

# Invesque<sup>TM</sup>

## **TRUST INDENTURE**

**between**

**INVESQUE INC.**

**and**

**COMPUTERSHARE TRUST COMPANY OF CANADA**

**providing for the issue of  
Unsecured Subordinated Debentures**

**Dated as of December 30, 2024**

## TABLE OF CONTENTS

<b>ARTICLE 1 INTERPRETATION</b> .....	<b>2</b>
1.1 Definitions.....	2
1.2 Meaning of “Outstanding” .....	7
1.3 Interpretation .....	7
1.4 Headings, etc. ....	8
1.5 Day Not a Business Day .....	8
1.6 Applicable Law .....	8
1.7 Conflict.....	8
1.8 Currency .....	8
1.9 Severability .....	8
1.10 Successors and Assigns .....	8
1.11 Benefits of Indenture.....	9
1.12 Schedules.....	9
<b>ARTICLE 2 THE DEBENTURES</b> .....	<b>9</b>
2.1 Limit of Debentures .....	9
2.2 Terms of Debentures of any Series.....	9
2.3 Form of Debentures .....	11
2.4 Form and Terms of Initial Debentures .....	11
2.5 Certification and Delivery of Additional Debentures .....	15
2.6 Issue of Global Debentures.....	16
2.7 Execution of Debentures.....	17
2.8 Certification.....	17
2.9 Interim Debentures or Certificates.....	17
2.10 Mutilation, Loss, Theft or Destruction .....	18
2.11 Concerning Interest.....	18
2.12 Debentures to Rank Pari Passu .....	19
2.13 Payments of Amounts Due on Maturity.....	19
2.14 U.S. Legend.....	20
2.15 Payment of Interest .....	21
2.16 Withholding Tax .....	22
<b>ARTICLE 3 REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP</b> .....	<b>23</b>
3.1 Fully Registered Debentures.....	23
3.2 Global Debentures .....	23
3.3 Transferee Entitled to Registration.....	25
3.4 No Notice of Trusts.....	25
3.5 Registers Open for Inspection .....	26
3.6 Exchanges of Debentures .....	26
3.7 Closing of Registers.....	26
3.8 Charges for Registration, Transfer and Exchange .....	27
3.9 Ownership of Debentures .....	27
3.10 Surrender for Electronic Position .....	28

<b>ARTICLE 4 REDEMPTION AND PURCHASE OF DEBENTURES .....</b>	<b>28</b>
4.1    Applicability of Article .....	28
4.2    Partial Redemption.....	29
4.3    Notice of Redemption .....	29
4.4    Debentures Due on Redemption Dates .....	30
4.5    Deposit of Redemption Monies .....	30
4.6    Failure to Surrender Debentures Called for Redemption.....	30
4.7    Cancellation of Debentures Redeemed .....	31
4.8    Purchase of Debentures by the Company.....	31
<b>ARTICLE 5 SUBORDINATION OF DEBENTURES.....</b>	<b>32</b>
5.1    Applicability of Article .....	32
5.2    Order of Payment .....	32
5.3    Subrogation to Rights of Holders of Senior Indebtedness .....	32
5.4    Obligation to Pay Not Impaired.....	33
5.5    No Payment if Senior Indebtedness in Default .....	33
5.6    Payment on Debentures Permitted .....	34
5.7    Confirmation of Subordination.....	34
5.8    Knowledge of Debenture Trustee.....	34
5.9    Debenture Trustee May Hold Senior Indebtedness .....	35
5.10   Rights of Holders of Senior Indebtedness Not Impaired .....	35
5.11   Altering the Senior Indebtedness .....	35
5.12   Additional Indebtedness .....	35
5.13   Invalidated Payments .....	35
<b>ARTICLE 6 COVENANTS OF THE COMPANY .....</b>	<b>35</b>
6.1    To Pay Principal, Premium (if any) and Interest.....	35
6.2    To Pay Debenture Trustee’s Remuneration .....	36
6.3    To Give Notice of an Event of Default .....	36
6.4    Preservation of Existence, etc.....	36
6.5    Keeping of Books .....	36
6.6    Annual Certificate of Compliance.....	36
6.7    Performance of Covenants of Debenture Trustee .....	37
6.8    Reporting Issuer and Listing Status.....	37
<b>ARTICLE 7 DEFAULT.....</b>	<b>37</b>
7.1    Events of Default .....	37
7.2    Notice of Events of Default .....	39
7.3    Waiver of Default .....	39
7.4    Enforcement by the Debenture Trustee.....	39
7.5    No Suits by Debentureholders .....	41
7.6    Application of Monies by Debenture Trustee .....	41
7.7    Notice of Payment by Debenture Trustee .....	42
7.8    Debenture Trustee May Demand Production of Debentures.....	42
7.9    Remedies Cumulative .....	43
7.10   Judgment Against the Company.....	43
7.11   Immunity of Directors and Others.....	43

<b>ARTICLE 8 SATISFACTION AND DISCHARGE.....</b>	<b>43</b>
8.1 Cancellation and Destruction.....	43
8.2 Non-Presentation of Debentures.....	43
8.3 Repayment of Unclaimed Monies .....	44
8.4 Discharge.....	44
8.5 Satisfaction.....	44
8.6 Continuance of Rights, Duties and Obligations .....	46
<b>ARTICLE 9 SUCCESSORS .....</b>	<b>47</b>
9.1 Successors on Winding-up or Liquidation .....	47
9.2 Vesting of Powers in Successor.....	48
<b>ARTICLE 10 COMPULSORY ACQUISITION.....</b>	<b>48</b>
10.1 Definitions In this Article: .....	48
10.2 Offer for Debentures.....	48
10.3 Offeror’s Notice to Dissenting Debentureholders.....	49
10.4 Delivery of Debenture Certificates.....	49
10.5 Payment of Consideration to Debenture Trustee .....	49
10.6 Consideration to be held in Trust.....	50
10.7 Completion of Transfer of Debentures to Offeror .....	50
10.8 Communication of Offer to Trust.....	50
<b>ARTICLE 11 MEETINGS OF DEBENTUREHOLDERS.....</b>	<b>51</b>
11.1 Right to Convene Meeting.....	51
11.2 Notice of Meetings.....	51
11.3 Chair .....	52
11.4 Quorum .....	53
11.5 Power to Adjourn.....	53
11.6 Show of Hands .....	53
11.7 Poll .....	53
11.8 Voting.....	54
11.9 Proxies.....	54
11.10 Persons Entitled to Attend Meetings .....	55
11.11 Powers Exercisable by Extraordinary Resolution.....	55
11.12 Meaning of “Extraordinary Resolution” .....	57
11.13 Powers Cumulative.....	58
11.14 Minutes.....	58
11.15 Instruments in Writing.....	58
11.16 Binding Effect of Resolutions .....	58
11.17 Evidence of Rights of Debentureholders.....	58
11.18 Concerning Serial Meetings .....	59
<b>ARTICLE 12 NOTICES.....</b>	<b>59</b>
12.1 Notice to the Company .....	59
12.2 Notice to Debentureholders .....	59
12.3 Notice to Debenture Trustee.....	60
12.4 Mail Service Interruption.....	60

<b>ARTICLE 13 CONCERNING THE DEBENTURE TRUSTEE.....</b>	<b>60</b>
13.1 No Conflict of Interest .....	60
13.2 Replacement of Debenture Trustee .....	61
13.3 Duties of Debenture Trustee .....	62
13.4 Reliance Upon Declarations, Opinions, etc.....	62
13.5 Evidence and Authority to Debenture Trustee, Opinions, etc. ....	62
13.6 Officer’s Certificates Evidence.....	63
13.7 Experts, Advisers and Agents.....	63
13.8 Debenture Trustee May Deal in Debentures .....	64
13.9 Investment of Monies Held by Debenture Trustee .....	64
13.10 Debenture Trustee Not Ordinarily Bound .....	64
13.11 Debenture Trustee Not Required to Give Security .....	65
13.12 Debenture Trustee Not Bound to Act on the Company’s Request .....	65
13.13 Conditions Precedent to Debenture Trustee’s Obligations to Act Hereunder .....	65
13.14 Authority to Carry on Business .....	65
13.15 Compensation and Indemnity .....	66
13.16 Anti-Money Laundering .....	66
13.17 Acceptance of Trust .....	67
13.18 Third Party Interests.....	67
13.19 Privacy.....	67
13.20 Force Majeure .....	68
<b>ARTICLE 14 SUPPLEMENTAL INDENTURES.....</b>	<b>68</b>
14.1 Supplemental Indentures.....	68
<b>ARTICLE 15 EXECUTION AND FORMAL DATE; CONCERNING THIS TRUST</b>	
<b>    INDENTURE.....</b>	<b>69</b>
15.1 Execution.....	69
15.2 Formal Date.....	69
15.3 Concerning this Trust Indenture .....	69

Schedule A

Schedule B

## TRUST INDENTURE

**THIS INDENTURE** is made this 30<sup>th</sup> day of December, 2024.

**BETWEEN:**

**INVESQUE INC.**, a corporation incorporated under the laws of the Province of British Columbia

(hereinafter referred to as the “**Company**”)

- and -

**COMPUTERSHARE TRUST COMPANY OF CANADA**, a trust company incorporated under the federal laws of Canada

(hereinafter referred to as the “**Debenture Trustee**”)

**WHEREAS** the Company deems it necessary to create and issue the Debentures to be created and issued in the manner herein provided;

**AND WHEREAS** the Company called a meeting of their holders of the 8.75% convertible unsecured subordinated debentures due September 30, 2026 on November 26, 2024 to make amendments to those debentures by way of Extraordinary Resolution, which was passed at the meeting;

**AND WHEREAS** the holders of the 7.00% convertible unsecured subordinated debentures due January 31, 2025 passed an Extraordinary Resolution approving amendments to those debentures by way of written consent;

**AND WHEREAS** the Extraordinary Resolutions authorized and directed the Debenture Trustee to enter into new supplemental indentures for each series of debentures, and such supplemental indentures were effective as of November 26, 2024 and provided for, among other things, an exchange of the existing debentures for new Debentures on a date on or before January 31, 2025 determined by the board of directors of the Company in its sole discretion;

**AND WHEREAS** the Company is exercising such right to exchange the existing debentures for a new Debenture and is duly authorized to create and issue the Debentures to be issued as herein provided;

**AND WHEREAS** when certified by the Debenture Trustee and issued as in this Indenture provided, all necessary steps in relation to the Company will have been duly enacted, passed and/or confirmed and other proceedings taken and conditions complied with to make the creation and issue of the Debentures proposed to be issued hereunder legal, valid and binding on the Company in accordance with the laws relating to the Company;

**AND WHEREAS** the foregoing recitals are made as representations and statements of fact by the Company and not by the Debenture Trustee;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that for good and valuable consideration mutually given and received, the receipt and sufficiency of which is hereby acknowledged, it is hereby covenanted, agreed and declared as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

In the recitals, in this Indenture (as defined below) and in the Debentures (as defined below), unless there is something in the subject matter or context inconsistent therewith or unless otherwise expressly provided, including, without limitation, as expressly provided in any indenture supplemental hereto, the following terms will have the following meanings set out below:

- (a) **“1933 Act”** means the *United States Securities Act of 1933*, as amended;
- (b) **“90% Redemption Right”** has the meaning attributed thereto in Subsection 2.4(h)(vii);
- (c) **“90% Redemption Right Notice”** has the meaning attributed thereto in Subsection 2.4(h)(vii);
- (d) **“this Trust Indenture”, “this Indenture”, “hereto”, “herein”, “hereby”, “hereunder”, “hereof”** and similar expressions refer to this Indenture and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto;
- (e) **“Acceptance Notice”** has the meaning attributed thereto in Subsection 2.4(h)(iii);
- (f) **“Additional Debentures”** means Debentures of any one or more series, other than the first series of Debentures, being the Initial Debentures, issued under this Indenture;
- (g) **“affiliate”** of a Person means any Person or company that would be deemed to be an affiliated entity of such Person within the meaning of National Instrument 45-106 — *Prospectus and Registration Exemptions*, as replaced or amended from time to time;
- (h) **“Applicable Securities Legislation”** means applicable securities laws (including rules, regulations, policies, blanket orders, rulings and instruments enacted thereunder) in each of the provinces and territories of Canada;
- (i) **“Auditors of the Company”** means an independent firm of chartered accountants duly appointed as auditors of the Company;
- (j) **“Beneficial Holder”** means any Person who holds a beneficial interest in a Global Debenture as shown on the books of the Depository or a Depository Participant;

- (k) “**Business Day**” means any day other than a Saturday, a Sunday, a statutory holiday in the Province of Ontario or any other day on which Canadian chartered banks are not open for business in Toronto, Ontario;
- (l) “**Change of Control**” means the acquisition by any Person, or group of Persons acting jointly or in concert, other than funds managed by Magnetar Financial LLC or any of its or their respective successors, of voting control or direction over an aggregate of 66 2/3% or more of the then outstanding Common Shares and securities convertible into or carrying the right to acquire Common Shares.
- (m) “**Change of Control Purchase Date**” has the meaning attributed thereto in Subsection 2.4(h)(v);
- (n) “**Common Shares**” means the common shares in the capital of the Company;
- (o) “**Company**” means Invesque Inc.;
- (p) “**Counsel**” means a firm of barristers or solicitors retained by the Debenture Trustee or retained by the Company and acceptable to the Debenture Trustee, acting reasonably;
- (q) “**Debenture Offer**” has the meaning attributed thereto in Subsection 2.4(h)(i);
- (r) “**Debenture Trustee**” means Computershare Trust Company of Canada or its successor or successors for the time being as trustee hereunder;
- (s) “**Debentureholders**” or “**holders**” means the Persons for the time being entered in the register for Debentures as registered holders of Debentures;
- (t) “**Debentures**” means the debentures, notes, or other evidences of indebtedness of the Company issued and certified hereunder, or deemed to be issued and certified hereunder, including, without limitation, the Initial Debentures, and for the time being outstanding, whether in definitive or interim form;
- (u) “**Defeased Debentures**” has the meaning attributed thereto in Subsection 8.6(a);
- (v) “**Depository**” means, with respect to the Debentures of any series issuable or issued in the form of one or more Global Debentures, the Person designated as depository by the Company pursuant to Section 3.2 until a successor depository has become such pursuant to the applicable provisions of this Indenture, and thereafter “**Depository**” will mean each Person who is then a depository hereunder, and if at any time there is more than one such Person, “**Depository**” as used with respect to the Debentures of any series means each depository with respect to the Global Debentures of such series;
- (w) “**Depository Participant**” means a broker, dealer, bank, other financial institution or other Person for whom from time to time a Depository effects book-entry settlement for a Global Debenture deposited with the Depository;

- (x) “**Directors**” means the directors of the Company and reference to action “by the Directors” means action by the Directors of the Company;
- (y) “**especially affected series**” has the meaning attributed thereto in Subsection 11.2(b)(i);
- (z) “**Event of Default**” has the meaning attributed thereto in Section 7.1;
- (aa) “**Expiry Date**” has the meaning attributed thereto in Subsection 2.4(h)(ii);
- (bb) “**Expiry Time**” has the meaning attributed thereto in Subsection 2.4(h)(ii);
- (cc) “**Extraordinary Resolution**” has the meaning attributed thereto in Section 11.12;
- (dd) “**First Call Period**” has the meaning attributed thereto in Subsection 2.4(d);
- (ee) “**Fully Registered Debentures**” means Debentures registered as to both principal and interest;
- (ff) “**Global Debenture**” means a Debenture that is issued to and registered in the name of the Depositary, or its nominee, pursuant to Section 2.6 for purposes of being held by or on behalf of the Depositary as custodian for participants in the Depositary’s book-entry only registration system;
- (gg) “**Government Obligations**” means securities issued or guaranteed by the Government of Canada;
- (hh) “**Governmental Entity**” means: (a) any multinational, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, commissioner, board, bureau or agency, domestic or foreign; (b) any subdivision, agent, commission, commissioner, board, or authority of any of the foregoing; (c) any self-regulatory authority, including the TSX; or (d) any quasigovernmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing;
- (ii) “**IFRS**” means international Financial Reporting Standards determined with reference to The Handbook of The Canadian Institute of Chartered Accountants, as amended from time to time;
- (jj) “**Initial Debentures**” means the Debentures designated as “9.75% Unsecured Subordinated Debentures” and described in Section 2.4;
- (kk) “**Initial Debentures Issuance Date**” means the date on which the Initial Debentures are issued;
- (ll) “**Interest Obligation**” means the obligation of the Company to pay interest on the Debentures, as and when the same becomes due;

- (mm) “**Interest Payment Date**” means a date specified in a Debenture as the date on which interest on such Debenture becomes due and payable;
- (nn) “**Maturity Account**” means an account or accounts required to be established by the Company (and which will be maintained by and subject to the control of the Debenture Trustee) for each series of Debentures pursuant to and in accordance with this Indenture;
- (oo) “**Maturity Date**” means the date specified for maturity of any Debentures, provided that with respect to the Initial Debentures, “Maturity Date” shall mean December 30, 2027;
- (pp) “**Offer Price**” has the meaning attributed thereto in Subsection 2.4(h)(i);
- (qq) “**Officer’s Certificate**” means a certificate of the Company signed by any one of the Directors or any one authorized officer of the Company, on behalf of the Company, in such capacity, and not in his or her personal capacity;
- (rr) “**Periodic Offering**” means an offering of Debentures of a series from time to time, the specific terms of which Debentures, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Company upon the issuance of such Debentures from time to time;
- (ss) “**Person**” includes any individual, firm, partnership, joint venture, association, trust, trustee, executor, administrator, legal personal representative, estate, group, corporation, unincorporated association or organization, Governmental Entity, syndicate or other entity, whether or not having legal status and whether acting in an individual, fiduciary or other capacity;
- (tt) “**Privacy Laws**” has the meaning attributed thereto in Section 13.19;
- (uu) “**Redemption Date**” has the meaning attributed thereto in Section 4.3;
- (vv) “**Redemption Notice**” has the meaning attributed thereto in Section 4.3;
- (ww) “**Redemption Price**” means, in respect of a Debenture, the amount, excluding interest, payable on the Redemption Date fixed for such Debenture;
- (xx) “**representing party**” has the meaning attributed thereto in Section 13.18;
- (yy) “**Senior Indebtedness**” means the principal, premium (if any), interest (if any) or any other amounts payable thereunder (if any) on:
  - (i) all indebtedness (including any indebtedness to trade creditors), liabilities and obligations of the Company (other than the Initial Debentures), whether outstanding on the date of this Indenture or thereafter created, incurred, assumed or guaranteed in the normal course or in connection with the acquisition by the Company of any businesses, properties or other assets or

for monies borrowed or raised by whatever means (including, without limitation, by means of commercial paper, bankers' acceptances, letters of credit, debt instruments, revolving credit facilities, bank debt and financial leases, and any liability evidenced by bonds, debentures, notes or similar instruments) by the Company or others including, without limitation, any Subsidiary of the Company for payment of which the Company is responsible or liable, whether absolutely or contingently; and

- (ii) renewals, extensions, restructurings, refinancings and refundings of any such indebtedness, liabilities or obligations;

unless in each case it is provided by the terms of the instrument creating or evidencing such indebtedness, liabilities or obligations that such indebtedness, liabilities or obligations are *pari passu* with or subordinate in right of payment to Debentures that by their terms are subordinated, which for greater certainty includes the Initial Debentures;

- (zz) “**Serial Meeting**” has the meaning attributed thereto in Subsection 11.2(b)(i);
- (aaa) “**Shareholders**” means holders of Common Shares and “**Shareholder**” means any one of them;
- (bbb) “**Subsidiary**” means, with respect to any Person, (a) any corporation, association or other business entity (other than a partnership, joint venture or limited liability company) of which 50% or more of the total voting securities entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof and (b) any partnership, joint venture or limited liability company of which 50% or more of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise and such Person owns or controls, directly or indirectly, 50% or more of the total equity and voting rights of the general partner of such entity;
- (ccc) “**Successor**” has the meaning attributed thereto in Section 9.1;
- (ddd) “**Tax Act**” means the *Income Tax Act* (Canada), and the regulations thereunder, as amended;
- (eee) “**TSX**” means the Toronto Stock Exchange;
- (fff) “**United States**” means the United States of America, its territories and possessions, any state of the United States and the District of Columbia; and
- (ggg) “**Written Direction of the Company**” means an instrument in writing signed by any one authorized Director or officer of the Company.

## 1.2 Meaning of “Outstanding”

Every Debenture certified and delivered by the Debenture Trustee hereunder is deemed to be outstanding until it is cancelled, redeemed or delivered to the Debenture Trustee for cancellation or redemption and monies and/or other property, as the case may be, for the payment thereof will have been set aside under Article 8, provided that:

- (a) Debentures which have been partially redeemed or purchased are deemed to be outstanding only to the extent of the unredeemed or unpurchased part of the principal amount thereof;
- (b) when a new Debenture has been issued in substitution for a Debenture which has been lost, stolen or destroyed, only one of such Debentures will be counted for the purpose of determining the aggregate principal amount of Debentures outstanding;
- (c) for the purposes of any provision of this Indenture entitling holders of outstanding Debentures to vote, sign consents, requisitions or other instruments or take any other action under this Indenture, or to constitute a quorum of any meeting of Debentureholders, Debentures owned directly or indirectly, legally or equitably, by the Company shall be disregarded except that:
  - (i) for the purpose of determining whether the Debenture Trustee shall be protected in relying on any such vote, consent, acquisition or other instrument or action, or on the holders of Debentures present or represented at any meeting of Debentureholders, only the Debentures which the Debenture Trustee knows are so owned shall be so disregarded; and
  - (ii) Debentures so owned which have been pledged in good faith other than to the Company shall not be so disregarded if the pledgee shall establish to the satisfaction of the Debenture Trustee the pledgee’s right to vote such Debentures, sign consents, requisitions or other instruments or take such other actions in his or her discretion free from the control of the Company or a Subsidiary of the Company.

## 1.3 Interpretation

In this Indenture:

- (a) words importing the singular number or masculine gender include the plural number or the feminine or neuter genders and vice versa;
- (b) all references to Articles and Schedules refer, unless otherwise specified, to articles of and schedules to this Indenture;
- (c) all references to Sections or Subsections refer, unless otherwise specified, to sections, subsections or clauses of this Indenture; and

- (d) words and terms denoting inclusiveness (such as “include” or “includes” or “including”), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them.

#### **1.4 Headings, etc.**

The division of this Indenture into Articles and Sections, the provision of a table of contents and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Indenture.

#### **1.5 Day Not a Business Day**

In the event that any day on or before which any action required to be taken hereunder is not a Business Day, then such action will be taken on or before the requisite time on the next succeeding day that is a Business Day.

#### **1.6 Applicable Law**

This Indenture and the Debentures will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. For the purpose of all legal proceedings, this Indenture will be deemed to have been performed in the Province of Ontario and the courts of the Province of Ontario will have jurisdiction to entertain any action arising under this Agreement. The Company attorns to the jurisdiction of the courts of Province of Ontario.

#### **1.7 Conflict**

In the event of a conflict or inconsistency between a provision in the body of this Indenture and in the Debentures issued hereunder, the provision in the body of this Indenture will prevail to the extent of the inconsistency.

#### **1.8 Currency**

All dollar amounts expressed in this Indenture and in the Debentures are in lawful money of United States and all payments required to be made hereunder and thereunder will be made in United States dollars.

#### **1.9 Severability**

Each of the provisions in this Indenture is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any of the other provisions hereof.

#### **1.10 Successors and Assigns**

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

### **1.11 Benefits of Indenture**

Nothing in this Indenture or in the Debentures, express or implied, gives to any Person, other than the parties hereto and their successors hereunder, any paying agent, the holders of Debentures, and the Directors any benefit or any legal or equitable right, remedy or claim under this Indenture.

### **1.12 Schedules**

The following Schedules form part of this Indenture:

Schedule A — FORM OF INITIAL DEBENTURE

Schedule B — FORM OF REDEMPTION NOTICE

## **ARTICLE 2 THE DEBENTURES**

### **2.1 Limit of Debentures**

The aggregate principal amount of Debentures authorized to be issued under this Indenture is unlimited, but Debentures may be issued only upon and subject to the conditions and limitations herein set forth.

### **2.2 Terms of Debentures of any Series**

The Debentures may be issued in one or more series. There will be established herein, or in or pursuant to one or more indentures supplemental hereto, prior to the initial issuance of Debentures of any particular series:

- (a) the designation of the Debentures of the series (which need not include the term “**Debentures**”), which will distinguish the Debentures of the series from the Debentures of all other series;
- (b) any limit upon the aggregate principal amount of the Debentures of the series that may be certified and delivered under this Indenture (except for Debentures certified and delivered upon registration of, transfer of, amendment of, or in exchange for, or in lieu of, other Debentures of the series pursuant to Sections 2.9, 2.10, 3.2, 3.3 and 3.6);
- (c) the date or dates on which the principal of the Debentures of the series is payable;
- (d) the rate or rates at which the Debentures of the series will bear interest, if any, the date or dates from which such interest will accrue, on which such interest will be payable and on which a record, if any, will be taken for the determination of holders to whom such interest will be payable and/or the method or methods by which such rate or rates or date or dates will be determined;
- (e) the place or places where the principal of and any interest on Debentures of the series will be payable or where any Debentures of the series may be surrendered for registration of transfer or exchange;

- (f) the right, if any, of the Company to redeem Debentures of the series, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions upon which Debentures of the series may be so redeemed, pursuant to any sinking fund or otherwise;
- (g) the obligation, if any, of the Company to redeem, purchase or repay Debentures of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a holder thereof and the price or prices at which, the period or periods within which, the date or dates on which, and any terms and conditions upon which, Debentures of the series will be redeemed, purchased or repaid, in whole or in part, pursuant to such obligations;
- (h) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which Debentures of the series will be issuable;
- (i) subject to the provisions of this Indenture, any trustees, Depositaries, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Debentures of the series;
- (j) any other events of default or covenants with respect to the Debentures of the series;
- (k) whether and under what circumstances the Debentures of the series will be convertible into or exchangeable for securities of any Person;
- (l) the form and terms of the Debentures of the series;
- (m) if applicable, that the Debentures of the series will be issuable in whole or in part as one or more Global Debentures and, in such case, the Depositary or Depositaries for such Global Debentures in whose name the Global Debentures will be registered, and any circumstances other than or in addition to those set forth in Section 2.9 or 3.2 or those applicable with respect to any specific series of Debentures, as the case may be, in which any such Global Debenture may be exchanged for Fully Registered Debentures, or transferred to and registered in the name of a person other than the Depositary for such Global Debentures or a nominee thereof;
- (n) if other than United States currency, the currency in which the Debentures of the series are issuable; and
- (o) any other terms of the Debentures of the series (which terms will not be inconsistent with the provisions of this Indenture).

All Debentures of any one series will be substantially identical, except as may otherwise be established herein or pursuant to one or more resolutions of the Directors, as evidenced by an Officer's Certificate or in an indenture supplemental hereto. All Debentures of any one series need not be issued at the same time and may be issued from time to time, including pursuant to a Periodic Offering, consistent with the terms of this Indenture, if so provided herein, pursuant to one

or more resolutions of the Directors, as evidenced by an Officer's Certificate or in an indenture supplemental hereto.

### 2.3 Form of Debentures

Except in respect of the Initial Debentures, the form of which is provided for herein, the Debentures of each series will be substantially in such form or forms (not inconsistent with this Indenture) as will be established herein or pursuant to one or more resolutions of the Directors, as evidenced by an Officer's Certificate detailing such establishment or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform to general usage, all as may be determined by the Directors or officers of the Company executing such Debentures, as conclusively evidenced by their execution of such Debentures. The form of the Debentures of each series shall state that the holder, by acceptance of the Debenture, assents to the terms and conditions upon which the Debentures are or are to be issued and held and the rights and remedies of holders of the Debentures and of the Company and of the Debenture Trustee, all to the same effect as if the provisions of this Indenture were set forth in such Debenture.

### 2.4 Form and Terms of Initial Debentures

- (a) *Terms.* The first series of Debentures (the "**Initial Debentures**") authorized for issuance is limited to an aggregate principal amount of \$27,300,000 and will be designated as "9.75% Unsecured Subordinated Debentures". However, additional Initial Debentures may be issued pursuant to this Indenture, as may be amended from time to time, after the date hereof. The Debenture Trustee has been appointed as transfer agent and registrar of the Initial Debentures.
- (b) *Maturity Date.* The Initial Debentures will mature on December 30, 2027.
- (c) *Interest.* The Initial Debentures will bear interest from, and including, the date of issue at the rate of 9.75% per annum, payable in equal semi-annual payments in arrears on December 31 and June 30 of each year, the first such payment falling due on June 30, 2025, payable after as well as before maturity and after as well as before default, with interest on amounts in default at the same rate, compounded semi-annually, computed on the basis of a 360-day year composed of twelve 30-day months. The first interest payment will include interest accrued from and including December 30, 2024 to but excluding June 30, 2025 and will be in an amount equal to \$49.02 per \$1,000 principal amount of the Initial Debentures.
- (d) *Redemption.* The Initial Debentures are redeemable in accordance with the terms of Article 4. On or after the Initial Debentures Issuance Date and prior to the first anniversary of the Initial Debentures Issuance Date (the "**First Call Period**"), the Initial Debentures may be redeemed at the option of the Company in whole or in part from time to time on notice as provided for in Section 4.3 (which notice may, for greater certainty, be provided by the Company prior to the First Call Period,

subject to compliance with Section 4.3) at a Redemption Price equal to 102% of the principal amount of the Initial Debentures; provided, however, that notwithstanding the foregoing, during the First Call Period up to 25% of the Initial Debentures may be redeemed at the option of the Company in whole or in part from time to time on notice as provided for in Section 4.3 (which notice may, for greater certainty, be provided by the Company prior to the expiry of the First Call Period, subject to compliance with Section 4.3) at a Redemption Price equal to 100% of the principal amount of the Initial Debentures. In addition thereto, at the time of redemption, the Company will pay to the holder accrued and unpaid interest up to but not including the Redemption Date. On or after the expiry of the First Call Period and prior to the Maturity Date, the Initial Debentures may be redeemed at the option of the Company in whole or in part from time to time on notice as provided for in Section 4.3 (which notice may, for greater certainty, be provided by the Company prior to the expiry of the First Call Period, subject to compliance with Section 4.3), at a Redemption Price equal to the principal amount of the Initial Debentures. In addition thereto, at the time of redemption, the Company will pay to the holder accrued and unpaid interest up to but not including the Redemption Date. The Redemption Notice for the Initial Debentures will be substantially in the form of Schedule B.

- (e) *Priority.* The Initial Debentures will be subordinated to the Senior Indebtedness of the Company in accordance with the provisions of Article 5.
- (f) *Form of Debentures.* The Initial Debentures will be issued in denominations of \$1,000 and integral multiples of \$1,000. Each Initial Debenture and the certificate of the Debenture Trustee endorsed thereon will be issued in substantially the form set out in Schedule A with such insertions, omissions, substitutions or other variations as required or permitted by this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of the Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform with general usage, all as may be determined by the Director or officer of the Company executing such Initial Debenture in accordance with Section 2.7, as conclusively evidenced by his or her execution of an Initial Debenture. Each Initial Debenture will also bear such distinguishing letters and numbers as the Debenture Trustee approves. Notwithstanding the foregoing, an Initial Debenture may be in such other form or forms as may, from time to time, be specified in an Officer's Certificate. The Initial Debentures may be engraved, lithographed, printed, mimeographed or typewritten or partly in one form and partly in another.
- (g) *Global Debentures.* The Initial Debentures will be issued as Global Debentures. The Depository for the Initial Debentures will be CDS Clearing and Depository Services Inc. The Global Debentures will be registered in the name of CDS & Co. (or any nominee of the Depository). No beneficial holder will receive definitive certificates representing their interest in Initial Debentures except as provided in Section 3.2. A Global Debenture may be exchanged for Debentures in registered form that are not Global Debentures, or transferred to and registered in the name of

a person other than the Depository for such Global Debentures or a nominee thereof as provided in Section 3.2.

- (h) *Change of Control.* Upon the occurrence of a Change of Control and subject to the provisions and conditions of this Section 2.4(h), the Company will be obligated to offer to purchase all Initial Debentures then outstanding. The terms and conditions of such obligation are set forth below:
- (i) Within 30 days following the occurrence of a Change of Control, the Company will deliver to the Debenture Trustee a notice in writing stating that there has been a Change of Control and specifying the date on which such Change of Control occurred and the circumstances or events giving rise to such Change of Control together with an offer in writing (the “**Debenture Offer**”) to purchase all of the Initial Debentures then outstanding from the holders thereof at a price per Initial Debenture equal to 101% of the principal amount thereof together with accrued and unpaid interest thereon up to but excluding the Change of Control Purchase Date (as defined below) (the “**Offer Price**”). The Debenture Trustee will within three Business Days thereafter deliver, by prepaid courier or mail, the Debenture Offer to the holders of all Initial Debentures then outstanding, at their addresses appearing in the registers of holders of Initial Debentures maintained by the Debenture Trustee.
  - (ii) The Debenture Offer will specify the date (the “**Expiry Date**”) and time (the “**Expiry Time**”) on which the Debenture Offer expires which date and time will not, unless otherwise required by Applicable Securities Legislation, be earlier than the close of business on the 35<sup>th</sup> day and not later than the close of business on the 60<sup>th</sup> day following the date on which such Debenture Offer is delivered or mailed by or on behalf of the Debenture Trustee as provided above.
  - (iii) The Debenture Offer will specify that the Debenture Offer may be accepted by the holders of Initial Debentures by tendering the Initial Debentures so held by them to the Debenture Trustee at its principal offices in Toronto, Ontario at or before the Expiry Time together with an acceptance notice (the “**Acceptance Notice**”) in form and substance acceptable to the Debenture Trustee.
  - (iv) The Debenture Offer will state that holders of Initial Debentures may accept the Debenture Offer in respect of all or a portion (in a minimum amount of \$1,000 principal amount and multiples thereof) of their Initial Debentures.
  - (v) The Debenture Offer will specify a date (the “**Change of Control Purchase Date**”) no later than the third Business Day following the Expiry Date on which the Company will take up and pay for all Initial Debentures duly tendered in acceptance of the Debenture Offer.
  - (vi) The Company will, on or before 10:00 a.m. (Toronto time), on the Business Day immediately prior to the Change of Control Purchase Date pay to the

Debenture Trustee by wire transfer or such other means as may be acceptable to the Debenture Trustee, an amount of money sufficient to pay the aggregate Offer Price in respect of all Initial Debentures duly tendered to the Debenture Offer (less applicable withholding taxes, if any). The Debenture Trustee, on behalf of the Company, will pay the Offer Price to the holders of Initial Debentures in the respective amounts to which they are entitled in accordance with the Debenture Offer as aforesaid.

- (vii) If 90% or more of the aggregate principal amount of Debentures issued under the Indenture outstanding on the date the Company provides notice of the Change of Control have been tendered to the Company pursuant to the Debenture Offer, the Company will have the right (the “**90% Redemption Right**”), but not the obligation, upon written notice (the “**90% Redemption Right Notice**”) provided to the Debenture Trustee within 10 days following the Expiry Date, to elect to redeem all the Initial Debentures remaining outstanding at the Offer Price and on the other terms and conditions provided herein. Upon receipt of such notice by the Debenture Trustee, the Debenture Trustee will promptly provide written notice to each holder of outstanding Initial Debentures (other than those that have accepted the Debenture Offer) that:
  - (A) the Company has exercised the 90% Redemption Right and is purchasing all outstanding Initial Debentures effective as at the Change of Control Purchase Date at the Offer Price;
  - (B) such holder will surrender its Initial Debentures to the Debenture Trustee within 30 days after the sending of such notice; and
  - (C) the rights of such holder under the terms of the Initial Debentures and this Indenture will cease to be effective as of the Change of Control Purchase Date provided the Company has, on or before the date on which the Company delivers the 90% Redemption Notice to the Debenture Trustee, paid the aggregate Offer Price to, or to the order of, the Debenture Trustee and thereafter such holder’s Initial Debentures will not be considered to be outstanding and such holder will not have any rights hereunder except to receive such Offer Price to which such holder is entitled upon surrender and delivery of such holder’s Initial Debentures in accordance with the Indenture.
  
- (viii) The Company will, on or before 10:00 a.m. (Toronto time), on the Business Day immediately prior to the date on which the Company delivers the 90% Redemption Right Notice, pay to the Debenture Trustee by wire transfer or such other means as may be acceptable to the Debenture Trustee, an amount of money sufficient to pay the aggregate Offer Price in respect of all Initial Debentures to be redeemed pursuant to the 90% Redemption Right (less applicable withholding taxes, if any). The Debenture Trustee, on behalf of the Company, will pay the Offer Price to the holders of Initial Debentures in the respective amounts to which they are entitled in accordance with the

exercise of the 90% Redemption Right as aforesaid upon surrender and delivery of such holders' Initial Debentures.

- (ix) The Initial Debentures in respect of which the Company has made payment to the Debenture Trustee in accordance with the terms of this Subsection 2.4(h) (or the portion thereof tendered in acceptance of the Debenture Offer) will thereafter no longer be considered to be outstanding under this Indenture. The Company will also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection with the Debenture Offer and the exercise of the 90% Redemption Right if applicable. All Initial Debentures in respect of which payment of the Offer Price has been so made will be cancelled by the Debenture Trustee.
- (x) In the event that only a portion of the principal amount of an Initial Debenture is tendered by a holder thereof in acceptance of the Debenture Offer, the Company will execute and deliver to the Debenture Trustee and the Debenture Trustee will certify and deliver to the holder, without charge to such holder, a certificate representing the principal amount of the Initial Debenture not so tendered in acceptance of the Debenture Offer.
- (i) *Documents to Debenture Trustee.* The Debenture Trustee will be provided with the documents and instruments referred to in Subsections 2.5(b), 2.5(c) and 2.5(d), with respect to the Initial Debentures prior to the issuance of the Initial Debentures.

## **2.5 Certification and Delivery of Additional Debentures**

The Company may from time to time request the Debenture Trustee to certify and deliver Additional Debentures of any series by delivering to the Debenture Trustee the documents referred to below in this Section 2.5 whereupon the Debenture Trustee will certify such Debentures and cause the same to be delivered in accordance with the Written Direction of the Company referred to below or pursuant to such procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the Company. The maturity date, issue date, interest rate (if any) and any other terms of the Debentures of such series will be set forth in or determined by or pursuant to such Written Direction of the Company and procedures. In certifying such Debentures, the Debenture Trustee is entitled to receive and is fully protected in relying upon, unless and until such documents have been superseded or revoked:

- (a) an Officer's Certificate and executed supplemental indenture by or pursuant to which the form and terms of such Additional Debentures were established;
- (b) a Written Direction of the Company requesting certification and delivery of such Additional Debentures and setting forth delivery instructions; provided that, with respect to Debentures of a series subject to a Periodic Offering:
  - (i) such Written Direction of the Company may be delivered by the Company to the Debenture Trustee prior to the delivery to the Debenture Trustee of such Additional Debentures of such series for certification and delivery;

- (ii) the Debenture Trustee will certify and deliver Additional Debentures of such series for original issue from time to time in an aggregate principal amount not exceeding the aggregate principal amount, if any, established for such series, pursuant to a Written Direction of the Company or pursuant to procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the Company; and
- (iii) the maturity date or dates, issue date or dates, interest rate or rates (if any) and any other terms of Additional Debentures of such series will be determined by an executed supplemental indenture;
- (c) an opinion of Counsel, in form and substance satisfactory to the Debenture Trustee, acting reasonably, to the effect that all requirements imposed by the Indenture or by law in connection with the proposed issue of Additional Debentures have been complied with, subject to the delivery of certain documents or instruments specified in such opinion; and
- (d) an Officer's Certificate certifying that the Company is not in default under this Indenture, that the terms and conditions for the certification and delivery of Additional Debentures (including those set forth in Section 13.5), have been complied with subject to the delivery of any documents or instruments specified in such Officer's Certificate and that no Event of Default exists or will exist upon such certification and delivery.

## **2.6 Issue of Global Debentures**

- (a) The Company may specify that the Debentures of a series are to be issued in whole or in part as one or more Global Debentures registered in the name of a Depository, or its nominee, designated by the Company in the Written Direction of the Company delivered to the Debenture Trustee at the time of issue of such Debentures, and in such event the Company will execute and the Debenture Trustee will certify and deliver one or more Global Debentures that will:
  - (i) represent an aggregate amount equal to the principal amount of the outstanding Debentures of such series to be represented by one or more Global Debentures;
  - (ii) be delivered by the Debenture Trustee to such Depository or pursuant to such Depository's instructions; and
  - (iii) bear a legend substantially to the following effect:

“UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. (“CDS”) TO INVESQUE INC. OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF CDS & CO., OR TO SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED

REPRESENTATIVE OF CDS (AND ANY PAYMENT IS MADE TO CDS & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED HOLDER HEREOF, CDS & CO., HAS A PROPERTY INTEREST IN THE SECURITIES REPRESENTED BY THIS CERTIFICATE HEREIN AND IT IS A VIOLATION OF ITS RIGHTS FOR ANOTHER PERSON TO HOLD, TRANSFER OR DEAL WITH THIS CERTIFICATE.”

- (b) Each Depositary designated for a Global Debenture will, at the time of its designation and at all times while it serves as such Depositary, be a clearing agency registered or designated under the securities legislation of the jurisdiction where the Depositary has its principal offices.

## **2.7 Execution of Debentures**

All Debentures will be signed (either manually or by facsimile signature) by any one Director or any one authorized officer of the Company, on behalf of the Company, holding office at the time of signing. A facsimile signature upon a Debenture is for all purposes of this Indenture 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 Debenture as Director or an authorized officer of the Company, on behalf of the Company, may no longer hold such office at the date of the Debenture or at the date of the certification and delivery thereof, such Debenture will be valid and binding upon the Company and entitled to the benefits of this Indenture.

## **2.8 Certification**

No Debenture will be issued or, if issued, will be obligatory or will entitle the holder to the benefits of this Indenture, until it has been manually certified by or on behalf of the Debenture Trustee substantially in the form set out in this Indenture, in the relevant supplemental indenture or in some other form approved by the Debenture Trustee. Such certification on any Debenture is conclusive evidence that such Debenture is duly issued, is a valid obligation of the Company and the holder is entitled to the benefits hereof.

The certificate of the Debenture Trustee signed on the Debentures, or interim Debentures hereinafter mentioned, will not be construed as a representation or warranty by the Debenture Trustee as to the validity of this Indenture or of the Debentures or interim Debentures or as to the issuance of the Debentures or interim Debentures and the Debenture Trustee will in no respect be liable or answerable for the use made of the Debentures or interim Debentures or any of them or the proceeds thereof. The certificate of the Debenture Trustee signed on the Debentures or interim Debentures will, however, be a representation and warranty by the Debenture Trustee that the Debentures or interim Debentures have been duly certified by or on behalf of the Debenture Trustee pursuant to the provisions of this Indenture.

## **2.9 Interim Debentures or Certificates**

Pending the delivery of definitive Debentures of any series to the Debenture Trustee, the Company may issue and the Debenture Trustee may certify in lieu thereof interim Debentures in such forms

and in such denominations and signed in such manner as provided herein, entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; or the Company may execute and the Debenture Trustee may certify a temporary Debenture for the whole principal amount of Debentures of the series then authorized to be issued hereunder, as the Company and the Debenture Trustee may approve, entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; and, when so issued and certified, such interim or temporary Debentures or interim certificates will, for all purposes but without duplication, rank in respect of this Indenture equally with Debentures duly issued hereunder and, pending the exchange thereof for definitive Debentures, the holders of the interim or temporary Debentures or interim certificates will be deemed without duplication to be Debentureholders and entitled to the benefit of this Indenture to the same extent and in the same manner as though the said exchange had actually been made. Forthwith after the Company has delivered the definitive Debentures to the Debenture Trustee, the Debenture Trustee will cancel such temporary Debentures, if any, and will call in for exchange all interim Debentures or certificates that were issued and forthwith after such exchange will cancel the same. No charge will be made by the Company or the Debenture Trustee to the holders of such interim or temporary Debentures or interim certificates for the exchange thereof. All interest paid upon interim or temporary Debentures or interim certificates will be noted thereon as a condition precedent to such payment unless paid by cheque to the registered holders thereof.

## **2.10 Mutilation, Loss, Theft or Destruction**

In case any of the Debentures issued hereunder become mutilated, lost, stolen or destroyed, the Company, in its discretion, may issue, and thereupon the Debenture Trustee will certify and deliver, a new Debenture upon surrender and cancellation of the mutilated Debenture, or in the case of a lost, stolen or destroyed Debenture, in lieu of and in substitution for the same, and the substituted Debenture will be in a form approved by the Debenture Trustee and will be entitled to the benefits of this Indenture and rank equally in accordance with its terms with all other Debentures issued or to be issued hereunder. In case of loss, theft or destruction the applicant for a substituted Debenture will furnish to the Company and to the Debenture Trustee such evidence of the loss, theft or destruction of the Debenture as is satisfactory to them in their discretion and will also furnish a surety bond and an indemnity satisfactory to them in their discretion. The applicant will pay all reasonable expenses incidental to the issuance of any substituted Debenture.

## **2.11 Concerning Interest**

- (a) All Debentures issued hereunder, whether originally or upon exchange or in substitution for previously issued Debentures which are interest bearing, will, unless otherwise specifically provided in the terms of the Debentures of any series, bear interest (i) from and including their issue date, or (ii) from and including the last Interest Payment Date in respect of which interest has become due and payable on the outstanding Debentures of that series, whichever is later, to but excluding the next Interest Payment Date.
- (b) Unless otherwise specifically provided in the terms of the Debentures of any series, interest for any period of less than six months will be computed on the basis of a year of 360 days. Subject to Subsection 2.4(c) in respect of the method for calculating the amount of interest to be paid on the Initial Debentures on the first

Interest Payment Date in respect thereof, with respect to any series of Debentures, whenever interest is computed on the basis of a 360 day year or a 365 or 366 day year, as the case may be, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or 365 or 366, as applicable. The rates of interest under this Agreement are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement.

- (c) The Debenture Trustee shall be entitled to rely on the calculations of the Company with regards to the calculation of interest.

## **2.12 Debentures to Rank Pari Passu**

The Debentures will be direct unsecured subordinated obligations of the Company. Each Debenture of the same series of Debentures will rank *pari passu* with each other Debenture of the same series (regardless of their actual date or terms of issue) and, subject to statutory preferred exceptions, with all other present and future subordinated and unsecured indebtedness of the Company except for sinking fund provisions (if any) applicable to different series of Debentures or other similar types of obligations of the Company.

## **2.13 Payments of Amounts Due on Maturity**

Except as may otherwise be provided herein or in any supplemental indenture in respect of any series of Debentures, payments of amounts due upon maturity of the Debentures will be made in the following manner. The Company will establish and maintain with the Debenture Trustee a Maturity Account for each series of Debentures. Each such Maturity Account will be maintained by and be subject to the control of the Debenture Trustee for the purposes of this Indenture. On or before 10:00 a.m. (Toronto time) on the Business Day immediately prior to each maturity date for Debentures outstanding from time to time under this Indenture, the Company will deliver by certified cheque or wire transfer to the Debenture Trustee for deposit in the applicable Maturity Account an amount calculated by the Company to be sufficient to pay the cash amount payable in respect of such Debentures (including the principal amount together with any accrued and unpaid interest thereon less applicable withholding taxes, if any). The Debenture Trustee, on behalf of the Company, will pay to each holder entitled to receive payment the principal amount of and premium (if any) and accrued and unpaid interest on the Debenture (less applicable withholding taxes, if any), upon surrender of the Debenture at any branch of the Debenture Trustee designated for such purpose from time to time by the Company and the Debenture Trustee. The delivery of such funds to the Debenture Trustee for deposit to the applicable Maturity Account will satisfy and discharge the liability of the Company for the Debentures to which the delivery of funds relates to the extent of the amount delivered (plus the amount of any tax withheld or deducted as aforesaid and remitted to the proper tax authority) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the money so delivered or made available the amount to which it is entitled. The Debenture Trustee shall make payments hereunder only to the extent that it has been funded.

## 2.14 U.S. Legend

- (a) The Initial Debentures have not been and will not be registered under the 1933 Act and may not be offered or sold within the United States, except pursuant to an exemption from the registration requirements of the 1933 Act and all applicable state securities laws.
- (b) Certificates representing each Debenture issued pursuant to a transaction that is not required to be registered under the 1933 Act (other than pursuant to Regulation S under the 1933 Act) and, except as provided below, all certificates representing Debentures issued in exchange for or in substitution or transfer of such Debentures, shall bear the following legend in boldface print on the face of such certificate for so long as required by applicable requirements of the 1933 Act and state securities laws:

**“THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “U.S. SECURITIES ACT”). THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, DIRECTLY OR INDIRECTLY, ONLY (A) TO INVESQUE INC. (THE “CORPORATION”), (B) IN COMPLIANCE WITH THE EXEMPTION FROM THE REGISTRATION REQUIREMENTS UNDER THE U.S. SECURITIES ACT PROVIDED BY (I) RULE 144 OR (II) RULE 144A THEREUNDER, IF AVAILABLE, (C) IN ANOTHER TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE U.S. SECURITIES ACT OR ANY APPLICABLE STATE SECURITIES LAWS, OR (D) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE U.S. SECURITIES ACT, AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE STATE SECURITIES LAWS IN THE UNITED STATES, PROVIDED THAT, IN THE CASE OF TRANSFERS PURSUANT TO (B)(I) OR (C) ABOVE, THE HOLDER HAS, PRIOR TO SUCH TRANSFER, FURNISHED TO THE CORPORATION AN OPINION OF COUNSEL OR OTHER EVIDENCE OF EXEMPTION, IN EITHER CASE REASONABLY SATISFACTORY TO THE CORPORATION.**

**DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE “GOOD DELIVERY” IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA.**

Provided, that if any such securities are being sold under clauses (B)(I) or (C) above the legend may be removed by delivery to the Company and the Debenture Trustee of an opinion of counsel, of recognized standing reasonably satisfactory to the Company, that such legend is no longer required under applicable requirements of the 1933 Act or state securities laws.

Provided, that the Debenture Trustee obtains written confirmation from the Company that such opinion of counsel is satisfactory to it, it shall be entitled to rely on such opinion of counsel without further inquiry. The Company or its Counsel shall provide written approval for the legend removal to the Debenture Trustee.

The Company shall direct the Debenture Trustee prior to the initial closing as to the legends which are to appear on certificates and thereafter upon transfer, exchange or otherwise the Company shall direct the Debenture Trustee in writing setting out the legends to be placed on specific certificates. The Debenture Trustee will thereafter maintain a list of all registered holders from time to time of legended Debentures.

Notwithstanding anything to the contrary contained herein, all Debentures that are required to bear the legend described in this Section 2.14 shall be issued as Fully Registered Debentures that are represented by definitive certificates issued and delivered to the purchasers thereof.

## **2.15 Payment of Interest**

The following provisions apply to Debentures, except as otherwise provided in Subsection 2.4(c) with respect to the Initial Debentures or specified in an Officer's Certificate or a supplemental indenture relating to a particular series of Additional Debentures:

- (a) As interest becomes due on each Debenture (except at maturity or on redemption, when interest may at the option of the Company be paid upon surrender of such Debenture) the Company, either directly or through the Debenture Trustee or any agent of the Debenture Trustee, will send or forward by prepaid ordinary mail, electronic transfer of funds, or other means acceptable to the parties, payment of such interest (less applicable withholding taxes, if any) to the order of the registered holder of such Debenture appearing on the registers maintained by the Debenture Trustee at the close of business on the fifth Business Day prior to the applicable Interest Payment Date and addressed to the holder at the holder's last address appearing on the register, unless such holder otherwise directs. If payment is made by cheque, such cheque will be forwarded at least three Business Days prior to each date on which interest becomes due (and, if such cheque is to be mailed by the Debenture Trustee, the Company will deliver to the Debenture Trustee the amount required to be paid by the Debenture Trustee one Business Day prior to the date on which the Debenture Trustee is required to mail such cheque) and if payment is made by other means (such as electronic transfer of funds, provided the Debenture Trustee will receive confirmation of receipt of funds prior to being able to wire funds to holders), such payment will be made in a manner whereby the holder receives credit for such payment on the date such interest on such Debenture becomes due. The mailing of such cheque or the making of such payment by other means will, to the extent of the sum represented thereby, plus the amount of any tax withheld or deducted as aforesaid and remitted to the proper tax authority, satisfies and discharges all liability for interest on such Debenture, 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 Company or the Debenture Trustee will issue to such person a replacement cheque or other payment for the amount upon being furnished with such evidence of non-receipt as it reasonably requires and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Company is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on each

Debenture in the manner provided above, the Company may make payment of such interest or make such interest available for payment in any other manner acceptable to the Debenture Trustee with the same effect as though payment had been made in the manner provided above.

- (b) Notwithstanding Subsection 2.15(a), if a series of Debentures is represented, in whole or in part, by a Global Debenture, then all payments of interest on the Global Debenture will be made by electronic funds transfer, or cheque, to the Depository or its nominee for subsequent payment to Beneficial Holders of interests in that Global Debenture, unless the Company and the Depository otherwise agree. The Company will pay such funds to the Debenture Trustee on or before 10:00 a.m. (Toronto time) on the Business day immediately prior to the applicable Interest Payment Date. None of the Company, the Debenture Trustee or any agent of the Debenture Trustee for any Debenture issued as a Global Debenture 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 Global Debenture or for maintaining, reviewing, or supervising any records relating to such beneficial interests.

## **2.16 Withholding Tax**

- (a) The Company, either directly or through the Debenture Trustee, is entitled to deduct and withhold an amount in respect of any applicable taxes or similar charges (including interest, penalties or similar amounts in respect thereof) imposed or levied by or on behalf of the Canadian government or of any Province or territory thereof or any authority or agency having power to tax, including pursuant to the Tax Act, from any payment (or portion thereof) to be made on or in connection with the Debentures and, provided that the Company, or the Debenture Trustee, as the case may be, forthwith remits such withheld amount to such government, authority or agency and files all required forms in respect thereof and promptly provides copies of such remittance and filing to the Debenture Trustee or the relevant Debentureholder, the amount of any such deduction or withholding will be considered an amount paid in satisfaction of the Company's obligations under the Debentures and there is no obligation on the Company to gross-up amounts paid or credited to a holder or any other Person in respect of such deductions or withholdings.
- (b) The Company will provide the Debenture Trustee or the relevant Debentureholder with copies of receipts or other communications relating to the remittance of such withheld amount or the filing of such forms received from such government, authority or agency promptly after receipt thereof.
- (c) To the extent that the amount so required to be deducted or withheld from any payment by the Company in respect of the Debentures exceeds the cash portion (if any) of the amounts otherwise payable in respect of the Debentures, the Company is hereby authorized to facilitate the sale or otherwise dispose of such portion of the consideration payable in respect of the Debentures as is necessary to provide sufficient funds to the Company to enable it to comply with such deduction or withholding requirement.

**ARTICLE 3**  
**REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP**

**3.1 Fully Registered Debentures**

- (a) With respect to each series of Debentures issuable, in whole or in part, as Fully Registered Debentures, the Company will cause to be kept by and at the principal office of the Debenture Trustee in Toronto, Ontario and by the Debenture Trustee or such other registrar as the Company, with the approval of the Debenture Trustee may appoint at such other place or places, if any, as may be specified in the Debentures of such series or as the Company may designate with the approval of the Debenture Trustee, a register in which will be entered the names and addresses of the holders of Fully Registered Debentures and particulars of the Debentures held by them respectively and of all transfers of Fully Registered Debentures. Such registration will be noted on the Debentures by the Debenture Trustee or other registrar unless a new Debenture is issued upon such transfer.
- (b) No transfer of a Fully Registered Debenture will be valid unless made on such register referred to in Subsection 3.1(a) by the registered holder or such holder's executors, administrators or other legal representatives or a mandatary duly appointed by an instrument in writing in form and execution satisfactory to the Debenture Trustee or other registrar upon surrender of the Debentures together with a duly executed form of transfer acceptable to the Debenture Trustee and upon compliance with such other reasonable requirements as the Debenture Trustee or other registrar may prescribe, nor unless the name of the transferee has been noted on the Debenture by the Debenture Trustee or other registrar and the address of the transferee has been provided to the Debenture Trustee or other registrar.

**3.2 Global Debentures**

- (a) With respect to each series of Debentures issuable in whole or in part as one or more Global Debentures, the Company will cause to be kept by and at the principal offices of the Debenture Trustee in Toronto, Ontario and by the Debenture Trustee or such other registrar as the Company, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as the Company may designate with the approval of the Debenture Trustee, a register in which will be entered the name and address of the holder of each such Global Debenture (being the Depositary, or its nominee, for such Global Debenture) as holder thereof and particulars of the Global Debenture held by it, and of all transfers thereof. If any Debentures of such series are at any time not Global Debentures, the provisions of Section 3.1 will govern with respect to registrations and transfers of such Debentures.
- (b) Beneficial interests in the Global Debentures will not be shown on the register or records maintained by the Debenture Trustee, but will be represented through book-entry accounts of participants on behalf of the beneficial owners of such Global Debenture. None of the Company, the Debenture Trustee or any other paying agent will have the responsibility or liability for any aspects of the records relating to or

payments made by any Depositary or any participant on account of the beneficial interest in any Global Debenture.

- (c) Notwithstanding any other provision of this Indenture, a Global Debenture may not be transferred by the registered holder thereof and, accordingly, no definitive certificates will be issued to Beneficial Holders except in the following circumstances or as otherwise specified in an Officer's Certificate or a supplemental indenture relating to a particular series of Additional Debentures:
  - (i) Global Debentures may be transferred by a Depositary to a nominee of such Depositary or by a nominee of a Depositary to such Depositary or to another nominee of such Depositary or by a Depositary or its nominee to a successor Depositary or its nominee;
  - (ii) Global Debentures may be transferred at any time after (i) the Depositary for such Global Debentures has notified the Debenture Trustee that the Depositary is unwilling or unable to continue as Depositary for such Global Debentures, or (ii) the Depositary ceases to be eligible to be a Depositary under Subsection 2.6(b), provided in each case that at the time of such transfer the Company has not appointed a successor Depositary for such Global Debentures;
  - (iii) Global Debentures may be transferred at any time after the Company has determined, in its sole discretion to terminate the book-entry only registration system in respect of such Global Debentures and has communicated such determination to the Debenture Trustee in writing;
  - (iv) Global Debentures may be transferred at any time after the Debenture Trustee has determined that an Event of Default has occurred and is continuing with respect to the Debentures of the series issued as a Global Debenture, provided that Beneficial Holders representing, in the aggregate, more than 25% of the aggregate principal amount of the Debentures of such series advise the Depositary in writing, through the Depositary Participants, that the continuation of the book-entry only registration system for such series of Debentures is no longer in their best interest and also provided that at the time of such transfer the Debenture Trustee has not waived the Event of Default pursuant to Section 7.3;
  - (v) Global Debentures may be transferred if required by applicable law; or
  - (vi) Global Debentures may be transferred if the book-entry only registration system ceases to exist.
- (d) With respect to the Global Debentures, unless and until definitive certificates have been issued to Beneficial Holders pursuant to subsection 3.2(c):
  - (i) the Company and the Debenture Trustee may deal with the Depositary for all purposes (including paying interest on the Debentures) as the sole holder

- of such series of Debentures and the authorized representative of the Beneficial Holders;
- (ii) the rights of the Beneficial Holders will be exercised only through the Depositary and will be limited to those established by law and agreements between such Beneficial Holders and the Depositary or the Depositary Participants;
  - (iii) the Depositary will make book-entry transfers among the Depositary Participants; and
  - (iv) whenever this Indenture requires or permits actions to be taken based upon instructions or directions of Debentureholders evidencing a specified percentage of the outstanding Debentures, the Depositary will be deemed to be counted in that percentage only to the extent that it has received instructions to such effect from the Beneficial Holders or the Depositary Participants, and has delivered such instructions to the Debenture Trustee.
- (e) Whenever a notice or other communication is required to be provided to Debentureholders, unless and until definitive certificate(s) have been issued to Beneficial Holders pursuant to this Section 3.2, the Debenture Trustee will provide all such notices and communications to the Depositary and the Depositary will deliver such notices and communications to such Beneficial Holders in accordance with Applicable Securities Legislation. Upon the termination of the book-entry only registration system on the occurrence of one of the conditions specified in Subsection 3.2(c) with respect to a series of Debentures issued hereunder, the Debenture Trustee will notify all applicable Beneficial Holders, through the Depositary, of the availability of definitive Debenture certificates. Upon surrender by the Depositary of the certificate(s) representing the Global Debentures and receipt of new registration instructions from the Depositary, the Debenture Trustee will deliver the definitive Debenture certificates for such Fully Registered Debentures to the holders thereof in accordance with the new registration instructions and, thereafter, the registration and transfer of such Fully Registered Debentures will be governed by Section 3.1 and the remaining Sections of this Article 3.

### **3.3 Transferee Entitled to Registration**

The transferee of a Debenture is entitled, after the appropriate form of transfer is lodged with the Debenture 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 or counterclaim between the Company and the transferor or any previous holder of such Debenture, save in respect of equities of which the Company is required to take notice by statute or by order of a court of competent jurisdiction.

### **3.4 No Notice of Trusts**

Neither the Company nor the Debenture Trustee nor any registrar will be bound to take notice of or see to the execution of any trust 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.

### **3.5 Registers Open for Inspection**

The registers referred to in Sections 3.1 and 3.2 will at all reasonable times be open for inspection by the Company, the Debenture Trustee or any Debentureholder. Every registrar, including the Debenture Trustee, will from time to time when requested so to do by the Company or by the Debenture Trustee, in writing, furnish the Company or the Debenture 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 and serial numbers of the Debentures held by each such holder, provided the Debenture Trustee is entitled to charge a reasonable fee to provide such a list.

### **3.6 Exchanges of Debentures**

- (a) Subject to Section 3.7, Debentures in any authorized form or denomination, other than Global Debentures, may be exchanged for 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 Debentures so exchanged.
- (b) In respect of exchanges of Debentures permitted by Subsection 3.6(a), Debentures of any series may be exchanged only at the principal offices of the Debenture Trustee in Toronto, Ontario 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 Company with the approval of the Debenture Trustee. Any Debentures tendered for exchange will be surrendered to the Debenture Trustee. The Company will execute and the Debenture Trustee will certify all Debentures necessary to carry out exchanges as aforesaid. All Debentures surrendered for exchange will be cancelled.
- (c) Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date will be deemed to have been selected or called for redemption in the same manner and will have noted thereon a statement to that effect.

### **3.7 Closing of Registers**

- (a) Neither the Company nor the Debenture Trustee nor any registrar will be required to:
  - (i) make transfers or exchanges of any Debentures on any Interest Payment Date for such Debentures or during the preceding Business Day;
  - (ii) make transfers or exchanges of any Debentures on the day of any selection by the Debenture Trustee of Debentures to be redeemed or during the preceding Business Day; or

- (iii) make transfers or exchanges of any Debentures which will have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures will not be redeemed.
- (b) Subject to any restriction herein provided, the Company with the approval of the Debenture Trustee may at any time close any register for any series of Debentures, other than those kept at the principal offices of the Debenture Trustee in Toronto, Ontario, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and thereafter such Debentures will be deemed to be registered on such other register. Notice of such transfer will be given to the holders of such Debentures.

### **3.8 Charges for Registration, Transfer and Exchange**

For each Debenture exchanged, registered, transferred or discharged from registration, the Debenture 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 Debenture Trustee and the Company), and payment of such charges and reimbursement of the Debenture Trustee or other registrar for any stamp taxes or governmental or other charges required to be paid will 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 will be made to a Debentureholder hereunder:

- (a) for any exchange, registration, transfer or discharge from registration of any Debenture applied for within a period of two months from the date of the first delivery of Debentures of that series or, with respect to Debentures subject to a Periodic Offering, within a period of two months from the date of delivery of any such Debenture;
- (b) for any exchange of any interim or temporary Debenture or interim certificate that has been issued under Section 2.9 for a definitive Debenture;
- (c) for any exchange of a Global Debenture as contemplated in Section 3.2; and
- (d) for any exchange of any Debenture resulting from a partial redemption under Section 4.2.

### **3.9 Ownership of Debentures**

- (a) Unless otherwise required by law, the person in whose name any registered Debenture is registered will for all the purposes of this Indenture be and be deemed to be the owner thereof and payment of or on account of the principal of such Debenture and interest thereon will be made to such registered holder.
- (b) The registered holder for the time being of any registered Debenture will 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 or counterclaim between the Company and the original or any intermediate holder thereof and all persons may

act accordingly and the receipt of any such registered holder of any such principal, premium or interest will be a good discharge to the Company and/or the Debenture Trustee for the same and neither the Company nor the Debenture Trustee will be bound to inquire into the title of any such registered holder.

- (c) Where Debentures are registered in more than one name, the principal, premium, if any, and interest from time to time payable in respect thereof may be paid or credited to the order of all such holders, failing written instructions from them to the contrary, and the receipt of any one of such holders therefor will be a valid discharge to the Debenture Trustee, any registrar and to the Company.
- (d) 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 be paid to the order of the survivor or survivors of such registered holders and the receipt of any such survivor or survivors therefor will be a valid discharge to the Debenture Trustee, any registrar and to the Company.

### **3.10 Surrender for Electronic Position**

Notwithstanding anything to the contrary set out herein, all physical Debenture certificates issued to the Depositary may be surrendered to the Debenture Trustee for an electronic position on the register of Debentureholders to be maintained by the Debenture Trustee in accordance with Section 3.1. All Debentures maintained in such electronic position will be valid and binding obligations of the Company, entitling the registered holders thereof to the same benefits as those registered holders who hold Debentures in physical form. This Indenture and the provisions contained herein will apply, *mutatis mutandis*, to such Debentures held in such electronic position..

## **ARTICLE 4 REDEMPTION AND PURCHASE OF DEBENTURES**

### **4.1 Applicability of Article**

- (a) Subject to compliance with applicable laws, including regulatory approval, the Company has the right at its option to redeem, either in whole at any time or in part from time to time before maturity, by payment of money, any Debentures issued hereunder of any series which by their terms are made so redeemable (subject, however, to any applicable restriction on the redemption of Debentures of such series) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as determined at the time of issue of such Debentures and as expressed in this Indenture, in the Debentures, or in a supplemental indenture authorizing or providing for the issue thereof.
- (b) Subject to compliance with applicable laws, including regulatory approval, the Company also has the right at its option to repay, either in whole or in part, on maturity, by payment of money in accordance with Section 2.13, any Debentures issued hereunder of any series which by their terms are made so repayable on maturity (subject, however, to any applicable restriction on the repayment of the principal amount of the Debentures of such series) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as

determined at the time of issue of such Debenture and expressed in this Indenture, in the Debentures, or in a supplemental indenture authorizing or providing for the issue thereof.

#### **4.2 Partial Redemption**

If less than all the Debentures of any series for the time being outstanding are at any time to be redeemed, then the Debentures to be so redeemed will be selected by the Debenture Trustee on a *pro rata* basis to the nearest multiple of \$1,000 in accordance with the principal amount of the Debentures registered in the name of each holder or in such other manner as the Debenture Trustee deems equitable, subject to the approval of the TSX (or such other stock exchange on which the Debentures may be listed and posted for trading), as may be required from time to time. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture will be redeemed in part unless the principal amount redeemed is \$1,000 or a multiple thereof. For this purpose, the Debenture Trustee may make, and from time to time vary, regulations with respect to the manner in which such Debentures may be drawn for redemption in part and regulations so made will be valid and binding upon all holders of such Debentures notwithstanding the fact that as a result thereof one or more of such Debentures may become subject to redemption in part only. In the event that one or more of such Debentures becomes subject to redemption in part only, upon surrender of any such Debentures for payment of the Redemption Price, together with interest accrued to but excluding the Redemption Date, the Company will execute and the Debenture Trustee will certify and deliver without charge to the holder thereof or upon the holder's order one or more new Debentures for the unredeemed part of the principal amount of the Debenture or Debentures so surrendered or, with respect to a Global Debenture, the Debenture Trustee, will make, or have made, notations on the Global Debenture of the principal amount thereof so redeemed. Unless the context otherwise requires, the terms "Debenture" or "Debentures" as used in this Article 4 is deemed to mean or include any part of the principal amount of any Debenture which in accordance with the foregoing provisions has become subject to redemption.

#### **4.3 Notice of Redemption**

Notice of redemption (the "**Redemption Notice**") of any series of Debentures will be given to the holders of the Debentures to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "**Redemption Date**") in the manner provided in Section 12.2. Every such notice will specify the aggregate principal amount of Debentures called for redemption, the Redemption Date, the Redemption Price and the places of payment and it will state that interest upon the principal amount of Debentures called for redemption will cease to be payable from and after the Redemption Date. In addition, unless all the outstanding Debentures are to be redeemed, the Redemption Notice will specify:

- (a) the distinguishing letters and numbers of the registered Debentures which are to be redeemed (or of such thereof as are registered in the name of such Debentureholder);
- (b) in the case of a published notice, the distinguishing letters and numbers of the Debentures which are to be redeemed or, if such Debentures are selected by terminal digit or other similar system, such particulars as may be sufficient to identify the Debentures so selected;

- (c) in the case of a Global Debenture, that the redemption will take place in such manner as may be agreed upon by the Depository, the Debenture Trustee and the Company; and
- (d) 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.

In the event that all Debentures to be redeemed are registered Debentures, publication, as provided in Section 12.2, will not be required.

#### **4.4 Debentures Due on Redemption Dates**

Notice having been given as provided in Section 4.3, all the Debentures so called for redemption will 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 date of maturity specified in such Debentures, anything therein or herein to the contrary notwithstanding; and from and after such Redemption Date, if the monies necessary to redeem such Debentures will have been deposited as provided in Section 4.5 and affidavits or other proof satisfactory to the Debenture Trustee as to the publication and/or mailing of such notices will have been lodged with it, interest upon the Debentures will cease. If any question arises as to whether any notice has been given as above provided and such deposit made, such question will be decided by the Debenture Trustee whose decision will be final and binding upon all parties in interest.

#### **4.5 Deposit of Redemption Monies**

- (a) Redemption of Debentures will be provided for by the Company paying and/or depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before 10:00 a.m. Toronto time on the Business Day immediately prior to the Redemption Date specified in such notice, such sums of money, by wire transfer or such other means as may be acceptable to the Debenture Trustee, 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.
- (b) The Company will also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection with such redemption. Every such deposit is irrevocable. From the sums so deposited, the Debenture Trustee will pay or cause to be paid, or issue or cause to be issued, to the holders of such Debentures so called for redemption, upon surrender of such Debentures, the principal, premium (if any) and interest (if any) to which they are respectively entitled on redemption (less applicable withholding taxes, if any).

#### **4.6 Failure to Surrender Debentures Called for Redemption**

In case the holder of any Debenture called for redemption fails on or before the Redemption Date to surrender such holder's Debenture, or has not within such time accepted payment of the redemption monies payable, or given such receipt therefor, if any, as the Debenture Trustee may

require, such redemption monies may be set aside in trust without interest, either in the deposit department of the Debenture Trustee or in a Canadian chartered bank, and such setting aside will for all purposes be deemed a payment to the Debentureholder of the sum so set aside and, to that extent, the Debenture will thereafter not be considered as outstanding hereunder. The Debentureholder will have no other right thereunder except to receive payment of the Redemption Price of such Debenture plus any accrued but unpaid interest thereon to but excluding the Redemption Date out of the monies so paid and deposited, less applicable withholding taxes, if any, upon surrender and delivery of such holder's Debenture. In the event that any money required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of principal, premium, if any, or interest, if any, on Debentures issued hereunder will remain so deposited for a period of six years from the Redemption Date, then, subject to any applicable law regarding unclaimed property, such monies, together with any accumulated interest thereon, will at the end of such period be paid over or delivered over by the Debenture Trustee or such depository or paying agent to the Company on its demand, and thereupon the Debenture Trustee will not be responsible to Debentureholders for any amounts owing to them and subject to applicable law, thereafter the holder of a Debenture in respect of which such money was so repaid to the Company will have no rights in respect thereof except to obtain payment of the money due from the Company. Notwithstanding the foregoing, the Debenture Trustee will pay any remaining funds prior to the expiry of six years after the Redemption Date to the Company upon receipt from the Company, or one of its Subsidiaries, of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds. If the remaining funds are paid to the Company prior to the expiry of six years after the Redemption Date, the Company will reimburse the Debenture Trustee for any amounts required to be paid by the Debenture Trustee to a holder of a Debenture pursuant to the redemption after the date of such payment of the remaining funds to the Company but prior to six years after the redemption.

#### **4.7 Cancellation of Debentures Redeemed**

Subject to the provisions of Sections 4.2 and 4.8 as to Debentures redeemed or purchased in part, all Debentures redeemed and paid under this Article 4 will forthwith be delivered to the Debenture Trustee and cancelled and no Debentures will be issued in substitution therefor.

#### **4.8 Purchase of Debentures by the Company**

Unless otherwise specifically provided with respect to a particular series of Debentures, the Company, if it is not at the time in default hereunder, may, at any time and from time to time, purchase Debentures in the market (which includes purchases 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. All Debentures so purchased will be delivered to the Debenture Trustee and cancelled and no Debentures will be issued in substitution therefor. If, upon an invitation for tenders, more Debentures are tendered at the same lowest price that the Company is prepared to accept, the Debentures to be purchased by the Company will be selected by the Debenture Trustee on a *pro rata* basis or in such other manner consented to by the TSX or such other exchange on which the Debentures may be listed and posted for trading which the Debenture Trustee considers appropriate, from the Debentures tendered by each tendering Debentureholder who tendered at such lowest price. For this purpose the Debenture Trustee may make, and from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made will be valid and binding upon all Debentureholders, notwithstanding the fact

that as a result thereof one or more of such Debentures become subject to purchase in part only. The holder of a Debenture of which only a part is purchased, upon surrender of such Debenture for payment, will be entitled to receive, without expense to such holder, one or more new Debentures for the unpurchased part so surrendered, and the Debenture Trustee will certify and deliver such new Debenture or Debentures upon receipt of the Debenture so surrendered or, with respect to a Global Debenture, the Debenture Trustee will make notations on the Global Debenture of the principal amount thereof so purchased.

## **ARTICLE 5 SUBORDINATION OF DEBENTURES**

### **5.1 Applicability of Article**

The indebtedness evidenced by any Debentures issued hereunder of any series which by their terms are subordinate, including the principal thereof and interest thereon, will be subordinate and subject in right of payment, to the extent and in the manner hereinafter set forth in the following sections of this Article 5, to the prior payment in full, of all Senior Indebtedness of the Company and each holder of any such Debenture by his acceptance thereof agrees to and will be bound by the provisions of this Article 5.

### **5.2 Order of Payment**

Upon any distribution of the assets of the Company on any dissolution, winding-up, total liquidation or reorganization of the Company (whether in bankruptcy, insolvency or receivership proceedings, or upon an "assignment for the benefit of creditors" or any other marshalling of the assets and liabilities of the Company, or otherwise) or any sale of all or substantially all of the assets of the Company:

- (a) all Senior Indebtedness will first be paid in full, or provision made for such payment, before any payment is made on account of the principal of or interest on the indebtedness evidenced by the Debentures; and
- (b) any payment or distribution of assets of the Company, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5, will be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness.

### **5.3 Subrogation to Rights of Holders of Senior Indebtedness**

Subject to the payment in full of all Senior Indebtedness, the holders of the Debentures will be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distributions of assets of the Company to the extent of the application thereto of such payments or other assets

which would have been received by the holders of the Debentures but for the provisions hereof until the principal of and interest on the Debentures has been paid in full, and no such payments or distributions to the holders of the Debentures of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, will, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of Debentures, be deemed to be a payment by the Company to the holders of the Senior Indebtedness or on account of the Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of Senior Indebtedness, on the other hand.

#### **5.4 Obligation to Pay Not Impaired**

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to impair, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debentures the principal and interest on the Debentures, as and when the same becomes due and payable in accordance with their terms; or affect the relative rights of the holders of the Debentures and creditors of the Company other than the holders of the Senior Indebtedness; or will anything herein or therein prevent the Debenture Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 5 of the holders of Senior Indebtedness in respect of cash, property or securities of the Company received upon the exercise of any such remedy.

#### **5.5 No Payment if Senior Indebtedness in Default**

- (a) Upon the maturity of any Senior Indebtedness by lapse of time, acceleration or otherwise, then, except as provided in Section 5.1, all principal of and interest on all such matured Senior Indebtedness will first be paid in full, or will first have been duly provided for, before any payment is made on account of principal of or interest on the Debentures.
- (b) In case of default with respect to any Senior Indebtedness permitting the holders thereof to accelerate the maturity thereof, unless and until such default will have been cured or waived or ceased to exist, no payment (by purchase of Debentures or otherwise) will be made by the Company with respect to the principal of or interest on the Debentures and neither the Debenture Trustee nor the holders of Debentures will be entitled to demand, institute proceedings for the collection of, or receive any payment or benefit (including without limitation by set-off, combination of accounts, realization of security or otherwise in any manner whatsoever) on account of the Debentures after the happening of such a default (except as provided in Section 5.8), and unless and until such default has been cured or waived or has ceased to exist, such payments will be held in trust for the benefit of, and, if and when such Senior Indebtedness becomes due and payable, will be paid over to, the holders of the Senior Indebtedness or their representative or representatives or to the trustee or trustees under any indenture under which any instruments evidencing an amount of the Senior Indebtedness remaining unpaid until all such Senior

Indebtedness has been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness.

- (c) The fact that any payment hereunder is prohibited by this Section 5.5 will not prevent the failure to make such payment from being an Event of Default hereunder.

## **5.6 Payment on Debentures Permitted**

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, will affect the obligation of the Company to make, or prevent the Company from making, at any time except during the pendency of any dissolution, winding up or liquidation of the Company or reorganization proceedings specified in Section 5.2 affecting the affairs of the Company, any payment of principal of or interest on the Debentures, except that the Company will not make any such payment other than as contemplated by this Article 5, if it is in default in payment of any Senior Indebtedness permitting the holder thereof to accelerate the maturity thereof. The fact that any such payment is prohibited by this Section 5.6 will not prevent the failure to make such payment from being an Event of Default hereunder. Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, will prevent the application by the Debenture Trustee of any monies deposited with the Debenture Trustee hereunder for the purpose, to the payment of or on account of the principal of or interest on the Debentures.

## **5.7 Confirmation of Subordination**

Each holder of Debentures by its acceptance thereof authorizes and directs the Debenture Trustee on its behalf to take such action, relying on the advice of Counsel, as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee its attorney-in-fact for any and all such purposes. Upon request of the Company, and upon being furnished an Officer's Certificate stating that one or more named persons are holders of Senior Indebtedness, or the representative or representatives of such holders, or the trustee or trustees under which any instrument evidencing such Senior Indebtedness may have been issued, and specifying the amount and nature of such Senior Indebtedness, the Debenture Trustee will enter into a written agreement or agreements with the Company and the person or persons named in such Officer's Certificate providing that such person or persons are entitled to all the rights and benefits of this Article 5 as the holder or holders, representative or representatives, or trustee or trustees of the Senior Indebtedness specified in such Officer's Certificate and in such agreement. Such agreement will be conclusive evidence that the indebtedness specified therein is Senior Indebtedness; however, nothing herein will impair the rights of any holder of Senior Indebtedness who has not entered into such an agreement.

## **5.8 Knowledge of Debenture Trustee**

Notwithstanding the provisions of this Article 5, the Debenture Trustee will not be charged with knowledge of the existence of any fact that would prohibit the making of any payment of monies to or by the Debenture Trustee, or the taking of any other action by the Debenture Trustee, unless and until the Debenture Trustee has received written notice thereof from the Company, any Debentureholder or any holder or representative of any class of Senior Indebtedness or on its behalf.

### **5.9 Debenture Trustee May Hold Senior Indebtedness**

The Debenture Trustee is entitled to all the rights set forth in this Article 5 with respect to any Senior Indebtedness at the time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture deprives the Debenture Trustee of any of its rights as such holder.

### **5.10 Rights of Holders of Senior Indebtedness Not Impaired**

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any non-compliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

### **5.11 Altering the Senior Indebtedness**

The holders of the Senior Indebtedness have the right to extend, renew, revise, restate, modify or amend the terms of the Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the Company, all without notice to or consent of the Debentureholders or the Debenture Trustee and without affecting the liabilities and obligations of the parties to this Indenture or the Debentureholders or the Debenture Trustee.

### **5.12 Additional Indebtedness**

This Indenture does not restrict the Company or any Subsidiary from incurring additional indebtedness for borrowed money or otherwise or mortgaging, pledging or charging its properties to secure any indebtedness.

### **5.13 Invalidated Payments**

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 5 shall be reinstated and the provisions of this Article shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the holders of Senior Indebtedness any rights or recourses against the Debenture Trustee or the Debentureholders for amounts paid to the Debentureholders subsequent to such payment or satisfaction in full and prior to such reinstatement.

## **ARTICLE 6 COVENANTS OF THE COMPANY**

The Company hereby covenants and agrees with the Debenture Trustee for the benefit of the Debenture Trustee and the Debentureholders, that so long as any Debentures remain outstanding:

### **6.1 To Pay Principal, Premium (if any) and Interest**

The Company will duly and punctually pay or cause to be paid to every Debentureholder the principal of, premium (if any) and interest accrued on the Debentures of which such

Debentureholder is the holder on the dates, at the places and in the manner mentioned herein and in the Debentures.

## **6.2 To Pay Debenture Trustee's Remuneration**

The Company will pay the Debenture Trustee reasonable remuneration for its services as Debenture Trustee hereunder and will repay to the Debenture Trustee on demand all reasonable expenses and monies which have been paid by the Debenture Trustee in connection with the execution of the trusts hereby created and such monies including the Debenture Trustee's remuneration, will be payable out of any funds coming into the possession of the Debenture Trustee in priority to payment of any principal of and premium (if any) of the Debentures or interest thereon. Such remuneration will continue to be payable until the trusts hereof be finally wound up and whether or not the trusts of this Indenture are in the course of administration by or under the direction of a court of competent jurisdiction.

## **6.3 To Give Notice of an Event of Default**

The Company will notify the Debenture Trustee immediately upon obtaining knowledge of any Event of Default hereunder.

## **6.4 Preservation of Existence, etc.**

Subject to the express provisions hereof, the Company will carry on and conduct its activities and business, and cause its Subsidiaries to carry on and conduct their businesses, in a proper, efficient and business-like manner and in accordance with good business practices; and, subject to the express provisions hereof, it will do or cause to be done all things necessary to preserve and keep in full force and effect its and its Subsidiaries respective existences and rights.

## **6.5 Keeping of Books**

The Company will keep or cause to be kept proper books of record and account, in which full and correct entries will be made of all financial transactions and the assets and business of the Company in accordance with IFRS or the accounting principles used by, or applicable to, a successor or Person or group of Persons acting jointly or in concert that acquire control of the Company in connection with a Change of Control transaction, provided that such accounting principles are permitted under both the applicable securities laws and applicable accounting rules governing such successor Person or group of Persons.

## **6.6 Annual Certificate of Compliance**

The Company will deliver to the Debenture Trustee, within 140 days after the end of each calendar year, an Officer's Certificate as to the knowledge of such Director or officer of the Company who executes the Officer's Certificate of the Company's compliance with all conditions and covenants of this Indenture certifying that after reasonable investigation and inquiry, the Company has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which could, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars any steps taken or proposed to be taken to remedy such Event of Default.

## 6.7 Performance of Covenants of Debenture Trustee

If the Company fails to perform any of its covenants contained in this Indenture, then the Debenture Trustee may notify the Debentureholders of such failure on the part of the Company or may itself perform any of the covenants capable of being performed by it, but (subject to Sections 7.2 and 13.3) will be under no obligation to do so or to notify the Debentureholders. All sums so expended or advanced by the Debenture Trustee will be repayable as provided in Section 6.2. No such performance, expenditure or advance by the Debenture Trustee will be deemed to relieve the Company of any default hereunder.

## 6.8 Reporting Issuer and Listing Status

The Company will use commercially reasonable efforts to ensure that the Initial Debentures are listed and posted for trading on the TSX or such other exchange on which the Initial Debentures are listed and posted for trading, to maintain such listing and posting for trading of the Initial Debentures on the TSX or such other exchange on which the Initial Debentures are listed and posted for trading, and to maintain the Company's status as a "reporting issuer not in default" under Applicable Securities Legislation; provided that the foregoing covenant shall not prevent or restrict the Corporation from carrying out a transaction to which section 2.4(h) would apply if carried out in compliance with section 2.4(h), even if as a result of such transaction the Initial Debentures cease to be listed on the TSX or a Recognized Stock Exchange or the Corporation ceases to be a "reporting issuer".

# ARTICLE 7 DEFAULT

## 7.1 Events of Default

Each of the following events constitutes, and is herein sometimes referred to as, an "**Event of Default**":

- (a) failure for 30 days to pay interest on the Debentures when due;
- (b) failure to pay principal or premium, if any, on the Debentures when due whether at maturity, upon redemption, by declaration or otherwise;
- (c) if a decree or order of a Court having jurisdiction is entered adjudging the Company 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 Company, or appointing a receiver of, or of any substantial part of, the property of the Company 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 60 days;
- (d) if the Company 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 Company 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;

- (e) if a resolution is passed for the winding-up or liquidation of the Company, except in the course of carrying out or pursuant to a winding-up or liquidation in which the conditions of Section 9.1 are duly observed and performed;
- (f) if, after the date of this Indenture, any proceedings with respect to the Company are taken with respect to a compromise or arrangement, with respect to creditors of the Company generally, under the applicable legislation of any jurisdiction;
- (g) default in the observance or performance of any material covenant contained in this Indenture by the Company and failure to cure (or obtain a waiver for) such default for a period of 30 days after notice in writing has been given by the Debenture Trustee or a holder of not less than 25% of the aggregate principal amount of the Debentures to the Company specifying such default and requiring the Company to remedy (or obtain a waiver for) such default; or
- (h) if the Company defaults under a loan that is recourse to the Company and has an aggregate principal amount that is greater than \$50 million;

in each and every such event the Debenture Trustee may, in its discretion, but subject to the provisions of this Section, and will, upon receipt of a request in writing signed by the holders of not less than 25% in principal amount of the Debentures then outstanding, subject to the provisions of Section 7.3, by notice in writing to the Company, declare the principal of and interest on all Debentures then outstanding and all other monies outstanding hereunder to be due and payable and the same will forthwith become immediately due and payable to the Debenture Trustee, and the Company will forthwith pay to the Debenture Trustee for the benefit of the Debentureholders such principal, accrued and unpaid interest and interest on amounts in default on such Debentures and all other monies outstanding hereunder, together with subsequent interest at the rate borne by the Debentures on such principal, interest and such other monies from the date of such declaration until payment is received by the Debenture Trustee, such subsequent interest to be payable at the times and places and in the monies mentioned in and according to the tenor of the Debentures. Such payment when made will be deemed to have been made in discharge of the Company's obligations hereunder and any monies so received by the Debenture Trustee will be applied in the manner provided in Section 7.6.

For greater certainty, for the purposes of this Section 7.1, an Event of Default will occur with respect to a series of Debentures only if such Event of Default relates to a default in the payment of principal, premium (if any) or interest on the Debentures of such series in which case references to Debentures in this Section 7.1 will refer to Debentures of that particular series.

For the purposes of this Article 7, where the Event of Default refers to an Event of Default with respect to a particular series of Debentures as described in this Section 7.1, then this Article 7 will apply *mutatis mutandis* to the Debentures of such series and references in this Article 7 to the Debentures will mean Debentures of the particular series and references to the Debentureholders will refer to the Debentureholders of the particular series, as applicable.

## **7.2 Notice of Events of Default**

If an Event of Default occurs and is continuing the Debenture Trustee will, within 30 days after it receives written notice of the occurrence of such Event of Default, give notice of such Event of Default to the Debentureholders in the manner provided in Section 12.2, provided that notwithstanding the foregoing, unless the Debenture Trustee has been requested to do so by the holders of not less than 25% of the principal amount of the Debentures then outstanding, the Debenture Trustee will not be required to give such notice.

## **7.3 Waiver of Default**

Upon the happening of any Event of Default hereunder:

- (a) the holders of the Debentures will have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided) by requisition in writing by the holders of more than 50% of the principal amount of Debentures then outstanding, to instruct the Debenture Trustee to waive any Event of Default and to cancel any declaration made by the Debenture Trustee pursuant to Section 7.1 and the Debenture Trustee will thereupon waive the Event of Default and cancel such declaration, or either, upon such terms and conditions as will be prescribed in such requisition; provided that, notwithstanding the foregoing, if the Event of Default has occurred by reason of the non-observance or non-performance by the Company of any covenant applicable only to one or more series of Debentures, then the holders of more than 50% of the principal amount of the outstanding Debentures of that series will be entitled to exercise the foregoing power and the Debenture Trustee will so act and it will not be necessary to obtain a waiver from the holders of any other series of Debentures; and
- (b) the Debenture Trustee, so long as it has not become bound to declare the principal and interest on the Debentures then outstanding to be due and payable, or to obtain or enforce payment of the same, will have power to waive any Event of Default if, the same has been cured or adequate satisfaction made therefor, and in such event to cancel any such declaration theretofor made by the Debenture Trustee in the exercise of its discretion, upon such terms and conditions as the Debenture Trustee may deem advisable.

No such act or omission either of the Debenture Trustee or of the Debentureholders will extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

## **7.4 Enforcement by the Debenture Trustee**

- (a) Subject to the provisions of Section 7.3 and to the provisions of any Extraordinary Resolution that may be passed by the Debentureholders, if the Company fails to pay to the Debenture Trustee, forthwith after the same has been declared to be due and payable under Section 7.1, the principal of and premium (if any) and interest on all Debentures then outstanding, together with any other amounts due hereunder, the Debenture Trustee may in its discretion and will upon receipt of a request in writing signed by the holders of not less than 25% in principal amount of the Debentures

then outstanding and upon being funded and indemnified to its reasonable satisfaction against all costs, expenses and liabilities to be incurred, proceed in its name as trustee hereunder to obtain or enforce payment of such principal of and premium (if any) and interest on all the Debentures then outstanding together with any other amounts due hereunder by such proceedings authorized by this Indenture or by law or equity as the Debenture Trustee in such request will have been directed to take, or if such request contains no such direction, or if the Debenture Trustee acts without such request, then by such proceedings authorized by this Indenture or by suit at law or in equity as the Debenture Trustee deems expedient.

- (b) The Debenture Trustee will be entitled and empowered, either in its own name or as Debenture Trustee of an express trust, or as mandatary for the holders of the Debentures, or in any one or more of such capacities, to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have the claims of the Debenture Trustee and of the holders of the Debentures allowed in any insolvency, bankruptcy, liquidation, arrangement or other judicial proceedings relative to the Company or its creditors or relative to or affecting its property. The Debenture Trustee is hereby irrevocably appointed (and the successive respective holders of the Debentures by taking and holding the same will be conclusively deemed to have so appointed the Debenture Trustee) the true and lawful mandatary of the respective holders of the Debentures with authority to make and file in the respective names of the holders of the Debentures or on behalf of the holders of the Debentures as a class, subject to deduction from any such claims of the amounts of any claims filed by any of the holders of the Debentures themselves, any proof of debt, amendment of proof of debt, claim, petition or other document in any such proceedings and to receive payment of any sums becoming distributable on account thereof, and to execute any such other papers and documents and to do and perform any and all such acts and things for and on behalf of such holders of the Debentures, as may be necessary or advisable in the opinion of the Debenture Trustee, in order to have the respective claims of the Debenture Trustee and of the holders of the Debentures against the Company or its property allowed in any such proceeding, and to receive payment of or on account of such claims; provided, however, that subject to Section 7.3, nothing contained in this Indenture will be deemed to give to the Debenture Trustee, unless so authorized by Extraordinary Resolution, any right to accept or consent to any plan of reorganization, arrangement or otherwise by action of any character in such proceeding to waive or change in any way any right of any Debentureholder.
- (c) The Debenture Trustee will also have the power at any time and from time to time to institute and maintain such suits and proceedings as it may be advised are necessary or advisable to preserve and protect its interests and the interests of the Debentureholders.
- (d) All rights of action hereunder may be enforced by the Debenture Trustee without the possession of any of the Debentures or the production thereof on the trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Debenture Trustee will be brought in the name of the Debenture Trustee as trustee of an express trust, and any recovery of judgment will be for the rateable benefit of

the holders of the Debentures subject to the provisions of this Indenture. In any proceeding brought by the Debenture Trustee (and also any proceeding in which a declaratory judgment of a court may be sought as to the interpretation or construction of any provision of this Indenture, to which the Debenture Trustee will be a party) the Debenture Trustee will be held to represent all the holders of the Debentures, and it will not be necessary to make any holders of the Debentures parties to any such proceeding.

#### **7.5 No Suits by Debentureholders**

No holder of any Debenture will have any right to institute any action, suit or proceeding at law or in equity for the purpose of enforcing payment of the principal of or interest on the Debentures or for the execution of any trust or power hereunder or for the appointment of a liquidator or receiver or for a receiving order under the *Bankruptcy and Insolvency Act* (Canada) or to have the Company wound up or to file or prove a claim in any liquidation or bankruptcy proceeding or for any other remedy hereunder, unless: (a) such holder has previously given to the Debenture Trustee written notice of the happening of an Event of Default hereunder; and (b) the Debentureholders by Extraordinary Resolution or by written instrument signed by the holders of at least 25% in principal amount of the Debentures then outstanding have made a request to the Debenture Trustee and the Debenture Trustee has 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; and (c) the Debentureholders or any of them has furnished to the Debenture Trustee, when so requested by the Debenture Trustee, sufficient funds and security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and (d) the Debenture Trustee has failed to act within a reasonable time after such notification, request and offer of indemnity and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Debenture Trustee, to be conditions precedent to any such proceeding or for any other remedy hereunder by or on behalf of the holder of any Debentures.

#### **7.6 Application of Monies by Debenture Trustee**

- (a) Except as herein otherwise expressly provided, any monies received by the Debenture Trustee from the Company pursuant to the foregoing provisions of this Article 7, or as a result of legal or other proceedings or from any trustee in bankruptcy or liquidator of the Company, will be applied, together with any other monies in the hands of the Debenture Trustee available for such purpose, as follows:
  - (i) first, in payment or in reimbursement to the Debenture Trustee of its compensation, costs, charges, expenses, borrowings, advances or other monies furnished or provided by or at the instance of the Debenture Trustee in or about the execution of its trusts under, or otherwise in relation to, this Indenture, with interest thereon as herein provided;
  - (ii) second, but subject as hereinafter in this Section 7.6 provided, in payment, rateably and proportionately to (and in the case of applicable withholding taxes, if any, on behalf of) the holders of Debentures, of the principal of and premium (if any) and accrued and unpaid interest and interest on amounts in default on the Debentures which will then be outstanding in the priority of

principal first and then premium and then accrued and unpaid interest and interest on amounts in default unless otherwise directed by Extraordinary Resolution and in that case in such order or priority as between principal, premium (if any) and interest as may be directed by such resolution; and

- (iii) third, in payment of the surplus, if any, of such monies to the Company or its assigns;

provided, however, that no payment will be made pursuant to clause (ii) above in respect of the principal, premium or interest on any Debenture held, directly or indirectly, by or for the benefit of the Company or any Subsidiary (other than any Debenture pledged for value and in good faith to a person other than the Company or any Subsidiary but only to the extent of such person's interest therein) except subject to the prior payment in full of the principal, premium (if any) and interest (if any) on all Debentures which are not so held.

- (b) The Debenture Trustee will not be bound to apply or make any partial or interim payment of any monies coming into its hands if the amount so received by it, after reserving thereout such amount as the Debenture Trustee may think necessary to provide for the payments mentioned in Subsection 7.6(a), is insufficient to make a distribution of at least 2% of the aggregate principal amount of the outstanding Debentures, but it may retain the money so received by it and invest or deposit the same as provided for in Section 13.9 until the money or the investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control will be sufficient for the said purpose or until it considers it advisable to apply the same in the manner hereinbefore set forth. The foregoing will, however, not apply to a final payment in distribution hereunder.

#### **7.7 Notice of Payment by Debenture Trustee**

Not less than 15 days' notice will be given in the manner provided in Section 12.2 by the Debenture Trustee to the Debentureholders of any payment to be made under this Article 7. Such notice will state the time when and place where such payment is to be made and also the liability under this Indenture to which it is to be applied. After the day so fixed, unless payment has been duly demanded and has been refused, the Debentureholders will be entitled to interest only on the balance (if any) of the principal monies, premium (if any) and interest due (if any) to them, respectively, on the Debentures (less applicable withholding taxes, if any), after deduction of the respective amounts payable in respect thereof on the day so fixed.

#### **7.8 Debenture Trustee May Demand Production of Debentures**

The Debenture Trustee will have the right to demand production of the Debentures in respect of which any payment of principal, interest or premium required by this Article 7 is made and may cause to be endorsed on the same a memorandum of the amount so paid and the date of payment, but the Debenture Trustee may, in its discretion, dispense with such production and endorsement, upon such indemnity being given to it and to the Company as the Debenture Trustee deems sufficient.

## **7.9 Remedies Cumulative**

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

## **7.10 Judgment Against the Company**

The Company covenants and agrees with the Debenture Trustee that, in case of any judicial or other proceedings to enforce the rights of the Debentureholders, judgment may be rendered against it in favour of the Debentureholders or in favour of the Debenture Trustee, as trustee for the Debentureholders, for any amount which may remain due in respect of the Debentures and premium (if any) and the interest thereon and any other monies owing hereunder.

## **7.11 Immunity of Directors and Others**

The Debentureholders and the Debenture Trustee hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer, Director or holder of Common Shares or of any successor, in each case in such capacity, for the payment of the principal of or premium or interest on any of the Debentures or on any covenant, agreement, representation or warranty by the Company herein or in the Debentures contained.

# **ARTICLE 8 SATISFACTION AND DISCHARGE**

## **8.1 Cancellation and Destruction**

All Debentures will forthwith after payment thereof be delivered to the Debenture Trustee and cancelled by it. All Debentures cancelled or required to be cancelled under this or any other provision of this Indenture will be cancelled by the Debenture Trustee and, if required by the Company, the Debenture Trustee will furnish to it a destruction certificate setting out the designating numbers of the Debentures so destroyed.

## **8.2 Non-Presentation of Debentures**

In case the holder of any Debenture fails to present the same for payment on the date on which the principal, premium (if any) or the interest thereon or represented thereby becomes payable either at maturity or otherwise or does not accept payment on account thereof and give such receipt therefor, if any, as the Debenture Trustee may require:

- (a) the Company will be entitled to pay or deliver to the Debenture Trustee and direct it to set aside; or
- (b) in respect of monies in the hands of the Debenture Trustee which may or should be applied to the payment of the Debentures, the Company will be entitled to direct the Debenture Trustee to set aside; or

- (c) if the redemption was pursuant to notice given by the Debenture Trustee, the Debenture Trustee may itself set aside;

the principal, premium (if any) or the interest, as the case may be, in trust to be paid to the holder of such Debenture upon due presentation or surrender thereof in accordance with the provisions of this Indenture; and thereupon the principal, premium (if any) or the interest payable on or represented by each Debenture in respect whereof such monies have been set aside will be deemed to have been paid and the holder thereof will thereafter have no right in respect thereof except that of receiving delivery and payment of the monies (less applicable withholding taxes, if any) so set aside by the Debenture Trustee upon due presentation and surrender thereof, subject always to the provisions of Section 8.3.

### **8.3 Repayment of Unclaimed Monies**

Subject to applicable law, any monies, set aside under Section 8.2 and not claimed by and paid to holders of Debentures as provided in Section 8.2 within six years after the date of such setting aside will be repaid and delivered to the Company, upon written request, by the Debenture Trustee and thereupon the Debenture Trustee will be released from all further liability with respect to such monies, and thereafter the holders of the Debentures in respect of which such monies were so repaid to the Company will have no rights in respect thereof except to obtain payment and delivery of the monies from the Company. Notwithstanding the foregoing, the Debenture Trustee will pay any remaining funds prior to the expiry of six years after the setting aside described in Section 8.2 to the Company upon receipt from the Company, or one of its Subsidiaries, of an uncontested letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds. If the remaining funds are paid to the Company prior to the expiry of six years after such setting aside, the Company will reimburse the Debenture Trustee for any amounts so set aside which are required to be paid by the Debenture Trustee to a holder of a Debenture after the date of such payment of the remaining funds to the Company but prior to six years after such setting aside.

### **8.4 Discharge**

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

### **8.5 Satisfaction**

- (a) The Company will be deemed to have fully paid, satisfied and discharged (a “defeasance”) all of the outstanding Debentures of any series and the Debenture Trustee, at the expense of the Company, will execute and deliver proper instruments acknowledging the full payment, satisfaction and discharge of such

Debentures, when, with respect to all of the outstanding Debentures or all of the outstanding Debentures of any series, as applicable, either:

- (i) the Company has deposited or caused to be deposited with the Debenture Trustee as trust funds or property in trust for the purpose of making payment on such Debentures, an amount in money sufficient to pay, satisfy and discharge the entire amount of principal, premium, if any, and interest, if any, to maturity or any repayment date, Redemption Date, or Change of Control Purchase Date, as the case may be, of such Debentures; or
- (ii) the Company has deposited or caused to be deposited with the Debenture Trustee as property in trust for the purpose of making payment on such Debentures:
  - (A) if all of such Debentures are issued in United States dollars, such amount in United States dollars of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or the United States; or
  - (B) if any of such Debentures are issued in a currency or currency unit other than United States dollars, cash in the currency(ies) or currency unit(s) in which such Debentures are payable and/or such amount in such currency(ies) or currency unit(s) of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or the government that issued the currency or currency unit in which such Debentures are payable, as the case may be;

as will, together with the income to accrue thereon and reinvestment thereof, be sufficient to pay and discharge the entire amount of principal and accrued and unpaid interest to maturity or any repayment date, as the case may be, of all such Debentures;

and in either event:

- (iii) the Company has paid, caused to be paid or made provisions to the satisfaction of the Debenture Trustee for the payment of all other sums payable with respect to all of such Debentures (together with all applicable expenses of the Debenture Trustee in connection with the payment of such Debentures);
- (iv) the Company has delivered to the Debenture Trustee either (A) an opinion of counsel in Canada reasonably acceptable to the Debenture Trustee to the effect that, based upon Canadian law then in effect (and also taking into account any proposed amendments to Canadian law which, if enacted in the form proposed, would have retroactive effect), the beneficial owners of the Debentures will not recognize income, gain or loss for Canadian federal, provincial or territorial or other tax purposes, as a result of the defeasance and will be subject to Canadian taxes on the same amounts and in the same

manner and at the same time as would have been the case if such defeasance had not occurred or (B) a ruling directed to the Debenture Trustee received from tax authorities of Canada to the same effect as the opinion of counsel described in clause (A) above; and

- (v) the Company has delivered to the Debenture Trustee an Officer's Certificate stating that all conditions precedent herein provided relating to the payment, satisfaction and discharge of all such Debentures have been complied with.

Any deposits with the Debenture Trustee referred to in this Section 8.5 will be irrevocable, subject to Section 8.6, and will be made under the terms of an escrow and/or trust agreement in form and substance satisfactory to the Debenture Trustee and which provides for the due and punctual payment of the principal of, and interest and premium, if any, on the Debentures being satisfied.

- (b) Upon the satisfaction of the conditions set forth in this Section 8.5 with respect to all the outstanding Debentures, or all the outstanding Debentures of any series, as applicable, the terms and conditions of the Debentures, including the terms and conditions with respect thereto set forth in this Indenture (other than those contained in Article 2, Article 3, Article 4, Article 6, Article 8, Section 7.4 and the provisions of Article 1 pertaining to the foregoing provisions) will no longer be binding upon or applicable to the Company.
- (c) Any funds or obligations deposited with the Debenture Trustee pursuant to this Section 8.5 will be denominated in the currency or denomination of the Debentures in respect of which such deposit is made.
- (d) If the Debenture Trustee is unable to apply any money or securities in accordance with this Section 8.5 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the affected Debentures will be revived and reinstated as though no money or securities had been deposited pursuant to this Section 8.5 until such time as the Debenture Trustee is permitted to apply all such money or securities in accordance with this Section 8.5, provided that if the Company has made any payment in respect of principal, premium or interest on Debentures or, as applicable, other amounts because of the reinstatement of its obligations, the Company will be subrogated to the rights of the holders of such Debentures to receive such payment from the money or securities held by the Debenture Trustee.

## **8.6 Continuance of Rights, Duties and Obligations**

- (a) Where trust funds or trust property have been deposited pursuant to Section 8.5, the holders of such Debentures (the "**Defeased Debentures**") and the Company will continue to have and be subject to their respective rights, duties and obligations under Article 2, Article 3, Article 4, Article 6, Article 8, Section 7.4 and the provisions of Article 1 pertaining to the foregoing provisions, as may be applicable.

- (b) In the event that, after the deposit of trust funds or trust property pursuant to Section 8.5, the Company is required to purchase any outstanding Debentures pursuant to Subsection 2.4(h) in relation to Initial Debentures or to purchase or make an offer to purchase Debentures pursuant to any other similar provisions relating to any other series of Debentures, the Company will be entitled to use any trust money or trust property deposited with the Debenture Trustee pursuant to Section 8.5 for the purpose of paying to any holders of Defeased Debentures who have accepted any such offer of the Company the Offer Price (plus accrued and unpaid interest) payable to such holders in respect of such offer to purchase the Initial Debentures (or the total offer price payable in respect of an offer relating to any other series of Debentures). Upon receipt of a Written Direction of the Company, the Debenture Trustee will be entitled to pay to such holder from such trust money or trust property deposited with the Debenture Trustee pursuant to Section 8.5 in respect of the Defeased Debentures which is applicable to the Defeased Debentures held by such holders who have accepted any such offer from the Company (which amount will be based on the applicable principal amount of the Defeased Debentures held by holders that accept any such offer in relation to the aggregate outstanding principal amount of all the Defeased Debentures).

## **ARTICLE 9 SUCCESSORS**

### **9.1 Successors on Winding-up or Liquidation**

The Company will not proceed with any winding-up or liquidation of the Company into any other Person (herein called a “**Successor**”), unless:

- (a) prior to or contemporaneously with the consummation of such winding-up or liquidation, the Company and the Successor have executed such instruments and done such things as, in the opinion of Counsel, are necessary or advisable to establish that upon the consummation of such winding-up or liquidation:
- (i) the Successor will have assumed all the covenants and obligations of the Company under this Indenture in respect of the Debentures;
  - (ii) the Debentures will be valid and binding obligations of the Successor entitling the holders thereof, as against the Successor, to all the rights of Debentureholders under this Indenture; and
  - (iii) in the case of an entity organized otherwise than under the laws of the Province of Ontario, will attorn with respect to the Indenture to the jurisdiction of the courts of the Province of Ontario; and
- (b) no condition or event will exist as to the Company (at the time of such winding-up or liquidation) or the Successor (immediately after such winding-up or liquidation) and after giving full effect thereto or immediately after the Successor becomes liable to pay the principal monies, premium, if any, interest and other monies due or which may become due hereunder, which constitutes or would constitute an Event of Default hereunder.

## 9.2 Vesting of Powers in Successor

Whenever the conditions of Section 9.1 have been duly observed and performed, any Successor formed by or resulting from such winding-up or liquidation will succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture with the same effect as though the Successor had been named as the Company herein and thereafter, the Company will be relieved of all obligations and covenants under this Indenture and the Debentures forthwith upon the Company delivering to the Debenture Trustee an opinion of Counsel to the effect that the winding-up or liquidation will not result in any material adverse tax consequences to the Company or the Successor. The Debenture Trustee will, at the expense of the Successor, execute any documents which it may be advised by Counsel are necessary or advisable for effecting or evidencing such release and discharge.

## ARTICLE 10 COMPULSORY ACQUISITION

### 10.1 Definitions In this Article:

- (a) “**Affiliate**” and “**Associate**” have the same respective meanings set forth in the *Securities Act* (Ontario);
- (b) “**Dissenting Debentureholders**” means a Debentureholder who does not accept an Offer referred to in Section 10.2 and includes any assignee of the Debenture of a Debentureholder to whom such an Offer is made, whether or not such assignee is recognized under this Indenture;
- (c) “**NI 62-104**” means National Instrument 62-104 “Take-Over Bids and Issuer Bids”;
- (d) “**Offer**” means an offer to acquire outstanding Debentures;
- (e) “**offer to acquire**” has the meaning attributed to such term in NI 62-104;
- (f) “**Offeror**” means a person, or two or more persons acting jointly or in concert, who make an offer to acquire Debentures;
- (g) “**Offeror’s Debentures**” means Debentures beneficially owned, or over which control or direction is exercised, on the date of an Offer by the Offeror, any Affiliate or Associate of the Offeror or any person or company acting jointly or in concert with the Offeror; and
- (h) “**Offeror’s Notice**” means the notice described in Section 10.3.

### 10.2 Offer for Debentures

If an Offer for all of the outstanding Debentures (other than Debentures held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror) is made and:

- (a) within the time provided in the Offer for its acceptance or within 60 days after the date the Offer is made, whichever period is the shorter, the Offer is accepted by

Debentureholders representing at least 90% of the outstanding principal amount of the Debentures, other than the Offeror's Debentures;

- (b) the Offeror has taken up and paid for the Debentures of the Debentureholders who accepted the Offer; and
- (c) the Offeror complies with Sections 10.3 and 10.5;

the Offeror is entitled to acquire, and the Dissenting Debentureholders are required to sell to the Offeror, the Debentures held by the Dissenting Debentureholders for the same consideration per Debenture payable or paid, as the case may be, under the Offer.

### **10.3 Offeror's Notice to Dissenting Debentureholders**

Where an Offeror is entitled to acquire Debentures held by Dissenting Debentureholders pursuant to Section 10.2 and the Offeror wishes to exercise such right, the Offeror will send by registered mail within 30 days after the date of termination of the Offer a notice (the "**Offeror's Notice**") to each Dissenting Debentureholder stating that:

- (a) Debentureholders holding at least 90% of the principal amount of all outstanding Debentures, other than Offeror's Debentures, have accepted the Offer;
- (b) the Offeror has taken up and paid for, the Debentures of the Debentureholders who accepted the Offer;
- (c) Dissenting Debentureholders will transfer their respective Debentures to the Offeror on the terms on which the Offeror acquired the Debentures of the Debentureholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and
- (d) Dissenting Debentureholders will send their respective Debenture certificate(s) to the Debenture Trustee within 21 days after the date of the sending of the Offeror's Notice.

### **10.4 Delivery of Debenture Certificates**

A Dissenting Debentureholder to whom an Offeror's Notice is sent pursuant to Section 10.3 will, within 21 days after the sending of the Offeror's Notice, send his or her Debenture certificate(s) to the Debenture Trustee duly endorsed for transfer.

### **10.5 Payment of Consideration to Debenture Trustee**

Within 21 days after the Offeror sends an Offeror's Notice pursuant to Section 10.3, the Offeror will pay or transfer to the Debenture Trustee, or to such other person as the Debenture Trustee may direct, the cash or other consideration that is payable to Dissenting Debentureholders pursuant to Section 10.2. The acquisition by the Offeror of all Debentures held by all Dissenting Debentureholders will be effective as of the time of such payment or transfer.

## **10.6 Consideration to be held in Trust**

The Debenture Trustee, or the person directed by the Debenture Trustee, will hold in trust for the Dissenting Debentureholders the cash or other consideration they or it receives under Section 10.5. The Debenture Trustee, or such persons, will deposit cash in a separate account in a Canadian chartered bank, or other body corporate, any of whose deposits are insured by the Canada Deposit Insurance Corporation, and will place other consideration in the custody of a Canadian chartered bank or such other body corporate.

## **10.7 Completion of Transfer of Debentures to Offeror**

Within 30 days after the date of the sending of an Offeror's Notice pursuant to Section 10.3, the Debenture Trustee, if the Offeror has complied with Section 10.5, will:

- (a) do all acts and things and execute and cause to be executed all instruments as in the Debenture Trustee's opinion may be necessary or desirable to cause the transfer of the Debentures of the Dissenting Debentureholders to the Offeror;
- (b) send to each Dissenting Debentureholder who has complied with Section 10.4 the consideration to which such Dissenting Debentureholder is entitled under this Article 10 (less applicable withholding taxes, if any); and
- (c) send to each Dissenting Debentureholder who has not complied with Section 10.4 a notice stating that:
  - (i) his or her Debentures have been transferred to the Offeror;
  - (ii) the Debenture Trustee or some other person designated in such notice are holding in trust the consideration for such Debentures; and
  - (iii) the Debenture Trustee, or such other person, will send the consideration to such Dissenting Debentureholder as soon as possible after receiving such Dissenting Debentureholder's Debenture certificate(s) or such other documents as the Debenture Trustee or such other person may require in lieu thereof;

and the Debenture Trustee is hereby appointed the agent and mandatary, and is granted power of attorney of the Dissenting Debentureholders for the purposes of giving effect to the foregoing provisions including, without limitation, the power and authority to execute such transfers as may be necessary or desirable in respect of the book-entry only registration system of the Depository.

## **10.8 Communication of Offer to Trust**

An Offeror cannot make an Offer for Debentures unless, concurrent with the communication of the Offer to any Debentureholder, a copy of the Offer is provided to the Company and the Debenture Trustee.

## ARTICLE 11 MEETINGS OF DEBENTUREHOLDERS

### 11.1 Right to Convene Meeting

The Debenture Trustee or the Company may at any time, and from time to time, and the Debenture Trustee will, on receipt of a written request of the Company or a written request signed by the holders of not less than 25% of the principal amount of the Debentures then outstanding and upon receiving funding and being indemnified to its reasonable satisfaction by the Company or by the Debentureholders signing such request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Debentureholders. In the event of the Debenture Trustee failing, within 30 days after receipt of any such request and such funding of indemnity, to give notice convening a meeting, the Company or such Debentureholders, as the case may be, may convene such meeting. Every such meeting will be held in the City of Toronto or at such other place as may be approved or determined by the Debenture Trustee.

### 11.2 Notice of Meetings

- (a) At least 21 days' notice of any meeting will be given to the Debentureholders in the manner provided in Section 12.2 and a copy of such notice will be sent by mail to the Debenture Trustee, unless the meeting has been called by it. Such notice will state the time when and the place where the meeting is to be held and will state briefly the general nature of the business to be transacted thereat and it will not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article. The accidental omission to give notice of a meeting to any holder of Debentures will not invalidate any resolution passed at any such meeting. A holder may waive notice of a meeting either before or after the meeting.
- (b) If the business to be transacted at any meeting by Extraordinary Resolution or otherwise, or any action to be taken or power exercised by instrument in writing under Section 11.15, especially affects the rights of holders of Debentures of one or more series in a manner or to an extent differing in any material way from that in or to which the rights of holders of Debentures of any other series are affected (determined as provided in Subsections 11.2(c) and 11.2(d)), then:
  - (i) a reference to such fact, indicating each series of Debentures so especially affected (hereinafter referred to as the “**especially affected series**”) will be made in the notice of such meeting, and in any such case the meeting is deemed to be and is herein referred to as a “**Serial Meeting**”; and
  - (ii) the holders of Debentures of an especially affected series will not be bound by any action taken at a Serial Meeting or by instrument in writing under Section 11.15 unless in addition to compliance with the other provisions of this Article 11:
    - (A) at such Serial Meeting: (I) there are Debentureholders present in person or by proxy and representing at least 25% in principal amount of the Debentures then outstanding of such series, subject to

the provisions of this Article 11 as to quorum at adjourned meetings; and (II) the resolution is passed by the affirmative vote of the holders of more than 50% (or in the case of an Extraordinary Resolution not less than 66 $\frac{2}{3}$ %) of the principal amount of the Debentures of such series then outstanding voted on the resolution; or

- (B) in the case of action taken or power exercised by instrument in writing under Section 11.15, such instrument is signed in one or more counterparts by the holders of not less than 66 $\frac{2}{3}$ % in principal amount of the Debentures of such series then outstanding.
- (c) Subject to Subsection 11.2(d), the determination as to whether any business to be transacted at a meeting of Debentureholders, or any action to be taken or power to be exercised by instrument in writing under Section 11.15, especially affects the rights of the Debentureholders of one or more series in a manner or to an extent differing in any material way from that in or to which it affects the rights of Debentureholders of any other series (and is therefore an especially affected series) will be determined by an opinion of Counsel, which will be binding on all Debentureholders, the Debenture Trustee and the Company for all purposes hereof.
- (d) A proposal:
  - (i) to extend the maturity of Debentures of any particular series or to reduce the principal amount thereof, the rate of interest or redemption premium thereon;
  - (ii) to modify or terminate any covenant or agreement which by its terms is effective only so long as Debentures of a particular series are outstanding; or
  - (iii) to reduce with respect to Debentureholders of any particular series any percentage stated in Sections 11.2, 11.4, 11.12 and 11.15;

is deemed to especially affect the rights of the Debentureholders of such series in a manner differing in a material way from that in which it affects the rights of holders of Debentures of any other series, whether or not a similar extension, reduction, modification or termination is proposed with respect to Debentures of any or all other series.

### 11.3 Chair

Some person, who need not be a Debentureholder, nominated in writing by the Debenture Trustee will be chair of the meeting and if no person is so nominated, or if the person so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Debentureholders present in person or by proxy will choose some person present to be chairman.

#### **11.4 Quorum**

Subject to the provisions of Section 11.12, at any meeting of the Debentureholders a quorum consists of Debentureholders present in person or by proxy and representing at least 25% in principal amount of the outstanding Debentures and, if the meeting is a Serial Meeting, at least 25% of the Debentures then outstanding, of each especially affected series. If a quorum of the Debentureholders is not present within 30 minutes from the time fixed for holding any meeting, the meeting, if summoned by the Debentureholders or pursuant to a request of the Debentureholders, will be dissolved, but in any other case the meeting will be adjourned to the same day in the next week (unless such day is not a Business Day in which case it will be adjourned to the next following Business Day thereafter) at the same time and place and no notice will be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Debentureholders present in person or by proxy will, subject to the provisions of Section 11.12, constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the principal amount of the outstanding Debentures or of the Debentures then outstanding of each especially affected series. Any business may be brought before or dealt with at an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same. No business will be transacted at any meeting unless the required quorum is present at the commencement of business.

#### **11.5 Power to Adjourn**

The chair of any meeting at which a quorum of the Debentureholders is present may, with the consent of the holders of a majority in principal amount of the Debentures represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

#### **11.6 Show of Hands**

Every question submitted to a meeting will, subject to Section 11.7, be decided in the first place by a majority of the votes given on a show of hands except for votes on Extraordinary Resolutions which will be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority will be conclusive evidence of the fact. The chair of any meeting is entitled, both on a show of hands and on a poll, to vote in respect of the Debentures, if any, held by him.

#### **11.7 Poll**

On every Extraordinary Resolution, and on any other question submitted to a meeting when demanded by the chairman or by one or more Debentureholders or proxies for Debentureholders, a poll will be taken in such manner and either at once or after an adjournment as the chairman directs. Questions other than Extraordinary Resolutions will, if a poll be taken, be decided by the votes of the holders of a majority in principal amount of the Debentures and of each especially affected series, if applicable, represented at the meeting and voted on the poll.

## 11.8 Voting

On a show of hands every person who is present and entitled to vote, whether as a Debentureholder or as proxy for one or more Debentureholders or both, will have one vote. On a poll each Debentureholder present in person or represented by a proxy duly appointed by an instrument in writing will be entitled to one vote in respect of each \$1,000 principal amount of Debentures of which he will then be the holder. In the case of any Debenture denominated in a currency or currency unit other than Canadian dollars, the principal amount thereof for these purposes will be computed in Canadian dollars on the basis of the conversion of the principal amount thereof at the applicable spot buying rate of exchange for such other currency or currency unit as reported by the Bank of Canada at the close of business on the Business Day next preceding the meeting. Any fractional amounts resulting from such conversion will be rounded to the nearest \$1,000. A proxy need not be a Debentureholder. In the case of joint holders of a Debenture, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others but in case more than one of them be present in person or by proxy, they will vote together in respect of the Debentures of which they are joint holders.

## 11.9 Proxies

A Debentureholder may be present and vote at any meeting of Debentureholders by an authorized representative. The Company (in case it convenes the meeting) or the Debenture Trustee (in any other case) for the purpose of enabling the Debentureholders to be present and vote at any meeting without producing their Debentures, and of enabling them to be present and vote at any such meeting by proxy and of lodging instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it thinks fit providing for and governing any or all of the following matters:

- (a) the form of the instrument appointing a proxy, which will be in writing, and the manner in which the same is 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 Debenture Trustee, the Company or the Debentureholder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same will be deposited; and
- (c) the deposit of instruments appointing proxies at some 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 means before the meeting to the Company or to the Debenture 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.

Any regulations so made will be binding and effective and the votes given in accordance therewith will be valid and will be counted. Save as such regulations may provide, the only persons who will be recognized at any meeting as the holders of any Debentures, or as entitled to vote or be present at the meeting in respect thereof, will be Debentureholders and persons whom Debentureholders have by instrument in writing duly appointed as their proxies.

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

The Company and the Debenture Trustee, by their respective officers and Directors, the Auditors of the Company and the legal advisers of the Company, the Debenture Trustee or any Debentureholder may attend any meeting of the Debentureholders, but will have no vote as such.

### **11.11 Powers Exercisable by Extraordinary Resolution**

In addition to the powers conferred upon them by any other provisions of this Indenture or by law, a meeting of the Debentureholders will have the following powers exercisable from time to time by Extraordinary Resolution, subject in the case of the matters in paragraphs (a), (b), (c), (d) and (l) to receipt of the prior approval of the TSX (if applicable) or such other exchange on which the Debentures are then listed:

- (a) power to authorize the Debenture 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 the Debenture Trustee (provided that the Debenture Trustee shall have given its prior written consent thereto) against the Company, 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 will be agreed to by the Company and to authorize the Debenture 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 Company or for the consolidation or merger of the Company with any other Person, provided that no such sanction will be necessary in respect of any such transaction if the provisions of Section 9.1 have been complied with;
- (e) power to direct or authorize the Debenture 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) subject to Subsection 7.3(a), power to waive, and direct the Debenture Trustee to waive, any default hereunder and/or cancel any declaration made by the Debenture Trustee pursuant to Section 7.1 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 permitted by Section 7.5 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 upon payment, if the taking of such suit, action or proceeding is permitted by Section 7.5, 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 Common Shares or other securities of the Company;
- (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 Debenture 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 will 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 will consist of such number of persons as 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 will be binding upon all Debentureholders. Neither the committee nor any member thereof will 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 Debenture Trustee from office and to appoint a new Debenture Trustee or Debenture Directors provided that no such removal will be effective unless and until a new Debenture Trustee or Debenture Directors has become bound by this Indenture;
- (l) power to sanction the exchange of the Debentures for or the conversion thereof into Common Shares, bonds, debentures or other securities or obligations of the Company or of any other Person formed or to be formed;
- (m) power to authorize the distribution in specie of any Common Shares or securities received pursuant to a transaction authorized under the provisions of Subsection 11.11(l); and
- (n) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Debentureholders or by any committee appointed pursuant to Subsection 11.11(l);

provided, however, that notwithstanding anything else contained herein, the interest rate and Maturity Date in respect of the Initial Debentures may not be amended by Extraordinary Resolution, but rather may only be amended by resolution passed by holders of not less than 100% of the principal amount of the Debentures then outstanding.

#### **11.12 Meaning of “Extraordinary Resolution”**

- (a) The expression “Extraordinary Resolution” when used in this Indenture means, subject 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 principal amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, at which holders of not less than 25% of the principal amount of the Debentures then outstanding of each especially affected series, 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 principal amount of the Debentures, and if the meeting is a Serial Meeting by the affirmative vote of the holders of not less than 66 $\frac{2}{3}$ % of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll on such resolution.
- (b) If, at any such meeting, the holders of not less than 25% of the principal amount of the Debentures then outstanding and, if the meeting is a Serial Meeting, 25% of the principal amount of the Debentures then outstanding of each especially affected series, in each case 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, will be dissolved, but in any other case it shall be adjourned to the same day in the next week (unless such day is not a Business Day in which case it will be adjourned to the next following Business Day thereafter) at the same time and place and no notice will be required to be given in respect of such adjourned meeting. At the adjourned meeting the Debentureholders present in person or by proxy will 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 principal amount of the Debentures and, if the meeting is a Serial Meeting, by the affirmative vote of the holders of not less than 66 $\frac{2}{3}$ % of the principal amount of the Debentures of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll will be an Extraordinary Resolution within the meaning of this Indenture, notwithstanding that the holders of not less than 25% in principal amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, holders of not less than 25% of the principal amount of the Debentures then outstanding of each especially affected series, are not present in person or by proxy at such adjourned meeting.
- (c) Votes on an Extraordinary Resolution will always be given on a poll and no demand for a poll on an Extraordinary Resolution is necessary.

### **11.13 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 will 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.

### **11.14 Minutes**

Minutes of all resolutions and proceedings at every meeting as aforesaid will be made and duly entered in books to be from time to time provided for that purpose by the Company, and any such minutes as aforesaid, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the Debentureholders, will be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes have been made, will be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.

### **11.15 Instruments in Writing**

All actions which may be taken and all powers that may be exercised by the Debentureholders at a meeting, including for greater certainty, a Serial Meeting, held as hereinbefore in this Article provided, may also be taken and exercised by the holders of the requisite principal amount of all the outstanding Debentures by an instrument in writing signed in one or more counterparts and the expression "resolution", or "Extraordinary Resolution", as the case may be, when used in this Indenture includes an instrument so signed.

### **11.16 Binding Effect of Resolutions**

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article at a meeting of Debentureholders will be binding upon all the Debentureholders, whether present at or absent from such meeting, and every instrument in writing signed by Debentureholders in accordance with Section 11.15 will be binding upon all the Debentureholders, whether signatories thereto or not, and each and every Debentureholder and the Debenture Trustee (subject to the provisions for its indemnity herein contained) will be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

### **11.17 Evidence of Rights of Debentureholders**

- (a) Any request, direction, notice, consent or other instrument which this Indenture may require or permit to be signed or executed by the Debentureholders may be in any number of concurrent instruments of similar tenor signed or executed by such Debentureholders.
- (b) The Debenture Trustee may, in its discretion, require proof of execution in cases where it deems proof desirable and may accept such proof as it considers proper.

### **11.18 Concerning Serial Meetings**

If in the opinion of Counsel any business to be transacted at any meeting, or any action to be taken or power to be exercised by instrument in writing under Section 11.15, does not adversely affect the rights of the holders of Debentures of one or more series, the provisions of this Article 11 will apply as if the Debentures of such series were not outstanding and no notice of any such meeting need be given to the holders of Debentures of such series. Without limiting the generality of the foregoing, a proposal to modify or terminate any covenant or agreement which is effective only so long as Debentures of a particular series are outstanding will be deemed not to adversely affect the rights of the holders of Debentures of any other series.

## **ARTICLE 12 NOTICES**

### **12.1 Notice to the Company**

- (a) Any notice to the Company under the provisions of this Indenture will be valid and effective, if delivered to the Company at 8701 E. 116th Street, Suite 260, Fishers, Indiana 46038, Attention: Chief Financial Officer, and copies delivered to Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON M5H 2S7, Attention: Mark Spiro, Facsimile No.: 416.979.1234, or if given by registered letter, postage prepaid, to such offices and so addressed and if mailed, will be deemed to have been effectively given three days following the mailing thereof. The Company may from time to time notify the Debenture Trustee in writing of a change of address which thereafter, until changed by like notice, will be the address of the Company for all purposes of this Indenture.
- (b) If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Company would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to this Section 12.1, such notice will be valid and effective only if delivered or sent via facsimile in accordance with this Section 12.1.

### **12.2 Notice to Debentureholders**

- (a) All notices to be given hereunder with respect to the Debentures will be deemed to be validly given to the holders thereof if sent by first class mail, postage prepaid, by letter or circular addressed to such holders at their post office addresses appearing in any of the registers hereinbefore mentioned with a copy to the Debenture Trustee and will be deemed to have been effectively given three days following the day of mailing. Any notice to be given hereunder with respect to the Debentures delivered or served by telecopier or courier will be deemed to have been given or served on the day upon which it was delivered. Accidental error or omission in giving notice or accidental failure to mail notice to any Debentureholder or the inability of the Company to give or mail any notice due to anything beyond the reasonable control of the Company will not invalidate any action or proceeding founded thereon.
- (b) If any notice given in accordance with the foregoing paragraph would be unlikely to reach the Debentureholders to whom it is addressed in the ordinary course of post

by reason of an interruption in mail service, whether at the place of dispatch or receipt or both, the Company will give such notice by publication at least once in an English language daily newspaper of general circulation in Canada.

- (c) Any notice given to Debentureholders by publication will be deemed to have been given on the day on which publication has been effected at least once in each of the newspapers in which publication was required.
- (d) All notices with respect to any Debenture may be given to whichever one of the holders thereof (if more than one) is named first in the registers hereinbefore mentioned, and any notice so given will be sufficient notice to all holders of any persons interested in such Debenture.

### **12.3 Notice to Debenture Trustee**

Any notice to the Debenture Trustee under the provisions of this Indenture will be valid and effective if delivered to the Debenture Trustee at its office in the City of Toronto at Computershare Trust Company of Canada 100 University Avenue 11th Floor, Toronto, Ontario, M5J 2Y1, Attention: Manager, Corporate Trust or if sent by facsimile to facsimile number (416) 981-9777, Attention: Manager, Corporate Trust, or if given by registered letter, postage prepaid, to such office and so addressed and, if mailed, will be deemed to have been effectively given three days following the mailing thereof. The Debenture Trustee may from time to time notify the Company in writing of a change of address which thereafter, until changed by like notice, will be the address of the Debenture Trustee for all purposes of this Indenture.

### **12.4 Mail Service Interruption**

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Debenture Trustee would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to Section 12.3 such notice will be valid and effective only if delivered at the appropriate address in accordance with Section 12.3.

## **ARTICLE 13 CONCERNING THE DEBENTURE TRUSTEE**

### **13.1 No Conflict of Interest**

The Debenture Trustee represents to the Company that at the date of execution and delivery by it of this Indenture, there exists no material conflict of interest in the role of the Debenture Trustee as a fiduciary hereunder but if, notwithstanding the provisions of this Section 13.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture, and the Debentures issued hereunder, will not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises but the Debenture Trustee will, within 30 days after ascertaining that it has a material conflict of interest, either eliminate such material conflict of interest or resign in the manner and with the effect specified in Section 13.2.

### 13.2 Replacement of Debenture Trustee

- (a) The Debenture Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the Company 60 days' notice in writing or such shorter notice as the Company may accept as sufficient. If at any time a material conflict of interest exists in the Debenture Trustee's role as a fiduciary hereunder the Debenture Trustee will, within 30 days after ascertaining that such a material conflict of interest exists, either eliminate such material conflict of interest or resign in the manner and with the effect specified in this Section 13.2. The validity and enforceability of this Indenture and of the Debentures issued hereunder will not be affected in any manner whatsoever by reason only that such a material conflict of interest exists. In the event of the Debenture Trustee resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Company will forthwith appoint a new Debenture Trustee unless a new Debenture Trustee has already been appointed by the Debentureholders. Failing such appointment by the Company, the retiring Debenture Trustee or any Debentureholder may apply to a judge of the Superior Court of Justice, Commercial List on such notice as such judge may direct at the Company's expense, for the appointment of a new Debenture Trustee but any new Debenture Trustee so appointed by the Company or by the Court will be subject to removal as aforesaid by the Debentureholders and the appointment of such new Debenture Trustee will be effective only upon such new Debenture Trustee becoming bound by this Indenture. Any new Debenture Trustee appointed under any provision of this Section 13.2 will be a Company authorized to carry on the business of a trust company in all of the Provinces of Canada. On any new appointment the new Debenture Trustee will be vested with the same powers, rights, duties, and responsibilities as if it had been originally named herein as Debenture Trustee.
- (b) Any company into which the Debenture Trustee may be merged or, with or to which it may be consolidated, amalgamated or sold, or any company resulting from any merger, consolidation, sale or amalgamation to which the Debenture Trustee will be a party, or any company succeeding to the corporate trust business of the Debenture Trustee will be the successor Debenture Trustee under this Indenture without the execution of any instrument or any further act. Nevertheless, upon the written request of the successor Debenture Trustee or of the Company, the Debenture Trustee ceasing to act will, on receipt of all its outstanding fees and disbursements, execute and deliver an instrument assigning and transferring to such successor Debenture Trustee, upon the terms herein expressed, all the rights, powers and trusts of the Debenture Trustee so ceasing to act, and will duly assign, transfer and deliver all property and money held by such Debenture Trustee to the successor Debenture Trustee so appointed in its place. Should any deed, conveyance or instrument in writing from the Company be required by any new Debenture 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 instruments in writing will on request of said new Debenture Trustee, be made, executed, acknowledged and delivered by the Company.

### **13.3 Duties of Debenture Trustee**

In the exercise of the rights, duties and obligations prescribed or conferred by the terms of this Indenture, the Debenture Trustee will act honestly and in good faith and exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. The Debenture Trustee shall not be liable for the failure of third parties to provide documents or other information in a timely manner.

### **13.4 Reliance Upon Declarations, Opinions, etc.**

In the exercise of its rights, duties and obligations hereunder the Debenture Trustee may, if acting in good faith, rely, as to the truth of the statements and accuracy of the opinions expressed therein, upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or requirement of this Indenture or required by the Debenture Trustee to be furnished to it in the exercise of its rights and duties hereunder, if the Debenture Trustee examines such statutory declarations, opinions, reports or certificates and determines that they comply with Section 13.5, if applicable, and with any other applicable requirements of this Indenture. The Debenture Trustee may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. Without restricting the foregoing, the Debenture Trustee may rely on an opinion of Counsel satisfactory to the Debenture Trustee notwithstanding that it is delivered by a firm which acts as solicitors for the Company.

### **13.5 Evidence and Authority to Debenture Trustee, Opinions, etc.**

The Company will furnish to the Debenture Trustee evidence of compliance with the conditions precedent provided for in this Indenture relating to any action or step required or permitted to be taken by the Company or the Debenture Trustee under this Indenture or as a result of any obligation imposed under this Indenture, including without limitation, the certification and delivery of Debentures hereunder, the satisfaction and discharge of this Indenture and the taking of any other action to be taken by the Debenture Trustee at the request of or on the application of the Company, forthwith if and when (a) such evidence is required by any other Section of this Indenture to be furnished to the Debenture Trustee in accordance with the terms of this Section 13.5, or (b) the Debenture Trustee, in the exercise of its rights and duties under this Indenture, gives the Company written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice.

Such evidence will consist of:

- (a) a certificate made by any one officer or Director of the Company, stating that any such condition precedent has been complied with in accordance with the terms of this Indenture;
- (b) in the case of a condition precedent compliance with which is, by the terms of this Indenture, made subject to review or examination by a solicitor, an opinion of Counsel that such condition precedent has been complied with in accordance with the terms of this Indenture; and
- (c) in the case of any such condition precedent compliance with which is subject to review or examination by auditors or accountants, an opinion or report of the

Auditors of the Company whom the Debenture Trustee for such purposes hereby approves, that such condition precedent has been complied with in accordance with the terms of this Indenture.

Whenever such evidence relates to a matter other than the certificates and delivery of Debentures and the satisfaction and discharge of this Indenture, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other person whose qualifications give authority to a statement made by him, provided that if such report or opinion is furnished by a Director or officer or employee of the Company, it will be in the form of a statutory declaration. Such evidence will be, so far as appropriate, in accordance with the immediately preceding paragraph of this Section.

Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in the Indenture will include (a) a statement by the person giving the evidence that he has read and is familiar with those provisions of this Indenture relating to the condition precedent in question, (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based, (c) a statement that, in the belief of the person giving such evidence, he has made such examination or investigation as is necessary to enable him to make the statements or give the opinions contained or expressed therein and (d) a statement whether in the opinion of such person the conditions precedent in question have been complied with or satisfied.

The Company will furnish to the Debenture Trustee at any time if the Debenture Trustee reasonably so requires, its certificate that the Company has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would, with the giving of notice or the lapse of time, or both, or otherwise, constitute an Event of Default, or if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance. The Company will, whenever the Debenture Trustee so requires, furnish the Debenture Trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the Debenture Trustee as to any action or step required or permitted to be taken by the Company or as a result of any obligation imposed by this Indenture.

### **13.6 Officer's Certificates Evidence**

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Debenture Trustee deems it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder. the Debenture Trustee, if acting in good faith, may rely upon an Officer's Certificate.

### **13.7 Experts, Advisers and Agents**

The Debenture Trustee may:

- (a) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuer, engineer, surveyor, appraiser or other expert, whether obtained by the Debenture Trustee or by the Company, or otherwise, and will 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

- (b) employ such agents and other assistants as it may reasonably require for the proper discharge of its duties hereunder, and may pay reasonable remuneration for all services performed for it (and will be entitled to receive reasonable remuneration for all services performed by it from the Company) in the discharge of the trusts 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 trusts hereof and any solicitors employed or consulted by the Debenture Trustee may, but need not be, solicitors for the Company.

### **13.8 Debenture Trustee May Deal in Debentures**

Subject to Sections 13.1 and 13.3, the Debenture Trustee may, in its personal or other capacity, buy, sell, lend upon and deal in the Debentures and generally contract and enter into financial transactions with the Company or otherwise, without being liable to account for any profits made thereby.

### **13.9 Investment of Monies Held by Debenture Trustee**

Unless otherwise provided in this Indenture, any monies held by the Debenture Trustee, which, under the trusts of this Indenture, may or ought to be invested or which may be on deposit with the Debenture Trustee or which may be in the hands of the Debenture Trustee, may be invested and reinvested in the name or under the control of the Debenture Trustee in securities in which, under the laws of the Province of Ontario, trustees are authorized to invest trust monies, provided that such securities are expressed to mature within two years or such shorter period selected to facilitate any payments expected to be made under this Indenture, after their purchase by the Debenture Trustee, and unless and until the Debenture Trustee has declared the principal of and interest on the Debentures to be due and payable, the Debenture Trustee will only invest such monies at the Written Direction of the Company given in a reasonably timely manner. Pending the investment of any monies as hereinbefore provided, such monies may be deposited in the name of the Debenture Trustee in any Canadian chartered bank or, with the consent of the Company, in the deposit department of the Debenture Trustee or any other loan or trust company authorized to accept deposits under the laws of Canada or any Province thereof at the rate of interest, if any, then current on similar deposits. The Company will receive such chartered bank's or the Debenture Trustee's (as the case may be) prevailing rate for all monies held by it, as may change from time to time.

Unless and until the Debenture Trustee has declared the principal of and interest on the Debentures to be due and payable, and except as otherwise expressly provided herein, the Debenture Trustee will pay over to the Company all interest received by the Debenture Trustee in respect of any investments or deposits made pursuant to the provisions of this Section.

### **13.10 Debenture Trustee Not Ordinarily Bound**

Except as provided in Section 7.2 and as otherwise specifically provided herein, the Debenture Trustee will not, subject to Section 13.3, be bound to give notice to any person of the execution hereof, nor to do, observe or perform or see to the observance or performance by the Company of

any of the obligations herein imposed upon the Company or of the covenants on the part of the Company herein contained, nor in any way to supervise or interfere with the conduct of the Company's business, unless the Debenture Trustee has been required to do so in writing by the holders of not less than 25% of the aggregate principal amount of the Debentures then outstanding or by any Extraordinary Resolution of the Debentureholders passed in accordance with the provisions contained in Article 11, and then only after it has been funded and indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages and expenses which it may incur by so doing.

### **13.11 Debenture Trustee Not Required to Give Security**

The Debenture Trustee will not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

### **13.12 Debenture Trustee Not Bound to Act on the Company's Request**

Except as in this Indenture otherwise specifically provided, the Debenture Trustee will not be bound to act in accordance with any direction or request of the Company until a duly authenticated copy of the instrument or resolution containing such direction or request has been delivered to the Debenture Trustee, and the Debenture Trustee will be empowered to act upon any such copy purporting to be authenticated and believed by the Debenture Trustee to be genuine. Should the Debenture Trustee reasonably request originals of the direction or request, they shall be provided.

### **13.13 Conditions Precedent to Debenture Trustee's Obligations to Act Hereunder**

The obligation of the Debenture Trustee to commence or continue any act, action or proceeding for the purpose of enforcing the rights of the Debenture Trustee and of the Debentureholders hereunder will be conditional upon the Debentureholders furnishing when required by notice in writing by the Debenture Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Debenture Trustee to protect and hold harmless the Debenture Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.

None of the provisions contained in this Indenture will require the Debenture Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid.

The Debenture Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding require the Debentureholders at whose instance it is acting to deposit with the Debenture Trustee the Debentures held by them for which Debentures the Debenture Trustee will issue receipts.

### **13.14 Authority to Carry on Business**

The Debenture Trustee represents to the Company 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 all Provinces and Territories of Canada but if, notwithstanding the provisions of this Section, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the securities issued hereunder will not be affected in any manner whatsoever by reason only of such event but

the Debenture Trustee will, within 90 days after ceasing to be authorized to carry on the business of trust company in the Province of Ontario, either become so authorized or resign in the manner and with the effect specified in Section 13.2.

### **13.15 Compensation and Indemnity**

- (a) The Company will pay to the Debenture Trustee from time to time reasonable compensation for its services hereunder as agreed separately by the Company and the Debenture Trustee, and will pay or reimburse the Debenture Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Debenture Trustee 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 Debenture Trustee under this Indenture will be finally and fully performed. The Debenture Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust.
- (b) The Company hereby indemnifies and saves harmless the Debenture Trustee and its directors, officers, agents and employees from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Debenture Trustee 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 negligent failure to act, or the wilful misconduct or bad faith of the Debenture Trustee. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Debenture Trustee. The Debenture Trustee will notify the Company promptly of any claim for which it may seek indemnity. The Company will defend the claim and the Debenture Trustee will co-operate in the defence. The Debenture Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such Counsel. The Company need not pay for any settlement made without its consent, which consent will not be unreasonably withheld. This indemnity will survive the resignation or removal of the Debenture Trustee or the discharge of this Indenture.
- (c) The Company need not reimburse any expense or indemnify against any loss or liability incurred by the Debenture Trustee through gross negligence or bad faith or breach of the Debenture Trustee's duties hereunder.

### **13.16 Anti-Money Laundering**

The Debenture Trustee retains the right not to act and will not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Debenture Trustee, in its sole judgment and 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 Debenture Trustee, in its sole judgment and 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 will

have the right to resign on 10 days' written notice to the Company or any shorter period of time as agreed to by the Company, provided that:

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

### **13.17 Acceptance of Trust**

The Debenture Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various persons who will from time to time be Debentureholders, subject to all the terms and conditions herein set forth.

### **13.18 Third Party Interests**

Each party to this Indenture (in this paragraph referred to as a “**representing party**”) hereby represents to the Debenture Trustee that any account to be opened by, or interest to be held by, the Debenture Trustee in connection with this Indenture, for or to the credit of such representing party, 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 such representing party hereby agrees to complete, execute and deliver forthwith to the Debenture Trustee a declaration, in the Debenture Trustee prescribed form or in such other form as may be satisfactory to it, as to the particulars of such third party.

### **13.19 Privacy**

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, “**Privacy Laws**”) applies to obligations and activities under this Indenture. Despite any other provision of this Indenture, neither party will take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Company will, prior to transferring or causing to be transferred personal information to the Debenture Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or will 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 Debenture Trustee will use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Debenture 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 Agreement and not to use it for any other purpose except with the consent of or direction from the Company and 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 of modification.

### **13.20 Force Majeure**

Neither party shall be liable to the other, or held in breach of this Indenture, 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, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.

## **ARTICLE 14 SUPPLEMENTAL INDENTURES**

### **14.1 Supplemental Indentures**

Subject to any approval that may be required pursuant to the requirements of the TSX or such other exchange on which the Common Shares and the Initial Debentures are listed and posted for trading, from time to time the Debenture Trustee and, when authorized by a resolution of the Directors, the Company, may, and they will when required by this Indenture, execute, acknowledge and deliver by their proper officers deeds or indentures supplemental hereto which thereafter will form part hereof, for any one or more of the following purposes:

- (a) providing for the issuance of Additional Debentures under this Indenture;
- (b) adding to the covenants of the Company herein contained for the protection of the Debentureholders, or of the Debentures of any series, or providing for events of default, in addition to those herein specified;
- (c) making such provisions not inconsistent with this Indenture as may be necessary or desirable with respect to matters or questions arising hereunder, including the making of any modifications in the form of the Debentures which do not affect the substance thereof and which in the opinion of the Debenture Trustee (relying on an opinion of Counsel) will not be prejudicial to the interests of the Debentureholders;
- (d) evidencing the succession, or successive successions, of others to the Company and the covenants of and obligations assumed by any such successor in accordance with the provisions of this Indenture;
- (e) giving effect to any Extraordinary Resolution passed as provided in Article 11; and
- (f) for any other purpose not inconsistent with the terms of this Indenture.

Unless this Indenture or the supplemental indenture requires the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, by Extraordinary Resolution, the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, will not be required in connection with the execution, acknowledgement or delivery of a supplemental indenture. The Company and the Debenture Trustee, without the consent or approval of the Debentureholders, may amend any of the provisions of this Indenture related to matters of United States law or the issuance of

Debentures into the United States in order to ensure that such issuances can be made in accordance with applicable law in the United States. The Debenture Trustee will have the right to request a legal opinion regarding matters of United States law or the issuance of Debentures into the United States prior to or concurrently with making such amendments. Further, the Company and the Debenture Trustee may without the consent or concurrence of the Debentureholders or the holders of a particular series of Debentures, as the case may be, by supplemental indenture or otherwise, make any changes or corrections in this Indenture which it has been advised by Counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or clerical omissions or mistakes or manifest errors contained herein or in any indenture supplemental hereto or any Written Direction of the Company provided for the issue of Debentures, providing that in the opinion of the Debenture Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders are in no way prejudiced thereby.

**ARTICLE 15**  
**EXECUTION AND FORMAL DATE; CONCERNING THIS TRUST INDENTURE**

**15.1 Execution**

This Indenture may be executed and delivered by facsimile and in counterparts, each of which when so executed and delivered will be deemed to be an original and such counterparts together constitute one and the same instrument and notwithstanding their date of execution they are deemed to be dated as of the date hereof.

**15.2 Formal Date**

For the purpose of convenience this Indenture may be referred to as bearing the formal date of December 30, 2024 irrespective of the actual date of execution hereof.

**15.3 Concerning this Trust Indenture**

To the extent of any conflict between the description of the Debentures in any term sheet, prospectus or other offering document which qualifies for distribution any Debentures governed by this Trust Indenture, the terms and conditions of this Trust Indenture shall be paramount.

**[Remainder of this page intentionally left blank.]**

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

**INVESQUE INC.**

Per: “Quinn Haselhorst”  
Name: Quinn Haselhorst  
Title: Chief Financial Officer

**COMPUTERSHARE TRUST COMPANY OF  
CANADA**

Per: “Lisa M. Kudo”  
Name: Lisa M. Kudo  
Title: Manager, Corporate Trust

Per: “Claire Wang”  
Name: Claire Wang  
Title: Corporate Trust Officer

**SCHEDULE A**  
**TO THE TRUST INDENTURE BETWEEN**  
**INVESQUE INC. AND**  
**COMPUTERSHARE TRUST COMPANY OF CANADA**  
**FORM OF INITIAL DEBENTURE**

No. [●]

CUSIP 46136UAC7  
ISIN CA46136UAC77

**INVESQUE INC.**

(A corporation existing under the laws of the Province of British Columbia)

9.75% Unsecured Subordinated Debentures Due December 30, 2027

Date of Issue: [●]

Maturity Date: December 30, 2027

Registered Holder: CDS & Co.

**UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. (“CDS”) TO INVESQUE INC. OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF CDS & CO., OR TO SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS (AND ANY PAYMENT IS MADE TO CDS & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED HOLDER HEREOF, CDS & CO., HAS A PROPERTY INTEREST IN THE SECURITIES REPRESENTED BY THIS CERTIFICATE HEREIN AND IT IS A VIOLATION OF ITS RIGHTS FOR ANOTHER PERSON TO HOLD, TRANSFER OR DEAL WITH THIS CERTIFICATE.**

INVESQUE INC. (the “**Company**”) for value received hereby acknowledges itself indebted and, subject to the provisions of the Trust Indenture (the “**Indenture**”) dated December 30, 2024 between the Company and Computershare Trust Company of Canada (the “**Debenture Trustee**”), promises to pay to the registered holder hereof on the maturity date of this Initial Debenture, as hereinafter described, or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture, the principal amount of

§●

in lawful money of the United States, as may be adjusted as set out in Exhibit 1, on presentation and surrender of this Initial Debenture at the main branch of the Debenture Trustee in Toronto, Ontario in accordance with the terms of the Indenture.

This Initial Debenture is one of the 9.75% Unsecured Subordinated Debentures (referred to herein as the “**Initial Debentures**”) of the Company issued or issuable under the provisions of the

Indenture. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Initial Debentures are to be issued and held and the rights and remedies of the holders of the Initial Debentures and of the Company and of the Debenture Trustee, 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 Initial Debenture by acceptance hereof assents.

The maturity date (the “**Maturity Date**”) for the Initial Debentures will be December 30, 2027. The Initial Debentures will bear interest at the rate of 9.75% per annum, payable in equal semi-annual payments, in arrears, on June 30 and December 31 in each year, the first such payment to fall due on June 30, 2025, payable after as well as before maturity and after as well as before default, with interest on amounts in default at the same rate, compounded semi-annually, computed on the basis of a 360-day year composed of twelve 30-day months.

Interest hereon will be payable (less applicable withholding taxes, if any) by cheque mailed by prepaid ordinary mail or by electronic transfer of funds to the registered holder hereof and, subject to the provisions of the Indenture, the mailing of such cheque or the sending of the electronic transfer of funds, as the case may be, will, to the extent of the sum represented thereby (plus the amount of any tax withheld or deducted and remitted to the proper tax authority), satisfy and discharge all liability for interest on this Initial Debenture.

The Initial Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Initial Debentures of any denomination may be exchanged for an equal aggregate principal amount of Initial Debentures in any other authorized denomination or denominations.

The Initial Debentures may be redeemed at the option of the Company on the terms and conditions set out in the Indenture at the redemption price therein and herein set out. On or after the Initial Debentures Issuance Date and prior to the first anniversary of the Initial Debentures Issuance Date (the “**First Call Period**”), the Initial Debentures may be redeemed at the option of the Company in whole or in part from time to time on notice as provided for in Section 4.3 at a Redemption Price equal to 102% of the principal amount of the Initial Debentures; provided, however, that notwithstanding the foregoing, during the First Call Period up to 25% of the Initial Debentures may be redeemed at the option of the Company in whole or in part from time to time on notice as provided for in the Indenture at a Redemption Price equal to 100% of the principal amount of the Initial Debentures. In addition thereto, at the time of redemption, the Company will pay to the holder accrued and unpaid interest up to but not including the Redemption Date. On or after the expiry of the First Call Period and prior to the Maturity Date, the Initial Debentures may be redeemed at the option of the Company in whole or in part from time to time on notice as provided for in the Indenture, at a Redemption Price equal to the principal amount of the Initial Debentures. In addition thereto, at the time of redemption, the Company will pay to the holder accrued and unpaid interest up to but not including the Redemption Date.

Upon the occurrence of a Change of Control of the Company, the Company is required to make an offer to purchase all the Initial Debentures at a price equal to 101% of the principal amount of such Initial Debentures plus accrued and unpaid interest up to, but excluding, the date the Initial Debentures are so repurchased (the “**Offer**”). If 90% or more of the aggregate principal amount of the Debentures issued under the Indenture outstanding on the date the Company provides notice of a Change of Control to the Debenture Trustee have been tendered for purchase pursuant to the

Offer, the Company has the right to redeem all the remaining outstanding Initial Debentures at the same price.

If an Offer for all of the outstanding Debentures is made and 90% or more of the principal amount of all the Debentures (other than Debentures held at the date of the takeover bid by or on behalf of the Offeror, Associates or Affiliates of the Offeror or anyone acting jointly or in concert with the Offeror) are taken up and paid for by the Offeror, the Offeror will be entitled to acquire the Debentures of those holders who did not accept the Offer on the same terms as the Offeror acquired the first 90% of the principal amount of the Debentures.

The indebtedness evidenced by this Initial Debenture, and by all other Initial Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the Company, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment of all Senior Indebtedness (including any indebtedness to trade creditors), whether outstanding at the date of the Indenture or thereafter created, incurred, assumed or guaranteed.

The principal hereof may become or be declared 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 Indenture contains provisions making binding upon all holders of Debentures outstanding thereunder (or in certain circumstances specific series of Debentures) resolutions passed at meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding (or specific series), which resolutions or instruments may have the effect of amending the terms of this Initial Debenture or the Indenture.

This Initial Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in one of the registers to be kept at the principal office of the Debenture Trustee in Toronto, Ontario and in such other place or places and/or by such other registrars (if any) as the Company with the approval of the Debenture Trustee may designate. No transfer of this Initial Debenture will be valid unless made on the register by the registered holder hereof or its executors or administrators or other legal representatives, or his or their mandatary duly appointed by an instrument in form and substance satisfactory to the Debenture Trustee or other registrar, and upon compliance with such reasonable requirements as the Debenture Trustee and/or other registrar may prescribe and upon surrender of this Initial Debenture for cancellation. Thereupon a new Initial Debenture or Initial Debentures in the same aggregate principal amount will be issued to the transferee in exchange hereof.

All dollar amounts expressed in this Debenture are in lawful money of United States and all payments required to be made hereunder will be made in United States dollars.

This Initial Debenture will not become obligatory for any purpose until it will have been certified by the Debenture Trustee under the Indenture.

If any of the provisions of this Initial Debenture are inconsistent with the provisions of the Indenture, the provisions of the Indenture will take precedence and will govern. Capitalized words or expressions used in this Initial Debenture, unless otherwise defined herein, have the meaning attributed thereto in the Indenture.

**IN WITNESS WHEREOF** Invesque Inc. has caused this Initial Debenture to be signed by its duly authorized officers as of the [●] day of [●], 202[●].

**INVESQUE INC.**

Per: \_\_\_\_\_

Name: Quinn Haselhorst

Title: Chief Financial Officer

**DEBENTURE TRUSTEE'S CERTIFICATE**

This Initial Debenture is one of the 9.75% Unsecured Subordinated Debentures due December 30, 2027 of Invesque Inc. referred to in the Indenture within mentioned.

**COMPUTERSHARE TRUST COMPANY OF  
CANADA**

Per: \_\_\_\_\_

Authorized Signatory

## 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 Initial Debenture (or \$ \_\_\_\_\_ principal amount hereof\*) of Invesque Inc. standing in the name(s) of the undersigned in the register maintained with respect to such Initial Debenture and does hereby irrevocably authorize and direct the Debenture Trustee to transfer such Initial Debenture in such register, with full power of substitution in the premises. All dollar amounts expressed in this Form of Assignment are in lawful money of United States.

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

Address of Transferee: \_\_\_\_\_  
(Street Address, City, Province/State and Postal/Zip Code and Country)

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

\* If less than the full principal amount of the within Initial Debenture is to be transferred, indicate in the space provided the principal amount (which will be \$1,000 or an integral multiple thereof, unless you hold an Initial Debenture in a non-integral multiple of \$1,000 by reason of your having exercised your right to exchange upon the making of a Debenture Offer, in which case such Initial Debenture is transferable only in its entirety) to be transferred.

The signature(s) to this assignment must correspond with the name(s) as written upon the face of this 9.75% Debenture in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by one of the following methods:

1. 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".
2. Canada: A Signature Guarantee obtained from a major Canadian Schedule 1 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.
3. 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 Initial 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 Initial Debenture.

**Signature of Guarantor**

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Signature of transferring registered holder

\_\_\_\_\_  
Name of Institution



**SCHEDULE B**

**TO THE TRUST INDENTURE BETWEEN  
INVESQUE INC. AND  
COMPUTERSHARE TRUST COMPANY OF CANADA**

**FORM OF REDEMPTION NOTICE**

**INVESQUE INC.  
9.75% UNSECURED SUBORDINATED DEBENTURES  
REDEMPTION NOTICE**

**TO: Holders of 9.75% Unsecured Subordinated Debentures (the “Debentures”) of INVESQUE INC. (the “Company”)**

Note: All capitalized terms used herein have the meaning attributed thereto in the Indenture mentioned below, unless otherwise indicated.

Notice is hereby given pursuant to Section 4.3 of the Trust Indenture (the “**Indenture**”) dated December 30, 2024 between the Company and Computershare Trust Company of Canada (the “**Debenture Trustee**”), that the aggregate principal amount of \$● of the \$● of Debentures outstanding will be redeemed as of ● (the “**Redemption Date**”), upon payment of a redemption amount of \$● per \$1,000 principal amount of Debentures (the “**Redemption Price**”), and all accrued and unpaid interest hereon to but excluding the Redemption Date (less applicable withholding taxes, if any) (collectively, the “**Total Redemption Price**”). All dollar amounts expressed in this Form or Redemption Notice are in lawful money of United States and all payments required to be made hereunder will be made in United States dollars.

The Total Redemption Price will be payable upon presentation and surrender of the Debentures called for redemption at the following corporate trust office:

Computershare Trust Company of Canada  
100 University Avenue 11th Floor  
Toronto, Ontario  
M5J 2Y1

Attention: Manager, Corporate Trust

The interest upon the principal amount of Debentures called for redemption will cease to be payable from and after the Redemption Date, unless payment of the Total Redemption Price will not be made on presentation for surrender of such Debentures at the above-mentioned corporate trust office on or after the Redemption Date or prior to the setting aside of the Total Redemption Price pursuant to the Indenture.

In this connection, upon presentation and surrender of the Debentures for payment on the Redemption Date, the Company will, on the Redemption Date, make the delivery to an account specified by the Debenture Trustee, by wire transfer of immediately available funds, for delivery to and on account of the holders, cash representing the Total Redemption Price.

DATE: \_\_\_\_\_

**INVESQUE INC.**

Per: \_\_\_\_\_

Name:

Title:

I/We have the authority to bind the corporation