	Alberta
Bulova Watch Company Ltd.	17070639631	Alberta
Inner Spirit Holdings Ltd.	18032136195	Alberta
Citizen Watch Company Of Canada, Ltd.	301646227	Saskatchewan
Bulova Watch Company Ltd.	301646228	Saskatchewan
Bulova Watch Company Ltd.	729540054	Ontario
Citizen Watch Company Of Canada, Ltd.	729540099	Ontario

**SCHEDULE 2.2 FORM OF DEBENTURE**

**[INSERT U.S. LEGEND, IF APPLICABLE]**

**[INSERT CANADIAN PRIVATE PLACEMENT LEGEND, IF APPLICABLE]**

CUSIP 45783JAA4  
ISIN CA45783JAA49

No.

**INNER SPIRIT HOLDINGS LTD.**  
**(A corporation incorporated under the laws of Calgary)**

**12% SENIOR SECURED CONVERTIBLE DEBENTURE**

**INNER SPIRIT HOLDINGS LTD.** (the "**Corporation**"), for value received, hereby acknowledges itself indebted and promises to pay to the order of the registered holder on June 30, 2022 (the "**Maturity Date**"), or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture hereinafter mentioned, the principal sum of **[insert amount]**, in lawful money of Canada, on presentation and surrender of this Debenture (as defined below) at the principal office of the Trustee (defined below) in the manner specified in the Indenture (as defined below), in the City of Calgary, Province of Alberta, and to pay interest on the principal amount then Outstanding (as defined in the Indenture) at the rate of 12.0% per annum from the date of issue or from the most recent Interest Payment Date to which interest has been paid or made available for payment on the Debentures then outstanding, whichever is later, at the option of the Corporation, in like money, in equal semi-annual instalments in arrears on the last day of June and December in each year (each such date an "**Interest Payment Date**"), commencing on June 30, 2020 with overdue interest, if any, at the same rate after as well as before maturity and after as well as before default in payment of principal or interest. The interest on the Debentures will be computed on the basis of a 360-day year composed of twelve 30-day months.

As interest on this Debenture becomes due, the Corporation (subject to early repurchase pursuant to the terms of the Indenture (as defined below)) shall forward or cause to be forwarded by ordinary post to the registered address of the registered Holder of the Debenture for the time being, or in the case of joint Holders to the registered address of one of such joint Holders, a cheque or electronic funds transfer for such interest, payable to the order of such Holder or Holders. The forwarding of such cheque or electronic funds transfer shall satisfy and discharge the liability for interest on this Debenture to the extent of the sum represented thereby, unless such cheques, if any, be not paid on presentation.

For certainty, the first interest payment will include interest accrued from May 24, 2019 to, but excluding June 30, 2020, which will be equal to \$132.33 for each \$1,000 principal amount of the Debentures. For each other interest payment representing a semi-annual installment, the interest amount shall be equal to \$60 for each \$1,000 principal amount of the Debentures.

This Debenture is one of the 12.0% Senior Secured Convertible Debentures due June 30, 2022 (the "**Debentures**") created and issued under an Indenture (the "**Indenture**") dated as of May 24, 2019 made between, *inter alia*, the Corporation and Computershare Trust Company of Canada, as trustee (the

"Trustee") and Computershare Trust Company of Canada, as collateral agent. Reference is hereby made to the Indenture for a description of the rights of the holders of the Debentures, the Corporation and the Trustee and of the terms and conditions upon which the Debentures are issued and held, all to the same effect as if the provisions of the Indenture were herein set forth, to all of which provisions the Holder of this Debenture, by acceptance hereof, agrees. To the extent that the terms and conditions stated in this Debenture conflict with the terms and conditions of the Indenture, the latter shall prevail. All capitalized terms used herein have the meaning ascribed thereto in the Indenture unless otherwise indicated.

The Debentures are issuable as fully registered Debentures in denominations of \$1,000 and integral multiples of \$1,000. The Debentures of any authorized denomination may be exchanged, as provided in the Indenture, for Debentures in equal aggregate principal amount.

Any part, being \$1,000 or an integral multiple thereof, of the principal of this Debenture, provided that the principal amount of this Debenture is in a denomination in excess of \$1,000, is convertible, at the option of the holder hereof, upon surrender of this Debenture at the principal office of the Trustee in Calgary, Alberta, at any time prior to the close of business on the Business Day immediately preceding the Maturity Date or, if this Debenture is called for redemption on or prior to such date, then, to the extent so called for redemption, up to but not after the close of business on the last Business Day immediately preceding the date specified for redemption of this Debenture, into Common Shares (without adjustment for interest accrued hereon or for dividends or distributions on Common Shares issuable upon conversion) at a conversion price (the "**Conversion Price**") equal to \$0.25 per Common Share, such that each \$1,000 principal amount shall convert into 4,000 Common Shares, all subject to the terms and conditions and in the manner set forth in the Indenture, including adjustment to the Conversion Price in accordance with the Indenture. No Debenture may be converted during the five Business Days preceding and including June 30 and December 31 in each year, commencing June 30, 2020, as the registers of the Trustee will be closed during such periods. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified. No fractional Common Shares will be issued on any conversion and any fraction of a Common Share that would otherwise be issued will be rounded down to the nearest whole number, and in lieu thereof, the Corporation will satisfy such fractional interest by a cash payment equal to the market price of such fractional interest determined in accordance with the Indenture. Holders converting their Debentures will receive accrued and unpaid interest thereon. If a Debenture is surrendered for conversion on an Interest Payment Date or during the five preceding Business Days, the Person or persons entitled to receive Common Shares in respect of the Debenture so surrendered for conversion shall not become the holder or holders of record of such Common Shares until the Business Day following such Interest Payment Date.

The Corporation will have the right to convert the outstanding Debentures at the Conversion Price, including any accrued and unpaid interest, commencing on and from December 31, 2020 and prior to the Maturity Date, if, on not less than 30 days' prior notice, the volume weighted average trading price of the Common Shares on the CSE for 20 consecutive trading days is equal to or greater than \$0.35.

The foregoing redemption and conversion rights may not be exercised by the Corporation if a transaction that would result in a Change of Control has been publicly announced, offered or made and not withdrawn or expired, as the case may be.

This Debenture and all other Debentures certified and issued under the Indenture rank pari passu with one another, in accordance to their tenor without discrimination, preference or priority. Except as provided in the Indenture, the Debentures shall be senior in right of payment to all of the Corporation's existing and future Indebtedness.

The principal hereof may become due or declared to be due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Corporation will be required, in connection with a Change of Control, to make an offer to repurchase the Debentures then Outstanding by notice to the Holders thereof and the Trustee. The Change of Control Repurchase Price payable to the Holders will be, depending on the date upon which the Change of Control occurs, determined in accordance with the provisions of the Indenture, plus accrued and unpaid interest thereon, if any.

The Indenture contains provisions for the holding of meetings of Debentureholders and rendering certain resolutions passed at such meetings by, or by instruments in writing signed by, the Holders of not less than a majority, or in the case of matters requiring approval by Extraordinary Resolution, not less than two-thirds, in aggregate principal amount of the Debentures Outstanding, binding upon all Debentureholders, subject to the provisions of the Indenture.

This Debenture may only be transferred upon compliance with the conditions precedent in the Indenture on the register kept at the principal office of the Trustee and at such other place or places, if any, and/or by such other registrar or registrars, if any, as the Corporation with the approval of the Trustee may designate, and may be exchanged at any such place, by the Holder hereof or his executors or administrators or other legal representatives or his or their attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee, and upon compliance with such reasonable requirements as the Trustee and/or registrar may prescribe, and such transfer shall be duly noted thereon by the Trustee or other registrar.

The Debentures have not been and will not be registered under the U.S. Securities Act of 1933, as amended, or any state securities laws of the United States.

This Debenture shall not become obligatory for any purpose until it shall have been certified by the Trustee for the time being under the Indenture.

This Debenture shall be governed by and construed in accordance with the laws of the province of Alberta and the federal laws of Canada applicable thereto.

This Debenture will be entitled to the benefits of the Guarantees made for the benefit of the Holders. Reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and obligations thereunder of the Guarantors, the Trustee and the Holders.

The Holder of this Debenture, by receiving and holding same, hereby accepts and agrees to be bound by the terms, and to be entitled to the benefits of this Debenture and of the Indenture and confirms the appointment of the Trustee and of the Indenture, the whole in accordance with and subject to the respective provisions thereof.

[signature page follows]

**IN WITNESS WHEREOF INNER SPIRIT HOLDINGS LTD.** has caused this debenture to be signed by its Chief Executive Officer.

**DATED** as of \_\_\_\_\_.

**INNER SPIRIT HOLDINGS LTD.**

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

**TRUSTEE'S CERTIFICATE**

This Debenture is one of the 12.0% Senior Secured Debentures due June 30, 2022 referred to in the within-mentioned Indenture.

**COMPUTERSHARE TRUST COMPANY  
OF CANADA**, as Trustee

Per: \_\_\_\_\_  
Authorized Signatory

Date of Certification:

## FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ whose address and social insurance number, if applicable, are set forth below, this Debenture (or \$ principal amount hereof\*) of **INNER SPIRIT HOLDINGS LTD.** (the "Corporation") standing in the name(s) of the undersigned in the register maintained by the registrar appointed by the Corporation with respect to such Debenture and does hereby irrevocably appoint \_\_\_\_\_ as its attorney to transfer such Debenture in such register, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Address of Transferee: \_\_\_\_\_

\_\_\_\_\_  
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: \_\_\_\_\_

\*If less than the full principal amount of the within Debenture is to be transferred, indicate in the space provided above the principal amount (which must be \$1,000 or an integral multiple thereof) to be transferred.

The signature(s) to this assignment must correspond with the name(s) as written upon the face of this Debenture in every particular without alteration or any change whatsoever. The signature(s) on this form must be guaranteed by one of the following methods:

**Canada and the USA:** A Medallion Signature Guarantee obtained from a member of an acceptable medallion Signature Guarantee Program (STAMP, SEMP, MSP). Many commercial banks, savings banks, credit unions, and all broker dealers participate in a Medallion Signature Guarantee Program. The Guarantor must affix a stamp bearing the actual words "**Medallion Guaranteed**".

**Canada:** A Signature Guarantee obtained from a major Canadian Schedule I chartered bank. The Guarantor must affix a stamp bearing the actual words "**Signature Guaranteed**". Signature Guarantees are not accepted from Treasury Branches, Credit Unions or Caisses Populaires unless they are members of a Medallion Signature Guarantee Program.

**USA:** The undersigned confirms that this Debenture is being transferred (please check one):

- to the Corporation;
- outside the United States in compliance with Rule 904 of Regulation S under the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), and in compliance with any applicable local laws and regulations, and the undersigned has furnished to the Trustee a duly completed Regulation S Rule 904 Transfer Certificate in the form attached as Schedule 2.20 to the Indenture and such other documentation as the Trustee

or the Corporation has reasonably requested, including, if requested, an opinion of counsel;

- in compliance with the exemption from registration under the U.S. Securities Act provided by Rule 144A thereunder; or
- in compliance with the exemption from registration under the U.S. Securities Act provided by Rule 144 thereunder, or another exemption from registration under the U.S. Securities Act or any applicable state securities laws, and the undersigned has provided a legal opinion of counsel of recognized standing, satisfactory to the Corporation, acting reasonably, to such effect.

***Outside North America:*** For holders located outside North America, present the certificate(s) and/or document(s) that require a guarantee to a local financial institution that has a corresponding Canadian or American affiliate which is a member of an acceptable Medallion Signature Guarantee program. The corresponding affiliate will arrange for the signature to be over-guaranteed.

The registered holder of this Debenture is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.

Signature of Guarantor:

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Authorized Officer Signature of transferring registered Holder

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Name of Institution

**FORM OF NOTICE OF CONVERSION**

**TO: INNER SPIRIT HOLDINGS LTD.** (the "**Corporation**")  
c/o Computershare Trust Company of Canada  
600, 530 – 8 Avenue S.W.  
Calgary, Alberta, T2P 3S8

**Note:** All capitalized terms used herein have the meaning ascribed thereto in the indenture (the "**Indenture**") dated as of May 24, 2019 between the Corporation and Computershare Trust Company of Canada, as trustee, unless otherwise indicated.

The undersigned registered holder of 12% Convertible Senior Secured Debentures (the "**Debentures**") irrevocably elects to convert such Debentures (or \$ principal amount thereof\*) in accordance with the terms of the Indenture referred to in such Debentures and tenders herewith the Debentures, and, if applicable, directs that the Common Shares of the Corporation issuable upon a conversion be issued and delivered to the person indicated below. (If Common Shares are to be issued in the name of a person other than the holder, all requisite transfer taxes must be tendered by the undersigned).

Dated: \_\_\_\_\_  
(Name of Registered Holder)

\_\_\_\_\_  
(Signature of Registered Holder)

\* If less than the full principal amount of the Debentures, indicate in the space provided the principal amount (which must be \$1,000 or integral multiples thereof).

NOTE: If Common Shares are to be issued in the name of a person other than the holder, the signature must be guaranteed by a chartered bank, a trust company or by a member of an acceptable Medallion Guarantee Program. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".

(Print name in which Common Shares are to be issued, delivered and

registered) Name: \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, Province and Postal Code)

Name of guarantor: \_\_\_\_\_

Authorized signature: \_\_\_\_\_

## SCHEDULE 2.20

### FORM OF REGULATION S RULE 904 TRANSFER CERTIFICATE

#### SENIOR SECURED CONVERTIBLE DEBENTURES DUE JUNE 30, 2022

In connection with the transfer of \$ \_\_\_\_\_ principal amount of 12.0% Senior Secured Convertible Debentures due June 30, 2022 (the "Debentures") of Inner Spirit Holdings Ltd. (the "**Corporation**"), the undersigned transferor hereby represents and warrants to the Corporation and Computershare Trust Company of Canada (the "**Trustee**") that:

- (1) it acknowledges that the sale of the securities of the Corporation to which this certificate relates is being made in reliance on Rule 904 of Regulation S ("**Regulation S**") under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**");
- (2) it is not an "affiliate" (as defined in Rule 405 under the U.S. Securities Act (except for any director or officer of the Corporation who is an affiliate solely by virtue of holding such position)) of the Corporation;
- (3) the offer of the Debentures was not made to a Person in the United States and either (1) at the time the buy order was originated, the buyer was outside the United States, or the seller and any Person acting on its behalf reasonably believe that the buyer was outside the United States, or (2) the transaction was executed on or through the facilities of a "designated offshore securities market" (as such term is defined in Regulation S) such as the Toronto Stock Exchange, and neither the seller nor any Person acting on its behalf knows that the transaction has been prearranged with a buyer in the United States;
- (4) neither the seller nor any affiliate of the seller nor any Person acting on any of their behalf has engaged or will engage in any "directed selling efforts" (as such term is defined in Regulation S) in the United States in connection with the offer and sale of the Debentures;
- (5) the sale is bona fide and not for the purpose of "washing off" the resale restrictions imposed because the securities are "restricted securities" (as that term is defined in Rule 144(a)(3) under the U.S. Securities Act);
- (6) the seller does not intend to replace the securities sold in reliance on Rule 904 of Regulation S with fungible unrestricted securities; and
- (7) the contemplated sale is not a transaction, or part of a series of transactions which, although in technical compliance with Regulation S, is part of a plan or scheme to evade the registration provisions of the U.S. Securities Act.

[signature page follows]

**TRANSFEROR:**

By: \_\_\_\_\_  
Authorized Signing Officer

Date of Certification: