

DEBENTURE INDENTURE

Providing for the Issue of 4.65% Senior Subordinated Unsecured Convertible Debentures

Dated October 2, 2019

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DEBENTURE INDENTURE

THIS DEBENTURE INDENTURE made as of the 2nd day of October, 2019,

BETWEEN:

FORTUNA SILVER MINES INC., a corporation incorporated under the laws of the Province of British Columbia

(the “**Corporation**”)

– and –

COMPUTERSHARE TRUST COMPANY OF CANADA, a trust company incorporated under the federal laws of Canada authorized to carry on business in all provinces of Canada

(the “**Debenture Trustee**”)

WHEREAS the Corporation deems it advisable to create and issue the Debentures to be created and issued in the manner as herein provided;

AND WHEREAS the Corporation is duly authorized to create and issue the Debentures to be issued as herein provided;

AND WHEREAS all necessary steps in relation to the Corporation have been duly enacted, passed or confirmed and other proceedings taken and conditions complied with to make the Debentures, when certified or authenticated by the Debenture Trustee and issued as in this Indenture provided, legal, valid and binding obligations of the Corporation; and

AND WHEREAS the foregoing recitals are made as representations and statements of fact by the Corporation 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 this Indenture and in the Debentures, unless there is something in the subject matter or context inconsistent therewith, the expressions following shall have the following meanings, namely:

- (a) “**1933 Act**” means the United States *Securities Act of 1933*, as amended;
- (b) “**90% Redemption Right**” has the meaning ascribed thereto in Section 2.4(i)(vii);

- (c) **"90% Redemption Right Notice"** has the meaning ascribed thereto in Section 2.4(i)(vii);
- (d) **"Acceptance Notice"** has the meaning ascribed thereto in Section 2.4(i)(iii);
- (e) **"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;
- (f) **"Affiliate"** and **"Associate"** has the meaning ascribed thereto in Section 12.1(a);
- (g) **"Applicable Securities Legislation"** means applicable securities laws (including rules, regulations, policies and instruments) in each of the provinces of Canada;
- (h) **"Approved Bank"** has the meaning ascribed thereto in Section 15.9;
- (i) **"Auditors of the Corporation"** means an independent firm of chartered accountants duly appointed as auditors of the Corporation;
- (j) **"Authenticated"** means, (a) with respect to the issuance of Certificated Debentures, one which has been authenticated by signature of an Authorized Officer of the Debenture Trustee, and (b) with respect to the issuance of Uncertificated Debentures, that the Debenture Trustee has completed all Internal Procedures such that the particulars of such Uncertificated Debentures as required by Section 2.8 are entered in the register of holders of Debentures, and the terms "Authenticate", "Authenticating" and "Authentication" have meanings correlative to the foregoing.
- (k) **"Authorized Officer"** means authorized officer(s) of the Corporation or of the Debenture Trustee, as the case may be;
- (l) **"Bankruptcy Law"** means the *Bankruptcy and Insolvency Act* (Canada) or any other Canadian federal or provincial law or foreign law relating to bankruptcy, insolvency, winding up, liquidation, reorganization or relief of debtors;
- (m) **"Base Share"** has the meaning ascribed thereto in Section 2.4(j)(ii);
- (n) **"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;
- (o) **"Broker"** has the meaning ascribed thereto in Section 10.1(b);
- (p) **"Business Day"** means any day other than a Saturday, Sunday or a statutory holiday in the Province of British Columbia or any other day on which business of the Debenture Trustee and Canadian chartered banks are generally closed;

- (q) **“Cash Change of Control”** means a Change of Control in which 10% or more of the consideration for Common Shares in the transaction or transactions constituting a Change of Control consists of: (i) cash; (ii) equity securities that are not traded or intended to be traded immediately following such transactions on a stock exchange; or (iii) other property that is not traded or intended to be traded immediately following such transactions on a stock exchange;
- (r) **“Cash Change of Control Conversion Period”** has the meaning ascribed thereto in Section 2.4(j)(i);
- (s) **“Certificate”** means a written certificate signed by any one of the Chief Executive Officer or Chief Financial Officer of the Corporation;
- (t) **“Certificated Debenture”** means a Debenture evidenced by a writing in the form of Schedule A.
- (u) **“Change of Control”** shall be deemed to occur upon the occurrence of any of the following events:
 - (i) the acquisition by any Person or group of persons acting jointly or in concert (within the meaning of National Instrument 62-104 – *Take Over Bids an Issuer Bids*) of ownership of, or voting control or direction over, 50% or more of the Common Shares; or
 - (ii) the sale or other transfer of all or substantially all of the consolidated assets of the Corporation, provided that a sale or other transfer of less than 50% of the Fair Market Value of the consolidated assets of the Corporation shall be deemed not to constitute a sale of all or substantially all of its consolidated assets;and a **“Change of Control”** shall not include a sale, merger, reorganization, arrangement or similar transaction if the previous holders of the Common Shares hold at least 50% of the voting control or direction in such merged, reorganized, arranged or other continuing entity.
- (v) **“Change of Control Purchase Date”** has the meaning ascribed thereto in Section 2.4(i)(v);
- (w) **“Closing Date”** means October 2, 2019 or the closing date of the purchase and sale of any additional Initial Debentures as specified in any written notice given by CIBC World Markets Inc. on behalf of Scotia Capital Inc. and BMO Nesbitt Burns Inc. pursuant to their over-allotment option to purchase such additional Initial Debentures;
- (x) **“CoC Share Price”** has the meaning ascribed thereto in Section 2.4(j)(ii);

- (y) **“Common Share”** means common shares in the capital of the Corporation, as such common shares are constituted on the date of execution and delivery of this Indenture; provided that in the event of a change or a subdivision, revision, reduction, combination or consolidation thereof, any reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up, or such successive changes, subdivisions, redivisions, reductions, combinations or consolidations, reclassifications, capital reorganizations, consolidations, amalgamations, arrangements, mergers, sales or conveyances or liquidations, dissolutions or windings-up, then, subject to adjustments, if any, having been made in accordance with the provisions of Section 6.5, **“Common Shares”** shall mean the shares or other securities or property resulting from such change, subdivision, redivision, reduction, combination or consolidation, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up;
- (z) **“Common Share Bid Request”** means a request for bids to purchase Common Shares (to be issued by the Corporation on the Common Share Delivery Date) made by the Corporation in accordance with the Common Share Interest Payment Election Notice and which shall make the acceptance of any bid conditional upon the acceptance of sufficient bids to result in aggregate net proceeds from such issue and sale of Common Shares which, together with the cash payments by the Corporation, if any, equal the Interest Obligation;
- (aa) **“Common Share Delivery Date”** means a date not less than one Business Day prior to the applicable Interest Payment Date, upon which Common Shares are delivered by the Corporation to the Debenture Trustee for sale pursuant to Common Share Purchase Agreements (together with the cash payments by the Corporation, if any, required to be made in order to pay in full the applicable Interest Obligation);
- (bb) **“Common Share Interest Payment Election”** means an election by the Corporation to raise funds to satisfy all or part of an Interest Obligation on the applicable Interest Payment Date by the delivery of Common Shares in the manner described in the Common Share Interest Payment Election Notice;
- (cc) **“Common Share Interest Payment Election Amount”** means the sum of (i) the amount of the aggregate net proceeds resulting from the sale of Common Shares on the Common Share Delivery Date pursuant to acceptable bids obtained pursuant to the Common Share Bid Request; and (ii) the cash payments by the Corporation, if any, including any cash amount paid by the Corporation in respect of fractional Common Shares pursuant to Section 10.1(f), which sum shall be equal to the aggregate amount of the Interest Obligation in respect of which the Common Share Interest Payment Election Notice was delivered;

- (dd) **“Common Share Interest Payment Election Notice”** means a written notice made by the Corporation to the Debenture Trustee specifying:
- (i) the Interest Obligation to which the election relates;
 - (ii) the Common Share Interest Payment Election Amount;
 - (iii) the investment banks, brokers or dealers (i) through which the Corporation shall seek bids to purchase the Common Shares and the conditions of such bids, which may include the minimum number of Common Shares, minimum price per Common Share, timing for closing for bids and such other matters as the Corporation may specify, or (ii) with which the Corporation shall establish an account or accounts for the purpose of selling Common Shares; and
 - (iv) that the Corporation shall accept through the investment banks, brokers or dealers selected by the Corporation only those bids which comply with such notice;
- (ee) **“Common Share Proceeds Investment”** has the meaning attributed thereto in Section 10.1(g);
- (ff) **“Common Share Purchase Agreement”** means an agreement in customary form among the Corporation and the Persons making acceptable bids pursuant to a Common Share Bid Request, providing for the purchase of Common Shares, which complies with all applicable laws, including the Applicable Securities Legislation and the rules and regulations of any stock exchange on which the Debentures or Common Shares are then listed;
- (gg) **“Common Share Redemption Right”** has the meaning ascribed thereto in Section 4.6(a);
- (hh) **“Common Share Repayment Right”** has the meaning ascribed thereto in Section 4.11(a);
- (ii) **“Corporation”** has the meaning attributed to it in the recitals;
- (jj) **“Conversion Price”** means (i) with respect to the Initial Debentures, the \$5.00 amount for which each Common Share may be issued from time to time upon the conversion of the Initial Debentures, as adjusted in accordance with the provisions of Article 6 and (ii) for any other series of Debentures which are by their terms convertible, the amount set upon their creation, as adjusted in accordance with the provisions of Article 6;
- (kk) **“Counsel”** means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Debenture Trustee or retained or employed by the Corporation and acceptable to the Debenture Trustee, acting reasonably;

- (ll) **“Credit Agreement”** means the third amended and restated credit agreement by and among, inter alia, The Bank of Nova Scotia, as lead arranger and administrative agent, each of the financial institutions and other entities from time to time party thereto, as lenders, and the Corporation, as borrower, made as of January 26, 2018, as amended pursuant to a joinder and first amendment made as of December 13, 2018, a second amendment made as of June 26, 2019 and as may be further amended from time to time;
- (mm) **“Current Market Price”** means the VWAP of the Common Shares on the NYSE for the 20 consecutive trading days ending on the fifth trading day preceding the date of the applicable event (or, if not listed thereon, on such stock exchange on which Common Shares are listed or, if the Common Shares are not listed on any stock exchange, then on the over-the-counter market) or, if there is no market, fair value as determined by an independent financial advisor;
- (nn) **“Date of Conversion”** has the meaning ascribed thereto in Section 6.4(b);
- (oo) **“Debenture Liabilities”** means the indebtedness, liabilities and obligations of the Corporation under Debentures issued under this Indenture of any series, including on account of principal, interest or otherwise but excluding the issuance of Common Shares upon any Conversion pursuant to Article 6, upon any redemption pursuant to Article 4, or at maturity pursuant to Article 4;
- (pp) **“Debenture Offer”** has the meaning ascribed thereto in Section 2.4(i)(i);
- (qq) **“Debenture Trustee”** means Computershare Trust Company of Canada and includes any successor or successors or any other trustee subsequently appointed pursuant to Section 15.2;
- (rr) **“Debentureholders”** or **“holders”** means the Persons for the time being entered in the register for Debentures as registered holders of Debentures;
- (ss) **“Debentures”** means the debentures, notes or other evidence of indebtedness of the Corporation 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, uncertificated or interim form or in the form of Global Debentures;
- (tt) **“deemed year”** has the meaning ascribed thereto in Section 2.11(b);
- (uu) **“Defeased Debentures”** has the meaning ascribed thereto in Section 9.6;
- (vv) **“Depositary”** 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 Depositary by the Corporation pursuant to Section 2.6(a) until a successor Depositary shall have become such pursuant to the applicable provisions of

this Indenture, and thereafter “**Depository**” shall 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 shall mean each Depository with respect to the Global Debentures of such series and, in the case of the Initial Debentures, the Depository shall initially be the CDS Clearing and Depository Services Inc. (“**CDS**”);

- (ww) “**Depository Participant**” means a broker, dealer, bank, other financial institution or other person for whom from time to time, a Depository effects book entries for a Global Debenture deposited with the Depository;
- (xx) “**Directors**” means the directors of the Corporation on the date hereof or such directors as may, from time to time, be appointed or elected directors of the Corporation pursuant to the Corporation’s Notice of Articles and Articles, and applicable laws, and “**Director**” means any one of them, and reference to action by the Directors means action by the Directors as a board;
- (yy) “**Dividend Threshold**” has meaning ascribed thereto in Section 6.5(c);
- (zz) “**Effective Date**” has the meaning ascribed thereto in Section 2.4(j)(i);
- (aaa) “**especially affected series**” has the meaning ascribed thereto in Section 13.2(b)(i);
- (bbb) “**Event of Default**” has the meaning ascribed thereto in Section 8.1;
- (ccc) “**Extraordinary Resolution**” has the meaning ascribed thereto in Section 13.12;
- (ddd) “**Fair Market Value**” means, with respect to any asset or property, the price which could be negotiated in an arm’s-length, free market transaction, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction;
- (eee) “**First Call Date**” means October 31, 2022;
- (fff) “**Freely Tradeable**” means, in respect of any Common Shares or any other securities of the Corporation or any other Person, as the case may be, which securities (i) may be issued without the necessity of filing a prospectus or any other similar offering document (other than such prospectus or similar offering document that has already been filed) under Applicable Securities Legislation and such issue does not constitute a distribution (other than a distribution already qualified by prospectus or similar offering document or that is otherwise exempt from prospectus requirements) under Applicable Securities Legislation; and (ii) can be traded by the holder thereof without any restriction under Applicable Securities Legislation, such as hold periods, except in the

case of a control distribution (as defined in the Applicable Securities Legislation);

- (ggg) **“Fully Registered Debentures”** means Debentures registered as to both principal and interest;
- (hhh) **“generally accepted accounting principles”** or **“GAAP”** means generally accepted accounting principles in Canada, as amended from time to time, as applicable to the Corporation and for greater certainty includes International Financial Reporting Standards as and to the extent applicable to the Corporation;
- (iii) **“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;
- (jjj) **“Government Obligations”** means short-term Canadian government obligations;
- (kkk) **“guarantee”** means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business) direct or indirect, in any manner (including, letters of credit and reimbursement agreements in respect thereof), of all or any part of any indebtedness or other obligations;
- (lll) **“Indemnified Parties”** has the meaning ascribed thereto in Section 15.17(b);
- (mmm) **“Initial Debentures”** means the Debentures designated as “4.65% Senior Subordinated Unsecured Convertible Debentures” and described in Section 2.4(a);
- (nnn) **“Interest Obligation”** means the obligation of the Corporation to pay interest on the Debentures, as and when the same becomes due;
- (ooo) **“Interest Payment Date”** means a date specified for a series of Debentures as the date on which an instalment of interest on such Debentures shall be due and payable for the period from any Interest Payment Date up to but excluding the subsequent Interest Payment Date, and which, for the Initial Debentures shall be semi-annually on the last Business Day of April and October in each year, commencing on April 30, 2020 computed on the basis of a 365-day year;
- (ppp) **“Internal Procedures”** means in respect of the making of any one or more entries to, changes in or deletions of any one or more entries in the register for the registration of Debentures at any time (including without limitation, original issuance or registration of transfer of ownership) the minimum number of the Debenture Trustee’s internal procedures customary at such time for the

entry, change or deletion made to be complete under the operating procedures followed at the time by the Debenture Trustee;

- (qqq) **“Lien”** means, with respect to any asset, any mortgage, hypothec, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the *Personal Property Security Act* (British Columbia) (or equivalent statutes) of any jurisdiction); provided that in no event shall an operating lease be deemed to constitute a Lien;
- (rrr) **“Make Whole Premium”** has the meaning ascribed thereto in Section 2.4(j)(i);
- (sss) **“Make Whole Premium Shares”** has the meaning ascribed thereto in Section 2.4(j)(ii);
- (ttt) **“Material Adverse Effect”** means (i) a material adverse change in, or a material adverse effect upon, the operations, business, properties, financial condition, or assets of the Corporation on a consolidated basis; or (ii) a material adverse effect upon the legality, validity, binding effect or enforceability of this Indenture against the Corporation;
- (uuu) **“Maturity Account”** means an account or accounts required to be established by the Corporation (and which shall 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;
- (vvv) **“Maturity Date”** has the meaning ascribed thereto in Section 2.4(b);
- (www) **“Maturity Notice”** has the meaning ascribed thereto in Section 2.4(g);
- (xxx) **“NYSE”** means New York Stock Exchange;
- (yyy) **“Offer Expiry Date”** has the meaning ascribed thereto in Section 2.4(i)(ii);
- (zzz) **“Offer Expiry Time”** has the meaning ascribed thereto in Section 2.4(i)(ii);
- (aaaa) **“Offer Price”** has the meaning ascribed thereto in Section 2.4(i)(i);
- (bbbb) **“Ordinary Resolution”** has the same meaning as “Extraordinary Resolution” except that references in the latter to “66 2/3%” shall become references to “a majority” for the purposes of defining “Ordinary Resolution”;
- (cccc) **“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 and conversion provisions, if any, with respect thereto, are to be determined by the Corporation upon the issuance of such Debentures from time to time;

- (dddd) **“Person”** includes an individual, corporation, company, limited liability company, partnership, joint venture, association, trust, trustee, unincorporated organization or government or any agency or political subdivision thereof;
- (eeee) **“Privacy Laws”** has the meaning ascribed thereto in Section 15.21;
- (ffff) **“Property Account”** means an account established by the Corporation to be maintained by and subject to the control of the Debenture Trustee;
- (gggg) **“Redemption Date”** has the meaning ascribed thereto in Section 4.3;
- (hhhh) **“Redemption Notice”** has the meaning ascribed thereto in Section 4.3;
- (iiii) **“Redemption Price”** means, in respect of a Debenture, the amount, excluding interest, payable on the Redemption Date fixed for such Debenture;
- (jjjj) **“representing party”** has the meaning ascribed thereto in Section 15.19;
- (kkkk) **“Second Call Date”** means October 31, 2023;
- (llll) **“Senior Creditor”** means a holder or holders of Senior Indebtedness and includes any agent or agents or representative or representatives or trustee or trustees of any such holder or holders;
- (mmmm) **“Senior Indebtedness”** means all present and future indebtedness of the Corporation which is (i) secured; (ii) owed to a bank or other financial institution, whether or not secured; (iii) owed under or in connection with the Credit Agreement (as amended, restated, supplemented or otherwise modified from time to time), including the Obligations and the Other Secured Obligations (each as therein defined); or (iv) a renewal, extension or refinancing of any of such indebtedness of clause (i), (ii), (iii) and (iv) above;
- (nnnn) **“Senior Security”** means all mortgages, hypothecs, liens, pledges, charges (whether fixed or floating), security interests or other encumbrances of any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness;
- (oooo) **“Serial Meeting”** has the meaning ascribed thereto in Section 13.2(b)(i);
- (pppp) **“Subsidiary”** has the meaning ascribed thereto in National Instrument 45-106 – Prospectus Exemptions;

- (qqqq) “**Tax Act**” means the *Income Tax Act* (Canada) and the regulations thereunder, in each case in effect on the date hereof;
- (rrrr) “**this Indenture**”, “**this Debenture 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;
- (ssss) “**Time of Expiry**” means the time of expiry of certain rights with respect to the conversion of Debentures under Article 6 which is to be set forth for each series of Debentures which by their terms are to be convertible;
- (tttt) “**trading day**” means, with respect to the TSX or other market for securities on which the Debentures are traded, any day on which such exchange or market is open for trading or quotation;
- (uuuu) “**TSX**” means the Toronto Stock Exchange or its successor or successors;
- (vvvv) “**U.S. Dollars**”, “**US\$**” or “**\$**” means the lawful money in the United States;
- (wwww) “**Uncertificated Debenture**” means: (a) any Debenture which is not a Certificated Debenture; or (b) one or more Debentures in certificated form while retained by or surrendered to the Corporation, its transfer agent or the Debenture Trustee, for reasons other than registration of transfer, other temporary purpose, payment, exchange or acquisition by the Corporation; provided that the Debenture Trustee shall not be required to treat any such Debenture as an Uncertificated Debenture unless such retention or surrender is known to an Authorized Officer of the Debenture Trustee.
- (xxxx) “**VWAP**” means the volume weighted average trading price of the Common Shares for the applicable period (which must be calculated utilizing days in which the Common Shares actually trade) on the NYSE (or if the Common Shares are no longer traded on the NYSE on such other exchange as the Common Shares are then traded);
- (yyyy) “**Written Direction**” means an instrument in writing signed by any one of the Chief Executive Officer, Chief Financial Officer, Chief Investment Officer or Corporate Secretary of the Corporation.

1.2 Meaning of “Outstanding”

Every Debenture certified and delivered by the Debenture Trustee hereunder shall be deemed to be outstanding until it is cancelled, converted, redeemed or delivered to the Debenture Trustee for cancellation, conversion or redemption or monies and/or Common Shares or other applicable securities or property, as the case may be, for the payment thereof shall have been set aside under Section 9.2, provided that:

- (a) Debentures which have been partially redeemed, purchased or converted shall be deemed to be outstanding only to the extent of the unredeemed, unpurchased or unconverted 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 shall be counted for the purpose of determining the aggregate principal amount of Debentures outstanding; and
- (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 Corporation 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;
 - (ii) Debentures so owned which have been pledged in good faith other than to the Corporation or a Subsidiary of the Corporation 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 Corporation or a Subsidiary of the Corporation; and
 - (iii) Debentures so owned shall not be disregarded if they are the only Debentures outstanding.

1.3 Interpretation

In this Indenture:

- (a) words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, respectively, 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, subsections or clauses refer, unless otherwise specified, to Sections, subsections or clauses of this Indenture;

- (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;
- (e) unless otherwise indicated, reference to any agreement or other instrument in writing means such agreement or other instrument in writing as amended, modified, replaced or supplemented from time to time;
- (f) unless otherwise indicated, reference to a statute shall be deemed to be a reference to such statute as amended, re-enacted or replaced from time to time; and
- (g) unless otherwise indicated, time periods within which a payment is to be made or any other action is to be taken hereunder shall be calculated by including the day on which the period commences and excluding the day on which the period ends.

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 shall not affect the construction or interpretation of this Indenture or of the Debentures.

1.5 Day not a Business Day

In the event that any day on which any action required to be taken hereunder is not a Business Day, then such action shall be required to 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 shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and shall be treated in all respects as British Columbia contracts. The Corporation hereby irrevocably attorns to the exclusive jurisdiction of the courts of the Province of British Columbia.

1.7 Monetary References

Whenever any amounts of money are referred to herein, such amounts shall be deemed to be in lawful money of the United States unless otherwise expressed.

1.8 Currency of Payment

Unless otherwise indicated in a supplemental indenture with respect to any particular series of Debentures, all payments to be made under this Indenture or a supplemental indenture shall be made in U.S. dollars.

1.9 All Payments Net of Taxes

For greater certainty, any and all payments to be made pursuant to this Indenture of or on account of principal, premium, if any, and interest or any deemed interest on the Debentures (including upon redemption, purchase or conversion of the Debentures) or of any other amount, whether paid or payable in money, Common Shares or other securities or property, shall be made subject to the deduction of any and all applicable taxes or withholdings.

1.10 Accounting Terms

Except as hereinafter provided or as otherwise indicated in this Indenture, all calculations required or permitted to be made hereunder pursuant to the terms of this Indenture shall be made in accordance with GAAP.

1.11 Calculations

The Corporation shall be responsible for making all calculations called for hereunder including, without limitation, calculations of Current Market Price. The Corporation shall make such calculations in good faith and, absent manifest error, the Corporation's calculations shall be final and binding on holders and the Debenture Trustee. The Corporation shall provide a schedule of its calculations to the Debenture Trustee and the Debenture Trustee shall be entitled to rely conclusively on the accuracy of such calculations without independent verification.

1.12 Language

Each of the parties hereto hereby acknowledges that it has consented to and requested that this Indenture and all documents related thereto, including, without limiting the generality of the foregoing, the Schedules attached hereto, be drawn up in the English language only. Les parties aux présentes reconnaissent avoir accepté et demandé que le présent acte de fiducie et les documents s'y rattachant, y compris les annexes, soient rédigés en langue anglaise seulement.

1.13 Successors and Assigns

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

1.14 Time of Essence

Time shall be of the essence of this Indenture.

1.15 Invalidity/Severability

In case any provision in this Indenture or in the Debentures shall be invalid, illegal, prohibited or unenforceable, such provision shall be deemed to be severed herefrom or therefrom and shall be ineffective only to the extent of such prohibition or unenforceability. The

validity, legality and enforceability of the remaining provisions shall not in any way be affected, prejudiced or impaired thereby.

1.16 Entire Agreement

This Indenture and all supplemental indentures and Schedules hereto and thereto, any Written Direction establishing the terms of Debentures pursuant to Section 2.2 and the Debentures issued hereunder and thereunder, together constitute the entire agreement between the parties hereto with respect to the indebtedness created hereunder and thereunder and under the Debentures and supersedes as of the date hereof all prior memoranda, agreements, negotiations, discussions and term sheets, whether oral or written, with respect to the indebtedness created hereunder or thereunder and under the Debentures.

1.17 Benefits of Indenture

Nothing in this Indenture or in the Debentures, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any paying agent, the holders of Debentures and the Senior Creditors (to the extent provided in Article 5 only), any benefit or any legal or equitable right, remedy or claim under this Indenture.

1.18 Schedules

The following Schedules form part of this Indenture:

SCHEDULE A– FORM OF INITIAL DEBENTURE

SCHEDULE B – FORM OF REDEMPTION NOTICE

SCHEDULE C– FORM OF MATURITY NOTICE

SCHEDULE D – FORM OF NOTICE OF CONVERSION

In the event of any inconsistency between the provisions of any Section of this Indenture and the provisions of the Schedules which form a part hereof, the provisions of this Indenture shall prevail to the extent of the inconsistency.

ARTICLE 2- THE DEBENTURES

2.1 Limit of Debentures

Subject to the limitation in respect of the Initial Debentures set out in Section 2.4(a), the aggregate principal amount of Debentures authorized to be issued under this Indenture is unlimited; provided, however that 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 shall be established herein or in or pursuant to one or more indentures supplemental hereto and pursuant to a Written Direction, prior to the initial issuance of Debentures of any particular series (other than the Initial Debentures, which are provided for in Section 2.4):

- (a) the designation of the Debentures of the series (which need not include the term “**Debentures**”), which shall 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 shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and on which a record, if any, shall be taken for the determination of holders to whom such interest shall be payable and/or the method or methods by which such rate or rates or date or dates shall be determined;
- (e) the place or places where the principal of and any interest on Debentures of the series shall 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 Corporation 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 Corporation 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 shall 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 shall be issuable;

- (i) subject to the provisions of this Indenture, any trustees, Depositories, 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 shall be convertible into or exchangeable, in whole or in part, for securities of any Person;
- (l) whether the Debentures of the series shall be guaranteed by any Person and the terms of any such guarantee;
- (m) the form and terms of the Debentures of the series;
- (n) if applicable, that the Debentures of the series shall be issuable in whole or in part as one or more Global Debentures and, in such case, the Depository or Depositories for such Global Debentures in whose name, or whose nominee's name, the Global Debentures shall 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 Depository for such Global Debentures or a nominee thereof;
- (o) if other than U.S. dollars, the currency in which the Debentures of the series are issuable;
- (p) any transfer and exchange provisions of the Debenture of the series; and
- (q) any other terms of the Debentures of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Debentures of any one series shall be substantially identical, except as may otherwise be established herein or by or pursuant to a resolution of the Directors, in a 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, by or pursuant to such resolution of the Directors, in a Certificate or in an indenture supplemental hereto.

2.3 Form of Debentures

- (a) All Global Debentures issued to the Depository may be in either a certificated or uncertificated form, such uncertificated form being evidenced by a book position on the register of Debentureholders to be maintained by the Debenture Trustee in accordance with Section 2.7 or Section 2.8.

- (b) Except in respect of the Initial Debentures, the form of which is provided for herein, the Debentures of each series shall be substantially in such form or forms (not inconsistent with this Indenture) as shall be established herein or in a 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 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 Authorized Officers executing such Debentures, as conclusively evidenced by his or her execution of such Debentures. The Debenture Trustee shall not be required to ensure compliance 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 in connection with the issue, transfer or conversion of the Debentures. The responsibility for compliance with the foregoing shall be that of the Corporation or the holder, as applicable.

2.4 Form and Terms of Initial Debentures

- (a) The first series of Debentures (the “**Initial Debentures**”) authorized for issue from time to time is limited to an aggregate principal amount of not more than \$46,000,000 and shall be designated as “4.65% Senior Subordinated Unsecured Convertible Debentures”.
- (b) Date and Maturity. The Initial Debentures shall be dated as of the Closing Date and shall mature on October 31, 2024 (the “**Maturity Date**”).
- (c) Interest. Notwithstanding anything to the contrary in Section 2.11, the Initial Debentures shall bear interest from October 2, 2019 at the rate of 4.65% per annum, payable semi-annually in arrears on the applicable Interest Payment Date for the periods up to but excluding April 30 and October 31 of each year, 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 365 day year. The first interest payment on the Initial Debentures shall be due on April 30, 2020 and shall include interest accrued from and including October 2, 2019, to but excluding April 30, 2020, in the amount of \$26.88 for each \$1,000 principal amount of Initial Debentures outstanding.
- (d) Redemption. The Initial Debentures may not be redeemed by the Corporation before the First Call Date, except if certain conditions are satisfied after a Change of Control has occurred, as provided herein. On and after the First Call Date and before the Second Call Date, the Initial Debentures may be redeemed

at the option of the Corporation in accordance with Article 4 in whole at any time or in part from time to time on notice as provided for in Section 4.3 at a Redemption Price equal to the principal amount of the Initial Debentures; provided that the Current Market Price on the date on which such notice of redemption is given is at least 125% of the Conversion Price and the Corporation must have provided to the Debenture Trustee a Certificate confirming such Current Market Price. In addition thereto, at the time of redemption, the Corporation shall pay to the holder accrued and unpaid interest up to but not including the Redemption Date. On and after the Second Call Date and before the Maturity Date, the Initial Debentures may be redeemed at the option of the Corporation in accordance with Article 4 in whole at any time or in part from time to time on notice as provided for in Section 4.3, at a Redemption Price equal to the principal amount of the Initial Debentures, irrespective of the Current Market Price. In addition thereto, at the time of redemption, the Corporation must pay to the holder accrued and unpaid interest up to but excluding the Redemption Date. The Redemption Notice for the Initial Debentures shall be substantially in the form of Schedule B.

- (e) The Initial Debentures shall be subordinated to the Senior Indebtedness in accordance with the provisions of Article 5. In accordance with Section 2.12, the Initial Debentures shall rank *pari passu* with each other series of Debentures issued under this Indenture or under indentures supplemental to this Indenture (regardless of their actual date or terms of issue) and, except as prescribed by law, with all other present and future subordinated indebtedness and unsecured indebtedness of the Corporation, other than Senior Indebtedness.
- (f) Upon and subject to the provisions and conditions of Article 6, the holder of each Initial Debenture shall have the right, at such holder's option, at any time prior to 5:00 p.m. (Toronto time) on the earlier of: (i) the last Business Day immediately before the Maturity Date; (ii) the last Business Day immediately preceding the Redemption Date specified by the Corporation for redemption of the Initial Debentures by notice to the holders of Initial Debentures in accordance with Sections 2.4(d) and 4.3; and (iii) the last Business Day immediately preceding the Change of Control Purchase Date if the Initial Debentures are called for repurchase pursuant to a Change of Control in accordance with Section 2.4(i) (the earlier of which shall be the "**Time of Expiry**" for the purposes of Article 6 in respect of the Initial Debentures), to convert the whole or, in the case of a Debenture of a denomination in excess of \$1,000, any part which is \$1,000 or an integral multiple thereof, of the principal amount of such Debenture into Common Shares at the Conversion Price in effect on the Date of Conversion (as defined in Section 6.4(b)). To the extent a redemption is a redemption in part only of the Initial Debentures, such right to convert, if not exercised prior to the applicable Time of Expiry, shall survive as to any Initial Debentures not redeemed or converted and be applicable to the next succeeding Time of Expiry.

The Conversion Price in effect on the date hereof for each Common Share to be issued upon the conversion of Initial Debentures shall be equal to \$5.00 per Common Share such that 200 Common Shares shall be issued for each \$1,000 principal amount of Initial Debentures so converted, subject to Section 6.5. No adjustment to the Conversion Price will be made for dividends or distributions on Common Shares issuable upon conversion for dividends or distributions paid by the Corporation on Common Shares in an amount less than or equal to the Dividend Threshold; provided, however, that holders converting their Initial Debentures shall be entitled to receive, in addition to the applicable number of Common Shares, accrued and unpaid interest in respect thereof for the period from and including the last Interest Payment Date to, but excluding, the Date of Conversion. The Conversion Price applicable to the Common Shares, securities or other property receivable on the conversion of the Initial Debentures is subject to adjustment pursuant to Section 2.4(j) and Section 6.5. If the Date of Conversion in respect of any Initial Debenture converted hereunder occurs on an Interest Payment Date, then the holders thereof shall receive all interest which has accrued before that Interest Payment Date and which has not been paid.

- (g) On redemption or on maturity of the Initial Debentures, the Corporation may, at its option and subject to Sections 4.6 and 4.11, as applicable and subject to regulatory approval, if required, elect to satisfy its obligation to pay the principal amount of the Initial Debentures, in whole or in part, and all accrued and unpaid interest thereon by issuing and delivering to the holders of Initial Debentures that number of Freely Tradeable Common Shares that is obtained by dividing the aggregate principal amount of Initial Debentures subject to redemption or maturity and all accrued and unpaid interest thereon by 95% of the Current Market Price on the Redemption Date or the Maturity Date, as applicable. If the Corporation elects to exercise such option, it must deliver a Redemption Notice or a maturity notice (the “**Maturity Notice**”), as the case may be, to the holders of the Initial Debentures substantially in the form of Schedule B or Schedule C, as applicable. Interest accrued and unpaid on the Initial Debentures to but not including the Redemption Date or the Maturity Date may be paid in Common Shares or cash pursuant to Sections 4.6 and 4.11.

The Initial Debentures shall be issued in denominations of \$1,000 and integral multiples of \$1,000 and the Debenture Trustee is hereby appointed as registrar and transfer agent for the Initial Debentures. The Initial Debentures may be issued as Uncertificated Debentures or Certificated Debentures. If issued as Certificated Debentures, the Initial Debentures and the certificate of the Debenture Trustee enclosed thereon shall be issued in substantially the form set out in Schedule A, with such insertions, omissions, substitutions or other variations as shall be 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 with general usage, all as may be determined by the Directors or an Authorized Officer executing such Initial Debenture in accordance with Section 2.7 hereof, as conclusively evidenced by his or her execution of an Initial Debenture. Each Initial Debenture issued as a Certificated Debenture shall additionally bear such distinguishing letters and numbers as the Debenture Trustee shall approve. Notwithstanding the foregoing, an Initial Debenture issued as a Certificated Debenture may be in such other form or forms as may, from time to time, be approved by a resolution of the Directors or as specified in a Certificate. The Initial Debentures may be engraved, lithographed, printed, mimeographed or typewritten or partly in one form and partly in another.

The Initial Debentures shall initially be issued as uncertificated Global Debentures and the uncertificated Global Debentures shall be registered in the name of the Depository which, as of the date hereof, shall be CDS (or any nominee of the Depository). No Beneficial Holder shall receive definitive certificates representing its interest in Debentures except as provided in Section 3.2. An uncertificated Global Debenture may be exchanged for Debentures in registered form that are not uncertificated 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) Upon and subject to the provisions and conditions of Article 10, and provided no Event of Default has occurred and is continuing, the Corporation may elect, from time to time, to raise funds to satisfy all or part of an Interest Obligation on the Initial Debentures on any Interest Payment Date (including, for greater certainty, following conversion or upon maturity or redemption) by delivering Freely Tradeable Common Shares to an agent for sale through the facilities of a registered broker/dealer.
- (i) Within 30 days following the occurrence of a Change of Control, the Corporation shall 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 Corporation shall 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 100% 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 shall promptly 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 shall specify the date (the “**Offer Expiry Date**”) and time (the “**Offer Expiry Time**”) on which the Debenture Offer expires which date and time shall not, unless otherwise required by Applicable Securities Legislation, be earlier than 5:00 p.m. (Toronto time) on the 35th day and not later than 5:00 p.m. (Toronto time) on the 60th 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 shall 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 Vancouver, British Columbia at or before the Offer Expiry Time together with an acceptance notice (the “**Acceptance Notice**”) in form and substance acceptable to the Debenture Trustee.
- (iv) The Debenture Offer shall 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 shall specify a date (the “**Change of Control Purchase Date**”) no later than the third Business Day following the Offer Expiry Date on which the Corporation shall take up and pay for all Initial Debentures duly tendered in acceptance of the Debenture Offer.
- (vi) The Corporation shall, on or before 1:00 p.m. (Toronto time), on the Business Day immediately before 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. The Debenture Trustee, on behalf of the Corporation, shall 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 Initial Debentures issued under the Indenture outstanding on the date the Corporation provides notice of the Change of Control have been tendered to the Corporation pursuant to the Debenture Offer, the Corporation shall

have the right (the “**90% Redemption Right**”), upon written notice (the “**90% Redemption Right Notice**”) provided to the Debenture Trustee within 10 days following the Offer Expiry Date, to elect to redeem all the Initial Debentures remaining outstanding at the Offer Price (without interest from the Offer Expiry Date up to and until the Redemption Date) and on the other terms and conditions provided herein. Upon receipt of such notice by the Debenture Trustee, the Debenture Trustee shall promptly provide written notice to each holder of outstanding Initial Debentures (other than those that have accepted the Debenture Offer) that:

- A. the Corporation has exercised the 90% Redemption Right and shall purchase all outstanding Initial Debentures on the Change of Control Purchase Date at the Offer Price;
 - B. such holder shall 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 shall cease to be effective as of the Change of Control Purchase Date provided the Corporation has, on or before the date on which the Corporation delivers the 90% Redemption Right 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 shall not be considered to be outstanding and such holder shall 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 Corporation shall, on or before 1:00 p.m. (Toronto time), on the Business Day immediately before the date on which the Corporation 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. The Debenture Trustee, on behalf of the Corporation, shall 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 Corporation has made payment to the Debenture Trustee in accordance with the terms of this

Section 2.4(i)(ix) (or the portion thereof tendered in acceptance of the Debenture Offer) shall thereafter no longer be considered to be outstanding under this Indenture. The Corporation shall 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 shall 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 Corporation shall execute and deliver to the Debenture Trustee and the Debenture Trustee shall certify and deliver to the holder, without charge to such holder, one or more new Debentures representing the part of the principal amount of the Initial Debenture not so tendered in acceptance of the Debenture Offer or, with respect to a Global Debenture, the Depositary shall make notations on the Global Debenture of the principal amount thereof so repurchased if the Global Debenture is a Certificated Debenture or must make appropriate entries in its records if the Global Debenture is an Uncertificated Debenture
- (xi) The Debenture Trustee shall not be responsible for the calculations, confirmations or determinations outlined in Section 2.4(i).
- (j) In addition to the requirements of Section 2.4(i) in respect of a Change of Control, the following provisions shall apply in respect of the occurrence of a Cash Change of Control:
 - (i) In the event of the occurrence of a Cash Change of Control, subject to regulatory approval and upon written notice to the Debenture Trustee outlining the Cash Change of Control, any relevant calculations, and effective dates, for purposes of the conversion of Initial Debentures pursuant to this Indenture, the Conversion Price in effect during the period (the “**Cash Change of Control Conversion Period**”) beginning on the 10th trading day prior to the anticipated effective date of the Cash Change of Control (the “**Effective Date**”) and ending at 5:00 p.m. (Toronto time) on the 30th day after the date on which the Debenture Offer in respect of the Cash Change of Control is delivered or mailed to holders of Initial Debentures in accordance with Section 2.4(i)(i), Debentureholders will be entitled to convert their Initial Debentures, in whole or in part, and receive, in addition to the number of Common Shares that such holders are otherwise entitled to receive upon such conversion in accordance with the provisions and conditions of Sections 2.4(f) and Article 6 (the “**Base Shares**”), an additional number

of Common Shares per \$1,000 principal amount of Debentures converted as set forth in this Section 2.4(j) (the “**Make Whole Premium**”).

- (ii) The number of additional Common Shares per \$1,000 principal amount of Debentures constituting the Make Whole Premium (the “**Make Whole Premium Shares**”) will be determined by reference to the table below and is based on the Effective Date and the price paid per Common Share in the transaction constituting the Cash Change of Control (the “**CoC Share Price**”). If holders of Common Shares receive only cash in the transaction, then the CoC Share Price shall be the cash amount paid per Common Share. Otherwise, the CoC Share Price shall be equal to the Current Market Price immediately preceding the Effective Date of such transaction.
- (iii) The following table shows what the Make Whole Premium would be for each hypothetical CoC Share Price and Effective Date set forth below, expressed as additional Common Shares per \$1,000 principal amount of Debentures. For the avoidance of doubt, the Corporation shall not be obliged to pay the Make Whole Premium otherwise than by the issuance of the applicable number of Common Shares in excess of the number of Base Shares to which holders would otherwise have been entitled at the Conversion Price upon conversion of the Debentures in accordance with the provisions and conditions of Section 2.4(f) and Article 6.

Make Whole Premium Upon a Cash Change of Control
(Number of Additional Common Shares per \$1,000 Principal Amount of Debenture)

<u>Effective Date</u>	\$3.69	\$3.75	\$3.85	\$4.00	\$4.25	\$4.50	\$5.00	\$6.00	\$7.50
October 2, 2019	71.0027	69.1520	66.2260	62.1750	56.2094	51.0711	42.7380	31.3317	21.4813
October 31, 2019	71.0027	69.1520	66.2260	62.1750	56.2094	51.0711	42.7380	31.3317	21.4813
October 31, 2020	71.0027	66.6667	62.9688	58.5325	52.0471	46.5156	37.6840	26.0033	16.5560
October 31, 2021	71.0027	66.6667	59.7403	54.0375	46.7529	40.5978	30.9400	18.7733	10.0307
October 31, 2022	71.0027	66.6667	59.7403	50.0000	41.0400	33.9800	22.9420	8.7267	0.1653
October 31, 2023	71.0027	66.6667	59.7403	50.0000	35.2941	22.9511	8.3260	0.3450	-

<u>Effective Date</u>	\$10.00	\$12.50	\$15.00	\$20.00	\$25.00	\$30.00	\$40.00	\$50.00
October 2, 2019	13.4380	9.5264	7.2787	4.8135	3.4920	2.6453	1.6160	1.0032
October 31, 2019	13.4380	9.5264	7.2787	4.8135	3.4920	2.6453	1.6160	1.0032
October 31, 2020	9.6070	6.6000	4.9967	3.3145	2.4248	1.8503	1.1448	0.7224
October 31, 2021	4.9500	3.2848	2.5060	1.7055	1.2636	0.9713	0.6065	0.3874

October 31, 2022	-	-	-	-	-	-	-	-
October 31, 2023	-	-	-	-	-	-	-	-

- (iv) The actual CoC Share Price and Effective Date may not be set forth in the table above, in which case:
 - A. if the actual CoC Share Price on the Effective Date is between two CoC Share Prices in the table above or the actual Effective Date is between two Effective Dates in the table above, the Make Whole Premium will be determined by a straight-line interpolation between the Make Whole Premiums set forth for the two CoC Share Prices and the two Effective Dates in the table based on a 365-day year, as applicable;
 - B. if the CoC Share Price on the Effective Date exceeds \$50.00 per Common Share, subject to adjustment as described in this Indenture, the Make Whole Premium will be zero; and
 - C. if the CoC Share Price on the Effective Date is less than \$3.69 per Common Share, subject to adjustment as described in Section 6.5, the Make Whole Premium will be zero.
- (v) The CoC Share Prices set forth in the first row of the table above will be adjusted as of any date on which the conversion rate of the Debentures is adjusted. The adjusted CoC Share Prices will equal the CoC Share Prices applicable immediately prior to such adjustment multiplied by a fraction, the denominator of which is the conversion rate immediately prior to the adjustment giving rise to the CoC Share Prices adjustment and the numerator of which is the conversion rate as so adjusted. The number of additional Make Whole Premium Shares set forth in the table above will be adjusted in the manner that is inversely proportional to the adjustment of the Conversion Price as set forth in Section 6.5 hereof, other than as a result of an adjustment to the Conversion Price by adding the Make Whole Premium as described above.
- (vi) Notwithstanding the foregoing, if the Date of Conversion of any Initial Debentures occurs during the period beginning on the 10th trading day prior to the Effective Date and ending at 5:00 p.m. (Toronto time) on the Effective Date, the holders of such Initial Debentures shall, on conversion of their Initial Debentures, only be entitled to that number of Make Whole Premium Shares (as may be adjusted pursuant to Section 6.5) on the Business Day immediately following the Effective Date and, for greater certainty, only if the Cash Change of Control occurs. The Base Shares shall be issued in accordance with the terms

of this Indenture applicable to a conversion of Initial Debentures otherwise than during the Cash Change of Control Conversion Period, including at the then applicable Conversion Price.

- (vii) The Make Whole Premium Shares shall be deemed to have been issued upon conversion of Initial Debentures on the Business Day immediately following the Effective Date. Section 6.5 shall apply to such conversion and, for greater certainty, the former holders of Initial Debentures in respect of which the Make Whole Premium Shares are issuable shall be entitled to receive and shall accept, in lieu of the Make Whole Premium Shares, the number of shares or other securities or property of the Corporation or of the Person or other entity resulting from the transaction that constitutes the Cash Change of Control that such holders would have been entitled to receive if such holders had been the registered holders of the applicable number of Make Whole Premium Shares on the Effective Date.
- (viii) Except as otherwise provided in this Section 2.4(j), all other provisions of this Indenture applicable to a conversion of Initial Debentures shall apply to a conversion of Initial Debentures during the Cash Change of Control Conversion Period.
- (k) The Debenture Trustee shall be provided with the documents and instruments referred to in Sections 2.5(b), (c) and (d) with respect to the Initial Debentures prior to the issuance of the Initial Debentures.
- (l) The Corporation shall not, directly or indirectly (through a Subsidiary or otherwise) undertake or announce any rights offering, issuance of securities, subdivision of the Common Shares, dividend or other distribution on the Common Shares or any other securities, capital reorganization, reclassification or any similar type of transaction in which:
 - (i) the number of securities to be issued;
 - (ii) the price at which securities are to be issued, converted or exchanged;
or
 - (iii) any property or cash that is to be distributed or allocated,

is in whole or in part based upon, determined in reference to, related to or a function of, directly or indirectly, (A) the exercise or potential exercise of the Common Share Redemption Right or the Common Share Repayment Right, or (B) the Current Market Price determined in connection with the exercise or potential exercise of the Common Share Redemption Right or the Common Share Repayment Right.

2.5 Certification and Delivery of Additional Debentures

The Corporation 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 shall certify such Additional Debentures and cause the same to be delivered in accordance with the Written Direction 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. The maturity date, issue date, interest rate (if any) and any other terms of the Additional Debentures of such series shall be set forth in a supplemental indenture or determined by or pursuant to such Written Direction. In certifying such Additional Debentures, the Debenture Trustee shall be entitled to receive and shall be fully protected in relying upon, unless and until such documents have been superseded or revoked:

- (a) a Certificate and/or executed supplemental indenture by or pursuant to which the form and terms of such Additional Debentures are established;
- (b) a Written Direction, addressed to the Debenture Trustee, requesting certification and delivery of such Additional Debentures and setting forth delivery instructions, provided that, with respect to Additional Debentures of a series subject to a Periodic Offering:
 - (i) such Written Direction may be delivered by the Corporation 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 shall 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 or pursuant to procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction;
 - (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 shall be determined by an executed supplemental indenture or by a Written Direction or pursuant to such procedures; and
 - (iv) if provided for in such procedures, such Written Direction may authorize certification and delivery pursuant to electronic instructions from the Corporation which electronic instructions shall be promptly confirmed in writing.
- (c) an opinion of Counsel, in form and substance satisfactory to the Debenture Trustee, acting reasonably, to the effect that all requirements imposed by this 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) a Certificate addressed to Debenture Trustee, certifying that the Corporation 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 15.5), have been complied with subject to the delivery of any documents or instruments specified in such Certificate and that no Event of Default exists or shall exist upon such certification and delivery.

2.6 Issue of Global Debentures

- (a) The Corporation 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 Corporation in a Written Direction delivered to the Debenture Trustee at the time of issue of such Debentures.
- (b) Each Depository designated for a Global Debenture must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered or designated under the securities legislation of the jurisdiction where the Depository has its principal offices.

2.7 Execution of Debentures

- (a) All Certificated Debentures must be signed (either manually, by facsimile signature or otherwise mechanically reproduced) by any one Director or Authorized Officer of the Corporation, holding office at the time of signing. A facsimile or otherwise mechanically reproduced signature upon a Certificated Debenture shall 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, facsimile or otherwise mechanically reproduced, appears on a Certificated Debenture as a Director or Authorized Officer of the Corporation, may no longer hold such office at the date of the Certificated Debenture or at the date of the certification and delivery thereof, such Certificated Debenture shall be valid and binding upon the Corporation and the holders thereof entitled to the benefits of this Indenture.
- (b) At the time of the initial Authentication of an Uncertificated Debenture, it shall be deemed to be signed by one Director or Authorized Officer of the Corporation holding office at the time of signing upon the execution by any such officer or Director of a Written Direction to Authenticate the Uncertificated Debentures. Upon the entry of such Uncertificated Debentures on the records of the Debenture Trustee, then all Authenticated Uncertificated Debentures initially issued and issued in exchange therefore or in substitution

thereof shall be valid and binding upon the Corporation and the holders thereof shall be entitled to the benefits of this Indenture.

2.8 Certification

- (a) Only Debentures which shall have been Authenticated shall be enforceable against the Corporation and entitled to the benefits of this Indenture at any time or be valid or obligatory for any purpose.
- (b) Authentication by the Debenture Trustee of any Fully Registered Debentures executed by the Corporation shall be conclusive evidence that the holder is entitled to the benefits of this Indenture.
- (c) No Fully Registered Debenture shall be considered issued and Authenticated or, if Authenticated, shall be obligatory or shall entitle the holder thereof to the benefits of this Indenture, until it shall have been Authenticated by signature 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 Authentication on any such Fully Registered Debenture shall be conclusive evidence that such Fully Registered Debenture is duly Authenticated and is valid and binding obligation of the Corporation that the holder is entitled to the benefits of this Indenture. The Authentication by the Debenture Trustee on any such Fully Registered Debenture hereunder shall not be construed as a representation or warranty by the Debenture Trustee as to the validity of this Indenture or of such Debenture or its issuance (except the due Authentication thereof) or as to the performance by the Corporation of its obligations under this Indenture and the Debenture Trustee shall in no respect be liable or answerable for the use made of the Debentures or any of them or the proceeds thereof. The certificate of the Debenture Trustee signed on the Debentures or interim Debentures shall, 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.
- (d) The Debenture Trustee shall Authenticate Uncertificated Debentures (whether upon original issuance, exchange, registration of transfer, partial payment, redemption or conversion or otherwise) by completing its Internal Procedures and the Corporation shall, and hereby acknowledges that it shall, thereupon be deemed to have duly and validly issued such Uncertificated Debentures under this Indenture. Such Authentication shall be conclusive evidence that such Uncertificated Debenture has been duly issued hereunder and that the holder or holders are entitled to the benefits of this Indenture. The register shall be final and conclusive evidence as to all matters relating to Uncertificated Debentures with respect to which this Indenture requires the Debenture Trustee to maintain records or accounts. In case of differences between the register at any time and any other time the register at the later time shall be controlling,

absent manifest error and such Uncertificated Debentures are binding on the Corporation.

- (e) No Uncertificated Debenture shall be considered issued, shall be obligatory or entitle the holder thereof to the benefits of this Indenture, until it has been Authenticated by entry on the records of the Debenture Trustee of the particulars of the Uncertificated Debenture. Such entry of the particulars of an Uncertificated Debenture shall be conclusive evidence that such Uncertificated Debenture is a valid and binding obligation of the Corporation and that the holder is entitled to the benefits of this Indenture. Authenticating by way of entry on the records of the Debenture Trustee shall not be construed as a representation or warranty by the Debenture Trustee as to the validity of this Indenture or of such Debentures or its Authentication (except the due Authentication thereof) or as to the performance by the Corporation of its obligations under this Indenture and the Debenture Trustee shall in no respect be liable or answerable for the use made of the Uncertificated Debentures or any of them or the proceeds thereof.

2.9 Interim Debentures or Certificates

- (a) Pending the preparation and delivery to the Debenture Trustee of definitive Debentures, the Corporation may execute in lieu thereof (but subject to the same provisions, conditions and limitations as herein set forth), and the Debenture Trustee may certify, interim printed, mimeographed or typewritten Debentures in such form and in such denominations and with such appropriate insertions, omissions, substitutions and variations as the Debenture Trustee and the Corporation may approve (such approval to be conclusively evidenced by the certification of such Debentures by or on behalf of the Debenture Trustee and the signature thereof, either manual or in facsimile, by any trustee or Authorized Officer of the Corporation) entitling the holders thereof to definitive Debentures in any authorized denominations when the same are prepared and ready for delivery, without expense to the holders, but the total amount of interim Debentures must not exceed the aggregate principal amount of Debentures authorized to be issued hereunder. Forthwith after the issuance of any such interim Debentures the Corporation shall cause to be prepared the appropriate definitive Debentures for delivery to the holders of such interim Debentures.
- (b) Any such interim Debentures when duly issued shall, until exchanged for definitive Debentures, entitle the holders thereof to rank for all purposes as Debentureholders and otherwise in respect of this Indenture to the same extent and in the same manner as though the said exchange had actually been made. When exchanged for definitive Debentures such interim Debentures shall forthwith be cancelled by the Debenture Trustee. No charge shall be made by the Corporation 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 shall 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 Corporation, in its discretion, may issue, and thereupon the Debenture Trustee must 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 must be in a form approved by the Debenture Trustee and must 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 must furnish to the Corporation 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 must also furnish a surety bond and an indemnity satisfactory to them in their discretion. The applicant must 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, shall, subject to Section 2.4(c) with respect to the calculation of interest in respect of the initial interest payment on the Initial Debentures, bear interest (a) from and including their issue date, or (b) from and including the last Interest Payment Date to which interest has been paid or made available for payment on the outstanding Debentures of that series, whichever is later, or, in respect of Debentures subject to a Periodic Offering, from and including their issue date or from and including the last Interest Payment Date to which interest has been paid or made available for payment on such Debentures, in all cases, 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 must be computed on the basis of a year of 365 days. Subject to Section 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 a basis of a year (the “**deemed year**”) which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

2.12 Debentures to Rank *Pari Passu*

The Debentures shall be direct unsecured subordinated obligations of the Corporation. Each Debenture of the same series of Debentures shall 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 indebtedness and unsecured indebtedness of the Corporation, other than Senior Indebtedness. The payment of the principal of, and interest on, the Debentures shall, as provided in Article 5, be subordinated and postponed in right of payment to all Senior Indebtedness.

2.13 Payments of Amounts Due on Maturity

Except as may otherwise be provided in this Indenture or any supplemental indenture in respect of any series of Debentures and subject to Section 4.11, payments of amounts due upon maturity of the Debentures shall be made in the following manner. The Corporation shall establish and maintain with the Debenture Trustee a Maturity Account for each series of Debentures. Each such Maturity Account shall be maintained by and be subject to the control of the Debenture Trustee for the purposes of this Indenture. On or before 12:00 p.m. (Toronto time) on the Business Day immediately prior to each Maturity Date for Debentures outstanding from time to time under this Indenture, the Corporation shall deposit in the applicable Maturity Account an amount sufficient to pay the cash amount payable in respect of such Debentures (including the principal amount and premium (if any), together with any accrued and unpaid interest thereon less any tax required or permitted by law to be deducted or withheld), provided the Corporation may elect to satisfy this requirement by providing the Debenture Trustee with one or more certified cheques, or with funds by wire transfer, for such amounts required under this Section 2.13. The Debenture Trustee, on behalf of the Corporation, shall pay to each holder entitled to receive payment the principal amount of and premium (if any) and accrued and unpaid interest on the Debenture, upon surrender of the Debenture at any branch of the Debenture Trustee designated for such purpose from time to time by the Corporation and the Debenture Trustee. The deposit or the making available of such amounts to the applicable Maturity Account shall satisfy and discharge the liability of the Corporation for the Debentures to which the deposit or making available of funds relates to the extent of the amount deposited or made available (plus the amount of any tax deducted as aforesaid) and such Debentures shall thereafter to that extent not be considered as outstanding under this Indenture and such holder shall have no other right in regard thereto other than to receive out of the money so deposited or made available the amount to which such holder is entitled. Interest shall cease to accrue on the Debentures upon the Maturity Date provided the Debenture Trustee has received, by the Maturity Date, from the Corporation all the funds due and payable on the Debentures.

2.14 Payment of Interest

The following provisions shall apply to Debentures, except as otherwise provided in Section 2.4(c), Section 4.6, Section 4.11 or permitted by Article 10 or specified in a resolution of the Directors, a Certificate or a supplemental indenture or Written Direction relating to a particular series of Additional Debentures:

- (a) As interest becomes due on each Debenture (except at maturity, on redemption or conversion, when interest may at the option of the Corporation be paid upon surrender of such Debenture) the Corporation, either directly or through the Debenture Trustee or any agent of the Debenture Trustee, shall send or forward by prepaid ordinary mail, electronic transfer of funds or such other means as may be agreed to by the Debenture Trustee, payment of such interest (less any tax required or permitted to be withheld therefrom) to the order of the registered holder of such Debenture appearing on the registers maintained by the Debenture Trustee at 5:00 p.m. (Toronto time) 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 shall be forwarded at least three Business Days prior to each date on which interest becomes due and if payment is made by other means (such as electronic transfer of funds), the Debenture Trustee must receive confirmation of receipt of funds prior to being able to forward funds or cheques to holders) and such payment shall be made in a manner whereby the holder receives credit for such payment on the last Business Day on or prior to the date such interest on such Debenture becomes due. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any withholding tax withheld as aforesaid, satisfy and discharge 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 Corporation or the Debenture Trustee shall issue to such person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Corporation is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on each Debenture in the manner provided above, the Corporation may make payment of such interest or make such interest available for payment (less any tax required or permitted to be withheld therefrom) 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 Section 2.14(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 shall be made by electronic funds transfer or cheque made payable to the Depositary or its nominee for subsequent payment to Beneficial Holders of interests in that Global Debenture, unless the Corporation and the Depositary otherwise agree. The Corporation shall pay such funds to the Debenture Trustee on or before 12:00 p.m. (Toronto time) on the Business Day immediately before the Interest Payment Date. None of the Corporation, the Debenture Trustee or any agent of the Debenture Trustee for any Debenture issued as a Global Debenture shall 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.

2.15 Withholding Tax

- (a) The Corporation 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 therein or thereof having power to tax, including pursuant to the Tax Act, from any payment to be made on or in connection with the Debentures and, provided that the Corporation forthwith remits such withheld amount to such government, authority or agency and files all required forms in respect thereof and, at the same time, provides copies of such remittance and filing to the Debenture Trustee and the relevant holder, the amount of any such deduction or withholding shall be considered an amount paid in satisfaction of the Corporation's obligations under the Debentures and there is no obligation on the Corporation to gross-up amounts paid to a holder in respect of such deductions or withholdings.
- (b) The Corporation must provide the Debenture Trustee and the relevant holder 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) The Debenture Trustee must have no obligation to verify any payments under the Tax Act or any provision of provincial, state, local or foreign tax law. The Debenture Trustee must at all times be indemnified and held harmless by the Corporation from and against any personal liabilities of the Debenture Trustee incurred in connection with the failure of the Corporation or its agents, to report, remit or withhold taxes as required by the Corporation under the Tax Act to be made by the Corporation or the Corporation otherwise failing to comply with its obligations under the Tax Act. This indemnification must survive the resignation or removal of the Debenture Trustee and the termination of this Indenture solely to the extent that such liabilities have been incurred in connection with taxation years occurring during the term of this Indenture.

ARTICLE 3- REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP

3.1 Fully Registered Debentures

- (a) With respect to each series of Debentures issuable as Fully Registered Debentures, the Corporation shall cause to be kept by and at the principal offices of the Debenture Trustee in Vancouver, British Columbia and by the

Debenture Trustee or such other registrar as the Corporation, 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 Corporation may designate with the approval of the Debenture Trustee, a register in which shall be entered the names and last known 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 shall be noted on the Debentures by the Debenture Trustee or other registrar unless a new Debenture shall be issued upon such transfer.

- (b) No transfer of a Fully Registered Debenture shall be valid unless made on such register referred to in Section 3.1(a) by the registered holder or such holder's executors, administrators or other legal representatives or an attorney 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 shall have been noted on the Debenture by 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 Corporation shall cause to be kept by and at the principal offices of the Debenture Trustee in Vancouver, British Columbia and by the Debenture Trustee or such other registrar as the Corporation, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as the Corporation may designate with the approval of the Debenture Trustee, a register in which shall 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 shall govern with respect to registrations and transfers of such Debentures.
- (b) Beneficial interests in the Global Debentures shall not be shown on the register or records maintained by the Debenture Trustee, but shall be represented through book-entry accounts of participants on behalf of the beneficial owners of such Global Debenture. None of the Corporation, the Debenture Trustee or any other paying agent shall 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, including with respect to withholding taxes.

- (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 shall be issued to Beneficial Holders of Debentures, except in the following circumstances or as otherwise specified in a resolution of the Directors, a Certificate or 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 in connection with Global Debentures, or (ii) if at any time the Depositary ceases to be a clearing agency or otherwise ceases to be eligible to be a Depositary under Section 2.6(b) provided in each case that at the time of the transfer, the Corporation has not appointed a successor Depositary for such Global Debentures;
 - (iii) Global Debentures may be transferred at any time after the Corporation 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 of the Debentures representing, in the aggregate, not less 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 8.3;
 - (v) Global Debentures may be transferred if required by applicable laws; and
 - (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 Section 3.2(c):

- (i) the Corporation 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 shall be exercised only through the Depositary and shall be limited to those established by law and agreements between such Beneficial Holders and the Depositary or the Depositary Participants;
 - (iii) the Depositary shall make book-entry transfers among the Depositary Participants; and
 - (iv) whenever this Indenture requires or permits actions to be taken based upon instruction or directions of Debentureholders evidencing a specified percentage of the outstanding Debentures, the Depositary shall 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 Participant, 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 shall provide all such notices and communications to the Depositary and the Depositary shall 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 Section 3.2(c) with respect to a series of Debentures issued hereunder, the Debenture Trustee shall notify all applicable Depositary Participants and 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 shall deliver the definitive Debenture certificates for such Debentures to the holders thereof in accordance with the new registration instructions and thereafter, the registration and transfer of such Debentures shall 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 shall be 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 Corporation and the transferor or any previous holder of such Debenture, save in respect of equities

of which the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. Upon surrender for registration of transfer of Debentures, the Corporation shall issue and thereupon the Debenture Trustee shall certify and deliver a new Debenture certificate or confirm the electronic deposit of Uncertificated Debentures of like tenor in the name of the designated transferee and register such transfer in accordance with Section 3.1. If less than all the Debentures evidenced by the Debenture certificate(s) or Uncertificated Debentures so surrendered are transferred, the transferor shall be entitled to receive, in the same manner, a new Debenture certificate or electronically deposited Uncertificated Debentures registered in his name evidencing the Debentures not transferred.

3.4 No Notice of Trusts

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

3.5 Registers Open for Inspection

The registers referred to in Sections 3.1 and 3.2 shall, during regular business hours of the Debenture Trustee, be open for inspection by the Corporation, the Debenture Trustee or any Debentureholder, subject to applicable laws. Every registrar, including the Debenture Trustee, shall from time to time when requested to do so by the Corporation or by the Debenture Trustee, in writing, furnish the Corporation 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 shall be 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 Section 3.6(a), Debentures of any series may be exchanged only at the principal offices of the Debenture Trustee in Vancouver, British Columbia or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the Corporation with the approval of the Debenture Trustee. Any Debentures tendered for exchange shall be surrendered to the Debenture Trustee. The Corporation shall execute and the Debenture Trustee shall certify all Debentures necessary to carry out

exchanges as aforesaid. All Debentures surrendered for exchange shall 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 shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect.

3.7 Closing of Registers

- (a) Neither the Corporation nor the Debenture Trustee nor any registrar shall be required to:
 - (i) make transfers or exchanges or conversions of any Debentures on any Interest Payment Date for such Debentures or during the five preceding Business Days;
 - (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 five preceding Business Days; or
 - (iii) make transfers or exchanges of any Debentures which shall have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures shall not be redeemed.
- (b) Subject to any restriction herein provided, the Corporation 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 Vancouver, British Columbia, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and thereafter such Debentures shall be deemed to be registered on such other register. Notice of such transfer shall be given to the holders of such Debentures.

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 as agreed upon by the Debenture Trustee and the Corporation from time to time), 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 shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Debentureholder hereunder:

- (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;
- (d) for any conversion of any Debenture resulting from a partial redemption under Section 4.2;
- (e) for any conversion of any Debenture resulting from a partial conversion under Section 6.4(d); or
- (f) for any conversion of any Debenture resulting from a partial purchase under Section 2.4(i).

3.9 Ownership of Debentures

- (a) Unless otherwise required by law, the person in whose name any registered Debenture is registered shall 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 and premium, if any, on such Debenture and, interest thereon, shall be made to such registered holder.
- (b) Neither the Corporation nor the Debenture Trustee shall have any liability for:
 - (i) any aspect of the records relating to the beneficial ownership of the Debentures held by a Depository or of the payments relating thereto; or
 - (ii) maintaining, supervising or reviewing any such records relating to the Debentures.

The rules governing Depositories provide that they act as the agent and Depository for Depository Participants. As a result, such Depository Participants must look solely to the Depository and Beneficial Holders of Debentures must look solely to the Depository Participants for the payment of principal and interest on the Debentures paid by or on behalf of the Corporation to the Depository.

- (c) Beneficial Holders of Debentures:
 - (i) may not have Debenture certificates registered in their name;

- (ii) may not have physical certificates representing their interest in the Debentures;
 - (iii) may not be able to sell the Debentures to institutions required by law to hold certificates for securities they own; and
 - (iv) may be unable to pledge Debentures as security.
- (d) The registered holder for the time being of any registered Debenture shall be entitled to the principal, premium, if any, and/or interest evidenced by such instruments, respectively, free from all equities or rights of set-off or counterclaim between the Corporation and the original or any intermediate holder thereof and all Persons may act accordingly and the receipt of any such registered holder for any such principal, premium or interest shall be a good discharge to the Corporation and/or the Debenture Trustee for the same and neither the Corporation nor the Debenture Trustee shall be bound to inquire into the title of any such registered holder.
- (e) 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 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 shall be a valid discharge, to the Debenture Trustee, any registrar and to the Corporation.
- (f) 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 shall be a valid discharge to the Debenture Trustee and any registrar and to the Corporation.

ARTICLE 4- REDEMPTION AND PURCHASE OF DEBENTURES, CERTAIN PAYMENTS ON MATURITY

4.1 Applicability of Article

Subject to Section 2.4(d), applicable laws and any required regulatory approval, the Corporation shall have 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 or by issuance of Freely Tradeable Common Shares as provided in Section 4.6 or any combination thereof, 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 shall have been determined at the time of issue of such Debentures and as shall have been expressed in this Indenture, in the Debentures, in a Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in a Written Direction requesting the certification and delivery thereof.

Subject to regulatory approval, the Corporation shall also have the right at its option to repay, either in whole or in part, on redemption or maturity, either by payment of money in accordance with Section 2.13, by issuance of Freely Tradeable Common Shares as provided in Section 4.6 or 4.11, as applicable, or any combination thereof, the principal amount of any Debentures issued hereunder of any series which by their terms are made so repayable on redemption or 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 shall have been determined at the time of issue of such Debenture and shall have been expressed in this Indenture, in the Debentures, in a Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in a Written Direction requesting the certification and delivery 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 or if a portion of the Debentures being redeemed are being redeemed for cash and a portion of such Debentures are being redeemed by the payment of Freely Tradeable Common Shares pursuant to Section 4.6, the Debentures to be so redeemed shall 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 exchange on which the Debentures are then listed, as may be required from time to time. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture shall 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 or for redemption in cash and regulations so made shall 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 or for cash 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 Corporation shall execute and the Debenture Trustee shall 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 Depositary shall make notations on the Global Debenture of the principal amount thereof so redeemed if the Global Debenture is a Certificated Debenture or must make appropriate entries in its records if the Global Debenture is an Uncertificated Debenture. Unless the context otherwise requires, the terms "Debenture" or "Debentures" as used in this Article 4 shall be 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 Debentures of any series shall be given to the holders of the Debentures so to be redeemed not more than 60 days nor,

subject to Section 4.6(b), less than 30 days prior to the date fixed for redemption (the “**Redemption Date**”). Every such notice shall specify the aggregate principal amount of Debentures called for redemption, the Redemption Date, the Redemption Price, together with accrued and unpaid interest to but excluding the Redemption Date, if applicable the portion to be redeemed for cash and the portion to be redeemed by issuing Freely Tradeable Common Shares and the places of payment and shall state that interest upon the principal amount of Debentures called for redemption shall cease to accrue and be payable from and after the Redemption Date. In addition, unless all the outstanding Debentures are to be redeemed, the Redemption Notice shall 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 *pro rata*, terminal digit or by 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 shall take place in such manner as may be agreed upon by the Depositary, the Debenture Trustee and the Corporation; 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 shall not be required.

4.4 Debentures Due on Redemption Dates

Notice having been given as aforesaid, all the Debentures so called for redemption shall thereupon be and become due and payable at the Redemption Price, together with accrued and unpaid 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 or the Common Shares to be issued to redeem such Debentures shall 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 shall have been lodged with it, interest upon the Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest.

4.5 Deposit of Redemption Monies or Common Shares

Redemption of Debentures shall be provided for by the Corporation depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before

12:00 p.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 and/or, or certificates representing such Common Shares, or both as the case may be, as may be sufficient to pay the Redemption Price of the Debentures so called for redemption, plus a sum of money sufficient to pay accrued and unpaid interest thereon up to but excluding the Redemption Date. The Corporation shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses that may be incurred by the Debenture Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, or certificates so deposited, or both, the Debenture Trustee shall 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. The Corporation may pay the interest hereunder in accordance with Article 10.

4.6 Right to Repay Redemption Price in Common Shares

- (a) Subject to the receipt of any required regulatory approvals and the other provisions of this Section 4.6, the Corporation may, at its option, in exchange for or in lieu of paying the Redemption Price in money, elect to satisfy its obligation to pay all or any portion of the principal amount of Debentures due upon redemption and all accrued and unpaid interest thereon by issuing and delivering to holders on the Redemption Date that number of Freely Tradeable Common Shares obtained by dividing the principal amount of the Debentures (or applicable portion thereof to be satisfied by the issuance and delivery of Freely Tradeable Common Shares) and all accrued and unpaid interest thereon by 95% of the Current Market Price on the Redemption Date (the “**Common Share Redemption Right**”).
- (b) The Corporation shall exercise the Common Share Redemption Right by providing notice of the Corporation’s decision to exercise the Common Share Redemption Right to the holders of the Debentures so to be redeemed not more than 60 days nor less than 30 days prior to the Redemption Date. Notice shall also specify the aggregate principal amount of Debentures in respect of which it is exercising the Common Share Redemption Right in such notice.
- (c) The Corporation’s right to exercise the Common Share Redemption Right shall be conditional upon the following conditions being met on the second Business Day preceding the Redemption Date:
 - (i) the issuance of the Common Shares on the exercise of the Common Share Redemption Right shall be made in accordance with Applicable Securities Legislation and such Common Shares shall be issued as Freely Tradeable Common Shares;
 - (ii) such additional Freely Tradeable Common Shares shall be listed on each stock exchange on which the Common Shares are then listed, the

TSX or national securities exchange or quoted in an inter-dealer quotation system of any registered national securities association;

- (iii) the Corporation shall be a reporting issuer (or equivalent) in good standing under Applicable Securities Legislation where the distribution of such Freely Tradeable Common Shares occurs;
- (iv) no Event of Default shall have occurred and be continuing;
- (v) the Debenture Trustee shall have received a Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Common Shares to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price on the Redemption Date; and
- (vi) the Debenture Trustee shall have received an opinion of Counsel to the effect that such Common Shares have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the Redemption Price, shall be validly issued as fully paid and non-assessable, that conditions (i) and (ii) above have been satisfied and that, relying exclusively on certificates of good standing or lists of reporting issuers in default maintained by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where certificates or lists are not issued.

If the foregoing conditions are not satisfied prior to 5:00 p.m. (Toronto time) on the second Business Day preceding the Redemption Date, the Corporation shall pay the Redemption Price in cash in accordance with Section 4.5 unless the Debentureholders waive the conditions which are not satisfied by way of Extraordinary Resolution.

- (d) If the Corporation duly exercises its Common Share Redemption Right, the Corporation must on or before 1:00 p.m. (Toronto time) on the Redemption Date, deliver to the Debenture Trustee, for delivery to and on account of the holders, upon the due presentation and surrender of the Debentures, the Freely Tradeable Common Shares to which such holders are entitled. From the Freely Tradeable Common Shares so deposited in addition to amounts payable by the Debenture Trustee pursuant to Section 4.5, the Debenture Trustee must pay or cause to be paid, to the holders of such Debentures, the Redemption Price of the Debentures called for redemption in the amounts to which they are respectively entitled on the Redemption Date plus the funds representing accrued and unpaid interest thereon up to but excluding the Redemption Date and deliver to such holders the Freely Tradeable Common Shares to which such holders are entitled.

- (e) No fractional Freely Tradeable Common Shares shall be delivered upon the exercise of the Common Share Redemption Right but, in lieu thereof, the Corporation shall pay to the Debenture Trustee for the account of the holders, at the time contemplated in Section 4.6(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Common Shares on the Redemption Date (less any tax required to be deducted, if any), provided, however, that the Corporation shall not be required to make any payment of less than \$1.00.
- (f) A holder of Debentures shall be treated as the shareholder of record of the Freely Tradeable Common Shares issued on due exercise by the Corporation of its Common Share Redemption Right effective immediately after 5:00 p.m. (Toronto time) on the Redemption Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including dividends or distributions in kind) thereon and arising thereafter, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.
- (g) In the event that the Corporation exercises its Common Share Redemption Right, the Corporation shall reserve and keep available out of its authorized Common Shares (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Corporation's Common Share Redemption Right as provided herein, and shall issue to Debentureholders to whom Freely Tradeable Common Shares shall be issued pursuant to exercise of the Common Share Redemption Right, such number of Freely Tradeable Common Shares as shall be issuable in such event. All Freely Tradeable Common Shares which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.
- (h) The Corporation shall comply with all Applicable Securities Legislation regulating the issue and delivery of Freely Tradeable Common Shares upon exercise of the Common Share Redemption Right and shall cause to be listed and posted for trading such Common Shares on each stock exchange on which the Common Shares are then listed.
- (i) The Corporation shall from time to time promptly pay, or make provision satisfactory to the Debenture Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Freely Tradeable Common Shares to holders upon exercise of the Common Share Redemption Right pursuant to the terms of the Debentures and of this Indenture.
- (j) If the Corporation elects to satisfy its obligation to pay all or any portion of the Redemption Price by issuing Freely Tradeable Common Shares in accordance with this Section 4.6 and if the Redemption Price (or any portion thereof) to

which a holder is entitled is subject to withholding taxes and the amount of the cash payment of the Redemption Price, if any, is insufficient to satisfy such withholding taxes, the Debenture Trustee, on a Written Direction but for the account of the holder, shall sell or cause to be sold, through the investment banks, brokers or dealers selected by the Corporation and approved by the Debenture Trustee, out of the Freely Tradeable Common Shares issued by the Corporation for the account of the holder for this purpose, such number of Freely Tradeable Common Shares that together with the cash payment of the Redemption Price, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and shall remit same on behalf of the Corporation to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.

- (k) Interest accrued and unpaid on the Debentures up to but excluding the Redemption Date shall be paid, less applicable withholding taxes, if any, to holders of Debentures in shares, in the manner contemplated by this Section 4.6, or in cash, in the manner contemplated in Section 4.5.

4.7 Failure to Surrender Debentures Called for Redemption

In case the holder of any Debenture so called for redemption shall fail on or before the Redemption Date to so surrender such holder's Debenture, or shall not within such time accept payment of the Redemption Price payable or take delivery of Common Shares and/or certificates representing such Common Shares issuable in respect thereof, or give such receipt therefor, if any, as the Debenture Trustee may require, such redemption monies may be set aside in trust, without interest, or such certificates may be held in trust, either in the deposit department of the Debenture Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum or Common Shares so set aside and, to that extent, the Debenture shall thereafter not be considered as outstanding hereunder and the Debentureholder shall have no other right thereunder except to receive payment out of the monies so paid and deposited or take delivery of the Common Shares and/or certificates so deposited, or both, upon surrender and delivery of such holder's Debenture of the Redemption Price, as the case may be, of such Debenture, plus accrued and unpaid interest to the Redemption Date. In the event that any money, or Common Shares and/or certificates representing Common Shares, required to be deposited hereunder with the Debenture Trustee or any Depositary or paying agent on account of principal, premium, if any, or interest, if any, on Debentures issued hereunder shall remain so deposited for a period of six years from the Redemption Date, then such monies or certificates, together with any accumulated interest thereon or distribution paid thereon shall at the end of such period be paid over or delivered over by the Debenture Trustee or such Depositary or paying agent to the Corporation on its demand, and thereupon the Debenture Trustee shall 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 or Common Shares and/or certificates was so repaid to the Corporation shall have no rights in respect thereof except to obtain payment of the money or Common Shares and/or certificates due from the Corporation subject to any prescription period provided by the laws of the Province of British Columbia. Notwithstanding the foregoing, the Debenture Trustee shall pay any remaining funds prior to the expiry of six years after the

Redemption Date to the Corporation upon receipt from the Corporation, 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 Corporation prior to the expiry of six years after the Redemption Date, the Corporation shall 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 Corporation but prior to six years after the redemption.

4.8 Cancellation of Debentures Redeemed

Subject to the provisions of Sections 4.2 and 4.9 as to Debentures redeemed or purchased in part, all Debentures redeemed and paid under this Article 4 shall forthwith be delivered to the Debenture Trustee and cancelled and no Debentures shall be issued in substitution therefor.

4.9 Purchase of Debentures by the Corporation

Unless otherwise specifically provided with respect to a particular series of Debentures, the Corporation or an Affiliate may, if the Corporation is not at the time in default hereunder, at any time and from time to time, purchase Debentures in the market (which shall include 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 may, at the option of the Corporation or such Affiliate, be delivered to the Debenture Trustee and shall be cancelled and no Debentures shall be issued in substitution therefor.

If, upon an invitation for tenders, more Debentures than the Corporation or an Affiliate is prepared to accept are tendered at the same lowest price, the Debentures to be purchased by the Corporation or such Affiliate shall be selected by the Debenture Trustee on a *pro rata* basis or in such manner consented to by the TSX or such other exchange on which the Debentures are then listed 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 shall 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 or not subject to purchase at all. The holder of a Debenture of which a part only is purchased, upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such holder, one or more new Debentures for the unpurchased part so surrendered, and the Debenture Trustee shall certify and deliver such new Debenture or Debentures upon receipt of the Debenture so surrendered or, with respect to a Global Debenture, the Depositary shall make notations on the Global Debenture of the principal amount thereof so purchased if the Global Debenture is a Certificated Debenture, or under appropriate entries in its records if the Global Debenture is an Uncertificated Debenture.

4.10 Deposit of Maturity Monies

Subject to Section 4.11, payment on maturity of Debentures shall be provided for by the Corporation depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before 12:00 p.m. (Toronto time) on the Business Day immediately prior to the Maturity Date such sums of money and/or Common Shares as may be sufficient to pay the principal amount of the Debentures, together with a sum of money sufficient to pay all accrued and unpaid interest thereon up to but excluding the Maturity Date, provided the Corporation may elect to satisfy this requirement by providing the Debenture Trustee with one or more certified cheques or with funds by wire transfer, for such amounts required under this Section 4.10. The Corporation shall 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 therewith. Every such deposit shall be irrevocable. From the sums so deposited, the Debenture Trustee shall pay or cause to be paid to the holders of such Debentures, upon surrender of such Debentures, the principal, premium (if any) and interest (if any) to which they are respectively entitled on maturity.

4.11 Right to Repay Principal Amount and Interest in Common Shares

- (a) Subject to the receipt of any required regulatory approvals and the other provisions of this Section 4.11, the Corporation may, at its option, in exchange for or in lieu of repaying all or any portion of the principal amount of Debentures and all accrued and unpaid interest thereon in money, elect to satisfy its obligation to pay all or any portion of the principal amount of Debentures outstanding and all accrued and unpaid interest thereon by issuing and delivering to holders on the Maturity Date that number of Freely Tradeable Common Shares obtained by dividing the principal amount of the Debentures (or applicable portion thereof to be satisfied by the issuance and delivery of Freely Tradeable Common Shares) and all accrued and unpaid interest thereon by 95% of the Current Market Price on the Maturity Date (the “**Common Share Repayment Right**”).
- (b) The Corporation shall exercise the Common Share Repayment Right by so specifying in the Maturity Notice, which shall be delivered to the Debenture Trustee and the holders of Debentures not more than 60 days and not less than 30 days prior to the Maturity Date, and which shall also specify the aggregate principal amount of Debentures in respect of which it is exercising the Common Share Repayment Right on the Maturity Date.
- (c) The Corporation's right to exercise the Common Share Repayment Right shall be conditional upon the following conditions being met on the second Business Day preceding the Maturity Date:
 - (i) the issuance of the Common Shares on the exercise of the Common Share Repayment Right shall be made in accordance with Applicable Securities Legislation and such Common Shares shall be issued as Freely Tradeable Common Shares. With respect to the issuance of

Common Shares to holders of Debentures that are persons in the United States, the Corporation may rely on an exemption from registration requirements under the 1933 Act, including exemptions based on the status of the holders of the Debentures as qualified institutional buyers as defined in Rule 144A under the 1933 Act;

- (ii) such additional Freely Tradeable Common Shares shall be listed on each stock exchange on which the Common Shares are then listed, the TSX or a national securities exchange or quoted in an inter-dealer quotation system of any registered national securities association;
- (iii) the Corporation shall be a reporting issuer in good standing under Applicable Securities Legislation where the distribution of such Freely Tradeable Common Shares occurs;
- (iv) no Event of Default shall have occurred and be continuing;
- (v) the Debenture Trustee shall have received a Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Common Shares to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Common Shares on the Maturity Date; and
- (vi) the Debenture Trustee shall have received an opinion of Counsel to the effect that such Common Shares have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the principal amount of the Debentures outstanding shall be validly issued as fully paid and non-assessable, that conditions (i) and (ii) above have been satisfied and that, relying exclusively on certificates of good standing or lists of issuers in default maintained by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where certificates or lists are not issued.

If the foregoing conditions are not satisfied prior to 5:00 p.m. (Toronto time) on the second Business Day preceding the Maturity Date, the Corporation shall pay the principal amount of the Debentures outstanding in cash in accordance with Section 2.13, unless the Debentureholder waives the conditions which are not satisfied by way of Extraordinary Resolution.

- (d) If the Corporation duly exercises its Common Share Repayment Right, the Corporation must on or before 12:00 p.m. (Toronto time) on the Maturity Date, deliver to the Debenture Trustee, for delivery to and on account of the holders, upon the due presentation and surrender of the Debentures, the Freely Tradeable Common Shares to which such holders are entitled. The Corporation must 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 Common Share Repayment Right. From the Freely Tradeable Common Shares so deposited in addition to amounts payable by the Debenture Trustee pursuant to Section 2.13, the Debenture Trustee must pay or cause to be paid, to the holders of such Debentures, upon surrender of such Debentures, the principal amount of and premium (if any) on the Debentures to which they are respectively entitled on maturity and deliver to such holders the Freely Tradeable Common Shares to which such holders are entitled. The delivery of such Freely Tradeable Common Shares and amounts to the Debenture Trustee shall satisfy and discharge the liability of the Corporation for the Debentures to which the delivery of Freely Tradeable Common Shares relates to the extent of the amount delivered (plus the amount of any Freely Tradeable Common Shares sold to pay applicable taxes in accordance with this Section 4.11) and such Debentures shall thereafter to that extent not be considered as outstanding under this Indenture and such holder shall have no other right in regard thereto other than to receive out of the Freely Tradeable Common Shares so delivered, the Freely Tradeable Common Shares to which it is entitled.

- (e) No fractional Freely Tradeable Common Shares shall be delivered upon the exercise of the Common Share Repayment Right but, in lieu thereof, the Corporation shall pay to the Debenture Trustee for the account of the holders, at the time contemplated in Section 4.11(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Common Shares on the Maturity Date (less any tax required to be deducted, if any) provided, however, that the Corporation shall not be required to make any payment of less than \$1.00.
- (f) A holder shall be treated as the shareholder of record of the Freely Tradeable Common Shares issued on due exercise by the Corporation of its Common Share Repayment Right effective immediately after 5:00 p.m. (Toronto time) on the Maturity Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including dividends or distributions in kind) thereon and arising thereafter, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.
- (g) The Corporation shall at all times reserve and keep available out of its authorized Common Shares (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Corporation's Common Share Repayment Right as provided herein, and shall issue to Debentureholders to whom Freely Tradeable Common Shares shall be issued pursuant to exercise of the Common Share Repayment Right, such number of Freely Tradeable Common Shares as shall be issuable in such event. All Freely Tradeable Common Shares which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.

- (h) The Corporation shall comply with all Applicable Securities Legislation regulating the issue and delivery of Freely Tradeable Common Shares upon exercise of the Common Share Repayment Right and shall cause to be listed and posted for trading such Freely Tradeable Common Shares on each stock exchange on which the Common Shares are then listed.
- (i) The Corporation shall from time to time promptly pay, or make provision satisfactory to the Debenture Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Freely Tradeable Common Shares to holders of Debentures upon exercise of the Common Share Repayment Right pursuant to the terms of the Debentures and of this Indenture.
- (j) If the Corporation elects to satisfy its obligation to pay all or any portion of the principal amount of Debentures due on maturity by issuing Freely Tradeable Common Shares in accordance with this Section 4.11 and if the amount (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the cash payment of the amount due on maturity, if any, is insufficient to satisfy such withholding taxes, the Debenture Trustee, on a Written Direction but for the account of the holder, shall sell, or cause to be sold, through the investment banks, brokers or dealers selected by the Corporation, out of the Freely Tradeable Common Shares issued by the Corporation for the account of such holder for this purpose, such number of Freely Tradeable Common Shares that together with the cash component of the amount due on maturity is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and shall remit same on behalf of the Corporation to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.
- (k) Any certificate representing Freely Tradeable Common Shares issued in payment of the Redemption Price of Debentures may have imprinted or otherwise reproduced thereon such legend or legends or endorsements as may be required to comply with applicable laws, Applicable Securities Legislation or regulations of any securities exchange.
- (l) Interest accrued and unpaid on the Debentures on the Maturity Date shall be paid to holders of Debentures in shares, in the manner contemplated by this Section 4.11 or in cash, in the manner contemplated in Section 2.14 and Article 10.

ARTICLE 5- SUBORDINATION OF DEBENTURES

5.1 Applicability of Article

The Debenture Liabilities of the Corporation under any Debentures issued hereunder of any series, shall be subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in the following Sections of this Article 5 and in Section 2.4(e), to the full and final payment of all existing and future Senior Indebtedness and the termination of all related commitments and the expiration or termination of any letters of credit or other similar instruments issued in connection therewith and each holder of any such Debenture by his acceptance thereof agrees to and shall be bound by the provisions of this Article 5.

5.2 Order of Payment

Upon the distribution of the assets of the Corporation upon any dissolution, winding-up, liquidation, bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the Corporation or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Corporation:

- (a) all existing and future Senior Indebtedness shall first be paid in full and all related commitments shall have been terminated and all letters of credit or other similar instruments issued in connection therewith shall have expired or shall have been terminated before any payment is made on account of Debenture Liabilities;
- (b) any payment or distribution of assets of the Corporation, 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, shall 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 such 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; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Corporation or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Corporation's assets in whole or in part, free and clear of all Liens securing the Debenture Liabilities (if any) and without the approval of the Debentureholders or the Debenture Trustee, but subject to the requirement to account to the Debenture Trustee or the Debentureholders for any surplus from any such disposition.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (a) whether or not the Senior Indebtedness is secured;
- (b) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
- (c) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (d) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Security or any release of any Senior Security;
- (e) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Debentureholders or any of them to any money or property of the Corporation;
- (f) the failure to exercise any power or remedy reserved to the Senior Creditors under the Senior Security or to insist upon a strict compliance with any terms thereof;
- (g) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (h) the date of giving or failing to give notice to or making demand upon the Corporation;
- (i) any amendment, modification, increase, extension, renewal, replacement of any Senior Indebtedness or Senior Security; or
- (j) any other matter whatsoever.

5.3 Subrogation to Rights of Holders of Senior Indebtedness

Subject to the prior payment in full of all Senior Indebtedness, the Debentureholders shall be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distributions of assets of the Corporation to the extent of the application thereto of such payments or other assets which would have been received by the Debentureholders but for the provisions hereof until the principal of, premium, if any, and interest on the Debentures shall be paid in full, and no such payments or distributions to the Debentureholders of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the Debentureholders, be deemed to be a payment by the Corporation 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 Debentureholders, on the one hand, and the holders of Senior Indebtedness, on the other hand.

The Debenture Trustee, for itself and on behalf of each of the Debentureholders, hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Corporation or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

5.4 Obligation to Pay Not Impaired

Subject at all times to the terms and provisions of this Article 5, nothing contained in this Indenture or in the Debentures is intended to or shall impair, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Corporation, which is absolute and unconditional, to pay to the holders of the Debentures the principal, premium, if any, and interest on the Debentures, as and when the same shall become due and payable in accordance with their terms, or affect the relative rights of the holders of the Debentures and creditors of the Corporation other than the holders of the Senior Indebtedness nor, subject to the terms and provisions of this Article 5, shall 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 Corporation received upon the exercise of any such remedy.

5.5 No Payment if Senior Indebtedness in Default

Upon the maturity of any Senior Indebtedness by lapse of time, acceleration or otherwise, or any other enforcement of any Senior Indebtedness, then, except as provided in Section 5.8, all such Senior Indebtedness shall first be paid in full, or shall first have been duly provided for, before any payment is made on account of the Debenture Liabilities.

In case of a circumstance constituting a default or event of default with respect to any Senior Indebtedness permitting (whether at that time or upon notice, lapse of time, or satisfaction of any other condition precedent) a Senior Creditor to demand payment or accelerate the maturity thereof where the notice of such default or event of default has been given by or on behalf of the holders of Senior Indebtedness to the Corporation or the Corporation otherwise has knowledge thereof, unless and until such default or event of default shall have been cured or waived or shall have ceased to exist or the Senior Indebtedness has been paid in full, no payment (by purchase of Debentures or otherwise) shall be made by the Corporation (except as provided in Section 5.8) with respect to the Debenture Liabilities and neither the Debenture Trustee nor the holders of Debentures shall be entitled to demand, institute proceedings for the collection of (which shall, for certainty include proceedings related to an adjudication or declaration as to the insolvency or bankruptcy of the Corporation and other similar creditor proceedings), or receive

any payment or benefit (including without limitation by setoff, combination of accounts or otherwise in any manner whatsoever) on account of the Debentures after the happening of such a default or event of default (except as provided in Section 5.8), and unless and until such default or event of default shall have been cured or waived or shall have ceased to exist or the Senior Indebtedness has been paid in full, such payments shall be held in trust for the benefit of, and, if and when such Senior Indebtedness shall have become due and payable, shall 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 shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness.

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

5.6 Payment on Debentures Permitted

Except as provided by Section 5.5, nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Corporation to make, or prevent the Corporation from making, at any time except during the pendency of any dissolution, winding up or liquidation of the Corporation or reorganization proceeding specified in Section 5.2 affecting the affairs of the Corporation any payment of principal of or interest on the Debentures. For greater certainty, except as provided in Section 5.5, the Corporation shall not be prevented from making any payment of principal of or interest on the Debentures on each Interest Payment Date, on the Maturity Date or on the Redemption Date. The fact that any payment in respect of the Debentures is prohibited by this Article 5 or under any instrument relating to Senior Indebtedness shall 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, shall prevent the conversion of the Debentures or, except as prohibited by Section 5.5, 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 Debenture Liabilities.

5.7 Confirmation of Subordination

Each holder of Debentures by his acceptance thereof authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effectuate the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney in fact for any and all such purposes. This power of attorney, being coupled with an interest and rights, shall be irrevocable. Upon request of the Corporation, and upon being furnished a Certificate stating that one or more named persons are Senior Creditors and specifying the amount and nature of the Senior Indebtedness of such Senior Creditor, the Debenture Trustee shall enter into a written acknowledgement, confirmation and/or agreement with the Corporation and/or the person or persons named in such Certificate, acknowledging, confirming and/or providing that such person or persons are entitled to all the rights and benefits of this Article 5 as a Senior Creditor. Such instruments shall be conclusive evidence that the indebtedness specified therein is

Senior Indebtedness. However, nothing herein shall impair the rights of any Senior Creditor who has not entered into such an agreement or instrument.

5.8 Knowledge of Debenture Trustee

Notwithstanding the provisions of this Article 5 or any provision in this Indenture or in the Debentures, the Debenture Trustee shall not be charged with knowledge of any Senior Indebtedness or of any default in the payment thereof or any other default or event of default, or of the existence of any other 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 Corporation, any Debentureholder, any Senior Creditor or a trustee on behalf of any one or more Senior Creditors, and such notice to the Debenture Trustee shall be deemed to be notice to holders of the Debentures. The Debenture Trustee shall notify holders of Debentures as soon as reasonably practical of such notice.

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 shall at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Corporation or by any noncompliance by the Corporation 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, increase, modify or amend the terms of the Senior Indebtedness (including increasing the principal amount of the Senior Indebtedness) or the Senior Security and to release, sell or exchange the Senior Security and otherwise to deal freely with the Corporation and the Corporation's Subsidiaries, 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 Corporation from incurring additional indebtedness for borrowed money or otherwise (including additional Senior Indebtedness) or mortgaging, pledging, hypothecating, charging or granting a security interest in its real

(immovable) or personal (movable) property or properties to secure any indebtedness or other financing (including such additional indebtedness).

5.13 Right of Debentureholder to Convert Not Impaired

The subordination of the Debentures to the Senior Indebtedness and the provisions of this Article 5 do not impair in any way the right of a Debentureholder to convert its Debentures pursuant to Article 6.

5.14 Invalidated Payments

In the event that any of the Senior Indebtedness shall be paid in full and any related commitments shall be terminated and any letters of credit or other similar instruments issued in connection therewith shall have been terminated or otherwise expired and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, such commitments are reinstated or such letters of credit or other instruments become effective and are outstanding, 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 and any related commitments shall be terminated and any letters of credit or other similar instruments issued in connection therewith shall have been terminated or otherwise expired, provided that such reinstatement shall not give the Senior Creditors 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.

5.15 Contesting Security

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security or Senior Indebtedness, or the relative priority of the Senior Security or Senior Indebtedness including, without limitation, pursuant to this Indenture, any Debentures or any guarantee.

5.16 Obligations Created by Article 5

The Corporation and the Debenture Trustee, in its capacity as trustee hereunder and not in its corporate personal capacity, agree, and each holder by its acceptance of a Debenture likewise agrees, that:

- (a) the provisions of this Article 5 are an inducement and consideration to each holder of Senior Indebtedness to give or continue credit to the Corporation, the Corporation's Subsidiaries or others or to acquire Senior Indebtedness;
- (b) each holder of Senior Indebtedness may accept the benefit of this Article 5 on the terms and conditions set forth in this Article 5 by giving or continuing credit to the Corporation, the Corporation's Subsidiaries or others or by acquiring or having outstanding as of the date hereof Senior Indebtedness, in each case

without notice to the Debenture Trustee and without establishing actual reliance on this Article 5; and

- (c) each obligation created by this Article 5 is created for the benefit of the holders of Senior Indebtedness and is hereby declared to be created in trust for those holders by the Corporation, the Debenture Trustee and each holder of a Debenture and shall be binding on the Corporation, the Debenture Trustee and each holder of a Debenture whether or not any confirmation described in Section 5.7 is requested, executed or delivered.

5.17 No Set-Off

Each of the Corporation and the Debenture Trustee agrees, and each holder of a Debenture, by his acceptance thereof, likewise agrees, that it shall have no rights of set-off or counterclaim with respect to the principal of, premium, if any, and interest on the Debentures at any time when any payment of, or in respect of, such amounts to the Debenture Trustee or the holder of a Debenture is prohibited by this Article 5 or is otherwise required to be paid to the holders of Senior Indebtedness or their representative or to the trustee under any indenture under which any instruments evidencing any of such Senior Indebtedness may have been issued, as their respective interests may appear.

5.18 Amendments to Article 5

Each of the Corporation and the Debenture Trustee (relying on the opinion of Counsel) agrees, and each holder of a Debenture, by his acceptance thereof, likewise agrees, not to make any changes to this Indenture or the Debentures, including this Article 5 or the definition of Senior Indebtedness, which prejudice the rights of the holders of Senior Indebtedness under this Article 5 without the consent of the holders of Senior Indebtedness or their representative or the trustee under any indenture under which any instruments evidencing any of such Senior Indebtedness may have been issued.

ARTICLE 6- CONVERSION OF DEBENTURES

6.1 Applicability of Article

Any Debentures issued hereunder of any series which by their terms are convertible (subject, however, to any applicable restriction of the conversion of Debentures of such series) shall be convertible into Freely Tradeable Common Shares or, if applicable, other securities or property, at such exchange rate or rates, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and shall have been expressed in this Indenture, in such Debentures, in a Certificate, or in a supplemental indenture authorizing or providing for the issue thereof.

Such right of conversion shall extend only to the maximum number of whole Common Shares into which the aggregate principal amount of the Debenture or Debentures surrendered for conversion at any one time by the holder thereof may be converted. Fractional interests in Common Shares shall be adjusted for in the manner provided in Section 6.6.

6.2 Notice of Expiry of Conversion Privilege

Notice of the expiry of the conversion privileges of the Debentures other than on the Maturity Date shall be given by or on behalf of the Corporation, not more than 60 days and not less than 30 days prior to the date fixed for the Time of Expiry.

6.3 Revival of Right to Convert

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

6.4 Manner of Exercise of Right to Convert

- (a) The holder of a Debenture desiring to convert such Debenture in whole or in part into Common Shares shall surrender such Debenture to the Debenture Trustee at its principal offices in Vancouver, British Columbia together with the conversion form attached hereto as Schedule D or any other written notice in a form satisfactory to the Debenture Trustee, in either case duly executed by the holder or the holder's executors or administrators or other legal representatives or the holder's attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Debenture Trustee, exercising the holder's right to convert such Debenture in accordance with the provisions of this Article 6; provided that with respect to a Global Debenture, the obligation to surrender a Debenture to the Debenture Trustee shall be satisfied if the Debenture Trustee makes notation on the Global Debenture that is a Certificated Debenture or makes appropriate entries in its records with respect to a Global Debenture that is an Uncertificated Debenture of the principal amount thereof so converted and the Debenture Trustee is provided with all other documentation which it may reasonably request. Thereupon, subject to payment of all applicable stamp or security transfer, income, withholding or other taxes or other governmental charges and compliance with all reasonable requirements of the Debenture Trustee, the Conversion Price shall have been paid and such Debentureholder or his or her's nominee(s) or assignee(s) shall be entitled to be entered in the books of the Corporation on the Date of Conversion (or such later date as is specified in Section 6.4(b)), as the holder of the number of Common Shares into which such Debenture is convertible, net of applicable withholding taxes, if any, in accordance with the provisions of this Article and, as soon as practicable thereafter, the Corporation shall (i) deliver or cause to be delivered to the Debentureholder, or subject as aforesaid, his or her nominee(s) or assignee(s) such certificate or certificates for such Common Shares; and (ii) make or cause to be made any payment of

interest to which such holder is entitled in accordance with Section 6.4(e) hereof or in respect of fractional Common Shares as provided in Section 6.6.

- (b) For the purposes of this Article, a Debenture shall be deemed to be surrendered for conversion on the date on which it is so surrendered in proper form when the register of the Debenture Trustee is open and in accordance with the provisions of this Article or, in the case of a Global Debenture, on the date on which the Debenture Trustee received notice of and all necessary documentation in respect of the exercise of the conversion rights and, in the case of a Debenture so surrendered by post or other means of transmission, on the date on which it is received in proper form by the Debenture Trustee at its office specified in Section 6.4(a); provided that if a Debenture is surrendered for conversion on a day on which the register of Common Shares is closed, the Person or Persons entitled to receive Common Shares shall become the holder or holders of record of such Common Shares as at the date on which such registers are next reopened (in each case the “**Date of Conversion**”).
- (c) Any part, being \$1,000 (in the currency of the applicable Debenture) or an integral multiple thereof, of a Debenture in a denomination in excess of \$1,000 (in the currency of the applicable Debenture) may be converted as provided in this Article 6 and all references in this Indenture to conversion of Debentures shall be deemed to include conversion of such parts.
- (d) The holder of any Debenture of which only a part is converted shall, upon the exercise of his or her right of conversion, surrender such Debenture to the Debenture Trustee, and the Debenture Trustee shall cancel the same and shall without charge forthwith certify and deliver to the holder a new Debenture or Debentures in an aggregate principal amount equal to the unconverted part of the principal amount of the Debenture so surrendered or, with respect to a Global Debenture that is a Certificated Debenture, the Debenture Trustee shall make notations on the Global Debentures of the principal amount thereof so converted or with respect to a global Debenture that is an Uncertificated Debenture, the Debenture Trustee must make appropriate entries in its records.
- (e) The holder of a Debenture surrendered for conversion in accordance with this Section 6.4 shall be entitled (subject to any applicable restriction on the right to receive interest on conversion of Debentures of any series) to receive accrued and unpaid interest in respect thereof from and including the most recent Interest Payment Date to which interest has been paid to, but not including, the Date of Conversion of such Debenture (less applicable withholding taxes, if any) and the Common Shares issued upon such conversion shall rank only in respect of distributions or dividends declared in favour of holders of Common Shares of record on and after the Date of Conversion or such later date as such holder shall become the holder of record of such Common Shares pursuant to Section 6.4(b), from which applicable date

they shall for all purposes be and be deemed to be issued and outstanding as fully paid and non-assessable Common Shares.

- (f) In the event of a conversion of Debentures into Freely Tradeable Common Shares where the holder is subject to withholding taxes, the Debenture Trustee, on the Written Direction but for the account of the holder, must sell, or cause to be sold through the investment banks, brokers or dealers selected by the Corporation, out of the Freely Tradeable Common Shares issued by the Corporation for this purpose, such number of Freely Tradeable Common Shares that together with any cash payment in lieu of fractional Common Shares, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and must remit such amount withheld on behalf of the Corporation to the proper tax authorities within the period of time prescribed for this purpose under applicable laws.

6.5 Adjustment of Conversion Price

The Conversion Price in effect at any date shall be subject to adjustment from time to time as set forth below.

- (a) If at any time before the Time of Expiry the Corporation (i) subdivides or redivides the outstanding Common Shares into a greater number of Common Shares, (ii) reduces, combines or consolidates the outstanding Common Shares into a smaller number of Common Shares, or (iii) issues Common Shares (or securities convertible into or exchangeable for Common Shares) to the holders of all or substantially all of the outstanding Common Shares by way of a dividend or distribution or otherwise (other than the issue of Common Shares to holders of Common Shares who have elected to receive dividends or distributions in the form of Common Shares in lieu of cash dividends or cash distributions paid in the ordinary course), then the Conversion Price in effect on the effective date of such subdivision, redivision, reduction, combination or consolidation or on the record date for such issue of Common Shares by way of a dividend or distribution or otherwise, as the case may be, shall, in the case of any of the events referred to in (i) and (iii) above be decreased in proportion to the number of outstanding Common Shares resulting from such subdivision, redivision, or issue by way of dividend, distribution or otherwise (including, where securities convertible into or exchangeable for Common Shares are distributed, the number of Common Shares that would have been outstanding had all such securities been exchanged for or converted into Common Shares on such effective date or record date), or shall, in the case of any of the events referred to in (ii) above, be increased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation. Such adjustment shall be made successively whenever any event referred to in this Section 6.5(a) occurs. Any such issue of Common Shares by way of a dividend or distribution shall be deemed to have been made on the record date for the dividend or distribution for the purpose of calculating

the number of outstanding Common Shares under Sections 6.5(b) and 6.5(c). Upon any adjustment to the Conversion Price as set out in this Section 6.5(a), the number of Common Shares to be issued upon conversion shall, in the case of any of the events referred to in (i) or (iii) above, be increased in proportion to the number of outstanding Common Shares resulting from such subdivision, redivision, dividend or distribution, or shall, in the case of any of the events referred to in (ii) above, be decreased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation.

- (b) If at any time before the Time of Expiry the Corporation fixes a record date for the issuance of options, rights or warrants to all or substantially all the holders of its outstanding Common Shares entitling them, for a period expiring not more than 45 days after such record date, to subscribe for or purchase Common Shares (or securities convertible into or exchangeable for Common Shares) at a price per Common Share (or having a conversion or exchange price per Common Share) less than 95% of the Current Market Price of a Common Share on such record date, then the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator is the total number of Common Shares outstanding on such record date plus a number of Common Shares equal to the quotient obtained by dividing the aggregate price of the total number of additional Common Shares offered for subscription or purchase (or the aggregate conversion or exchange price of the convertible or exchangeable securities so offered) by such Current Market Price per Common Share, and of which the denominator shall be the total number of Common Shares outstanding on such record date plus the total number of additional Common Shares offered for subscription or purchase (or into which the convertible or exchangeable securities so offered are convertible or exchangeable). Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such options, rights or warrants are not so issued or any such options, rights or warrants are not exercised before the expiration thereof, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect if only the number of Common Shares (or securities convertible into Common Shares) actually issued upon the exercise of such options, rights or warrants were included in such fraction, as the case may be.
- (c) If at any time before the Time of Expiry the Corporation fixes a record date for the making of a distribution to all or substantially all the holders of its outstanding Common Shares of
 - (i) shares other than Common Shares (other than shares distributed to holders of Common Shares who have elected to receive dividends or distributions paid on the ordinary course),

- (ii) rights, options or warrants (excluding rights, options or warrants entitling the holders thereof for a period of not more than 45 days to subscribe for or purchase Common Shares or securities convertible into or exchangeable for Common Shares),
- (iii) evidences of its indebtedness,
- (iv) other assets (excluding cash dividends or distributions paid in the ordinary course), or
- (v) dividends or distributions in excess of the Dividend Threshold,

then, in the case of (i) to (iv) above, the Conversion Price shall be adjusted immediately after such record date so that it equals the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator is the total number of Common Shares outstanding on such record date multiplied by the Current Market Price per Common Share on such record date, less the fair market value (as determined by the Directors, acting reasonably, which determination shall be conclusive evidence of such fair market value, subject to approval by the TSX) of such Common Shares or rights, options or warrants or evidences of indebtedness or assets so distributed in respect of the Common Shares, and of which the denominator is the total number of Common Shares outstanding on such record date multiplied by such Current Market Price per Common Share and, in the case of (v) above, the Conversion Price shall be adjusted downward immediately after a record date is fixed for the making of a distribution to all or substantially all of the holders of outstanding Common Shares in a calendar year that, together with dividends already paid in such calendar year with respect to the Common Shares, is in excess of the Dividend Threshold, so that the adjusted Conversion Price equals the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator is the Current Market Price per Common Share on such record date less the cash value of the dividends or distributions paid (or payable to holders of Common Shares as of such record date) in such calendar year in excess of the Dividend Threshold, and of which the denominator is the Current Market Price per Common Share on such record date. For the purposes of (i) to (iv) above, such adjustment shall be made successively whenever such a record date is fixed. For purposes of (v) above, such adjustments shall be made successively whenever a record date is fixed for a dividend or distribution payable in a calendar year that, together with dividends or distributions already paid in such calendar year, is in excess of the Dividend Threshold, however such adjustments shall not include adjustments for amounts in excess of the Dividend Threshold which have already been adjusted for in such calendar year. To the extent that such distribution is not so made, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not

been fixed or to the Conversion Price which would then be in effect based upon such Common Shares or securities, rights, options or warrants or evidences of indebtedness or assets actually distributed, as the case may be. **“Dividend Threshold”** means \$0.15 per Common Share per calendar year; however, if any of the events described in Section 6.5(a) of the Indenture occur, the Dividend Threshold shall be adjusted in a manner consistent with the adjustments specified in respect of such events described in Section 6.5(a).

- (d) If at any time before the Time of Expiry, there is a reclassification of the Common Shares or a capital reorganization of the Corporation other than as described in Section 6.5(a) or a consolidation, amalgamation, arrangement, merger or acquisition of the Corporation with or into any other Person or other entity; or a sale or conveyance of the property and assets of the Corporation as an entirety or substantially as an entirety to any other Person or other entity or a liquidation, dissolution or winding-up of the Corporation, or similar transaction, any holder of a Debenture who has not exercised its right of conversion before the effective date of such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, acquisition sale or conveyance, liquidation, dissolution, winding-up, or similar transaction, upon the exercise of such right thereafter, shall be entitled to receive and shall accept, in lieu of the number of Common Shares then sought to be acquired by it, the number of Common Shares or other securities or property of the Corporation or of the Person or other entity resulting from such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger or acquisition or to which such sale or conveyance may be made or which holders of Common Shares receive pursuant to such liquidation, dissolution or winding-up, as the case may be, that such holder of a Debenture would have been entitled to receive on such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, acquisition, sale or conveyance or liquidation, dissolution or winding-up, or similar transaction, if, on the record date or the effective date thereof, as the case may be, the holder had been the registered holder of the number of Common Shares sought to be acquired by it and to which it was entitled to acquire upon the exercise of the conversion right. If determined appropriate by the Directors to give effect to or to evidence the provisions of this Section 6.5(d), the Corporation, its successor, or such purchasing Person or other entity, as the case may be, shall, before or contemporaneously with any such reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, acquisition, sale or conveyance or liquidation, dissolution or winding-up, or similar transaction, enter into an indenture which provides, to the extent reasonably possible, for the application of the provisions set forth in this Indenture with respect to the rights and interests thereafter of the holder of Debentures to the end that the provisions set forth in this Indenture shall thereafter correspondingly be made applicable, as nearly as reasonably possible, with respect to any Common Shares or other securities or

property to which a holder of Debentures is entitled on the exercise of its conversion rights thereafter. Any indenture entered into between the Corporation and the Debenture Trustee pursuant to this Section 6.5(d) shall be a supplemental indenture entered into pursuant to Article 16. Any indenture entered into between the Corporation, any successor to the Corporation or such purchasing Person or other entity and the Debenture Trustee shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 6.5(d) and which shall apply to successive reclassifications, capital reorganizations, consolidations, amalgamations, mergers, acquisitions sales or conveyances and to any successive liquidation, dissolution or winding-up, or similar transaction.

- (e) In any case in which this Section 6.5(e) requires that an adjustment shall become effective immediately after a record date for an event referred to herein, the Corporation may defer, until the occurrence of such event, issuing to the holder of any Debenture converted after such record date and before the occurrence of such event the additional Common Shares issuable upon such conversion by reason of the adjustment required by such event before giving effect to such adjustment; provided, however, that the Corporation shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Common Shares upon the occurrence of the event requiring such adjustment and the right to receive any distributions made on such additional Common Shares declared in favour of holders of record of Common Shares on and after the Date of Conversion or such later date as such holder would, but for this Section 6.5(e), have become the holder of record of such additional Common Shares pursuant to Section 6.4(a).
- (f) The adjustments provided for in this Section 6.5 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under this Section 6.5; provided however that, notwithstanding any other provision of this Section, no adjustment of the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Conversion Price then in effect; provided, further, that any adjustments which by reason of this Section 6.5(f) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.
- (g) No adjustment of the Conversion Price shall be made in the context of the repurchase of Common Shares by the Corporation under a normal course issuer bid, substantial issuer bid or transaction of a similar nature.
- (h) For the purpose of calculating the number of Common Shares outstanding, Common Shares owned by or for the benefit of the Corporation shall not be counted.

- (i) In the event of any question arising with respect to the adjustments provided in this Section 6.5, such question shall be conclusively determined by a firm of nationally recognized chartered accountants appointed by the Corporation and acceptable to the Debenture Trustee (who may be the Auditors of the Corporation); such accountants shall have access to all necessary records of the Corporation and such determination shall be binding upon the Corporation, the Debenture Trustee, and the Debentureholders, absent manifest error.
- (j) In case the Corporation takes any action affecting the Common Shares other than action described in this Section 6.5, which in the opinion of the Directors, would materially affect the rights of Debentureholders (including their conversion rights), the Conversion Price and the Common Shares issuable upon conversion of the Debentures shall be adjusted in such manner and at such time, by action of the Directors, subject to the prior written consent of the TSX or such other exchange on which the Debentures and the Common Shares are then listed, as the Directors in their sole discretion may determine to be equitable in the circumstances. Failure of the Directors to make such an adjustment shall be conclusive evidence that they have determined that it is equitable to make no adjustment in the circumstances.
- (k) Subject to the prior written consent of the TSX or such other exchange on which the Debentures are then listed, no adjustment in the Conversion Price shall be made in respect of any event described in Sections 6.5(a), 6.5(b) or 6.5(c) other than the events described in Section 6.5(a)(i) or 6.5(a)(ii) if the holders of the Debentures are entitled to participate in such event on the same terms *mutatis mutandis* as if they had converted their Debentures before the effective date or record date, as the case may be, of such event.
- (l) Except as stated above in this Section 6.5, no adjustment shall be made in the Conversion Price for any Debenture as a result of the issuance of Common Shares at less than the Current Market Price for such Common Shares on the date of issuance or the then applicable Conversion Price.

6.6 No Requirement to Issue Fractional Common Shares

The Corporation shall not be required to cause the issuance of fractional Common Shares upon the conversion of Debentures pursuant to this Article. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of whole Common Shares issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of such Debentures to be converted. If any fractional interest in a Common Share would, except for the provisions of this Section, be deliverable upon the conversion of any principal amount of Debentures, the Corporation shall, in lieu of delivering, or causing the delivery of, any certificate representing such fractional interest, make a cash payment to the holder of such Debenture of an amount equal to the Current Market Price of such fractional interest on the Date of Conversion or as soon as practically possible thereafter, provided, however, that the Corporation shall not be required to make any payment of less than \$1.00.

6.7 Corporation to Reserve Common Shares

The Corporation covenants with the Debenture Trustee that it shall at all times reserve and keep available out of its authorized Common Shares (if the number thereof is or becomes limited), solely for the purpose of issuing such Common Shares in connection with a conversion of Debentures, such number of Common Shares as shall then be deliverable by the Corporation upon the conversion of all outstanding Debentures at that time, to enable and permit the Corporation to perform its obligation hereunder to deliver the requisite number of Common Shares to Debentureholders who exercise their conversion rights hereunder. The Corporation covenants with the Debenture Trustee that all Common Shares, which shall be so issuable, shall be duly and validly issued as fully-paid and non-assessable upon receipt by the Corporation of the Conversion Price. The Corporation further covenants with the Debenture Trustee that it shall take all actions and do all things necessary or desirable to enable and permit the Corporation, in accordance with applicable law, to perform all of its obligations hereunder.

6.8 Cancellation of Converted Debentures

All Debentures converted in whole or in part under the provisions of this Article shall be forthwith delivered to and cancelled by the Debenture Trustee and, subject to the provisions of Section 6.4 as to Debentures converted in part, no Debenture shall be issued in substitution therefor.

6.9 Certificate as to Adjustment

The Corporation shall from time to time immediately after it has acquired actual knowledge of the occurrence of any event which requires an adjustment or readjustment as provided in Section 6.5, deliver a Certificate to the Debenture Trustee specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based, which certificate and the amount of the adjustment specified therein may be relied upon by the Debenture Trustee and shall be verified by an opinion of a nationally recognized firm of chartered accountants appointed by the Corporation and acceptable to the Debenture Trustee (who may be the Auditors of the Corporation) and shall be conclusive and binding on all parties in interest absent manifest error. When so verified, the Corporation shall, except in respect of any subdivision, redivision, reduction, combination or consolidation of Common Shares, forthwith give notice to the Debentureholders specifying the event requiring such adjustment or readjustment and the results thereof, including the resulting Conversion Price; provided that, if the Corporation has given notice under this Section 6.9 covering all the relevant facts in respect of such event and if the Debenture Trustee approves, no such notice need be given under this Section 6.9.

6.10 Notice of Special Matters

The Corporation covenants with the Debenture Trustee that so long as any Debenture remains outstanding, it shall give written notice to the Debenture Trustee and to the Debentureholders of its intention to fix a record date for any event referred to in Section 6.5(a), 6.5(b) or 6.5(c) (other than the subdivision, redivision, reduction, combination or consolidation of

its Common Shares) which may give rise to an adjustment in the Conversion Price, and, in each case, such notice shall specify the particulars of such event and the record date and the effective date for such event; provided that the Corporation shall only be required to specify in such notice such particulars of such event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than fourteen (14) days in each case prior to such applicable record date.

6.11 Protection of Debenture Trustee

Subject to Section 15.3, the Debenture Trustee:

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

6.12 Payment of Cash in Lieu of Common Shares

Upon conversion, the Corporation may offer and the converting holder may agree to the delivery of cash for all or a portion of the Debentures surrendered in lieu of Common Shares in accordance with a Written Direction provided by the Corporation to the Debenture Trustee.

ARTICLE 7- COVENANTS OF THE CORPORATION

The Corporation 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:

7.1 To Pay Principal and Interest

Subject at all times to the provisions of Article 5 hereof, the Corporation shall duly and punctually pay or cause to be paid to every Debentureholder the principal of and interest accrued on the Debentures of which it is the holder on the dates, at the places and in the manner mentioned herein and in the Debentures.

7.2 To Pay Debenture Trustee's Remuneration

The Corporation shall pay the Debenture Trustee reasonable remuneration for its services as Debenture Trustee hereunder and shall repay to the Debenture Trustee on demand all monies which shall 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, shall be payable out of any funds coming into the possession of the Debenture Trustee in priority to any of the Debentures or interest thereon. Any amount due under this Section 7.2 and unpaid thirty days after written request for such payment shall bear interest from the expiration of such thirty days at a rate per annum equal to the then rate charged by the Debenture Trustee under similar indentures from time to time, payable on demand. Such remuneration shall continue to be payable until the trusts hereof be finally wound up and whether or not the trusts of this Indenture shall be in the course of administration by or under the direction of a court of competent jurisdiction.

7.3 To Give Notice of Default

The Corporation shall notify the Debenture Trustee in writing specifying the nature of the Event of Default immediately upon obtaining knowledge of any Event of Default hereunder.

7.4 Preservation of Existence, etc.

Subject to 10.1(j) hereof, the Corporation shall preserve, renew and maintain in full force and effect its legal existence and good standing under the laws of the jurisdiction of its organization; and, except where failure to do so would not have a Material Adverse Effect, take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business.

7.5 Keeping of Books

The Corporation shall keep or cause to be kept proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Corporation in accordance with generally accepted accounting principles.

7.6 Annual Certificate of Compliance

The Corporation shall deliver to the Debenture Trustee, within 120 days after the end of each calendar year, (and at any reasonable time upon demand by the Debenture Trustee) a Certificate as to the knowledge of such officers of the Corporation who execute the Certificate of the Corporation's compliance with all conditions and covenants in this Indenture certifying that after reasonable investigation and inquiry, the Corporation 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 the circumstances of any failure to comply and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.

7.7 Reporting Requirements

In the event that the Corporation has Global Debentures outstanding, the Corporation shall provide the Depositary with copies of continuous disclosure documents furnished to holders of its Common Shares under Applicable Securities Legislation, provided that copies of documents filed on SEDAR are not required to be provided to the Depositary.

7.8 Performance of Covenants by Debenture Trustee

If the Corporation shall fail to perform any of its covenants contained in this Indenture, the Debenture Trustee may notify the Debentureholders of such failure on the part of the Corporation or may itself perform any of the covenants capable of being performed by it, but (subject to Sections 8.2 and 15.3) shall be under no obligation to do so or to notify the Debentureholders. All sums so expended or advanced by the Debenture Trustee shall be repayable as provided in Section 7.2. No such performance, expenditure or advance by the Debenture Trustee shall be deemed to relieve the Corporation of any default hereunder or from its continuing indebtedness.

7.9 Maintain Listing

The Corporation shall use commercially reasonable efforts to ensure that the Common Shares and the Debentures are listed and posted for trading on the TSX, and shall maintain such listing and posting for trading of the Common Shares and the Debentures on the TSX, and to maintain the Corporation's status as a "reporting issuer" not in default of Applicable Securities Legislation; provided that the foregoing covenant shall not prevent or restrict the Corporation from carrying out a transaction to which 10.1(j) would apply if carried out in compliance with 10.1(j) even if as a result of such transaction the Corporation ceases to be a "reporting issuer" in all or any of the provinces of Canada or the Common Shares or Debentures cease to be listed on the TSX or any other stock exchange.

ARTICLE 8- DEFAULT

8.1 Events of Default

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

- (a) failure to pay the principal of or a Make Whole Premium, if any, on any Debenture when due whether at maturity, upon redemption or otherwise (whether such payment is due in cash, Common Shares or other securities or property or a combination thereof);
- (b) failure of the Corporation to pay interest (including additional interest, if any) on any Debenture when due, if the failure continues for 30 days after the applicable Interest Payment Date;

- (c) failure of the Corporation to satisfy its conversion obligation in this Indenture, upon the exercise of a Debenture holder's conversion right (including the failure to pay the Make Whole Premium, if any, in connection with such conversion);
- (d) if the Common Shares (or other common shares into which the Debentures are then convertible) are not listed for trading on at least one of the following: the TSX, the NYSE, or any other recognized Canadian stock exchange or U.S. national securities exchange (or any of their respective successors);
- (e) failure of the Corporation to comply with any other term, covenant or agreement contained in the Debentures or this Indenture, if such failure is not cured within 60 days after notice is given to the Corporation by the Debenture Trustee, or to the Debenture Trustee and the Corporation by holders of at least 25% in aggregate principal amount of the Debentures then outstanding, in accordance with this Indenture;
- (f) a default by the Corporation or any its Subsidiaries in the payment when due, after the expiration of any applicable grace period, of principal of, or premium, if any, or interest on, indebtedness for money borrowed (other than intercompany indebtedness) in the aggregate principal amount then outstanding of \$20 million or more, or acceleration of the Corporation or its Subsidiaries' indebtedness for money borrowed in such aggregate principal amount or more so that it becomes due and payable before the date on which it would otherwise have become due and payable, if such default is not cured or waived, or such acceleration is not rescinded, in each case, within 30 days after the notice to the Corporation by the Debenture Trustee or to the Corporation and the Debenture Trustee by holders of at least 25% in aggregate principal amount of the Debentures then outstanding, in accordance with this Indenture;
- (g) failure by the Corporation or any of its Subsidiaries to pay final judgments, the aggregate uninsured portion of which is at least \$20 million, if the judgments are not paid, stayed or discharged within 60 days;
- (h) the Corporation or any of its Subsidiaries that is a "significant subsidiary" (as defined in Regulation S-X of the United States Securities Exchange Act of 1934 (as amended) or any group of the Corporation's Subsidiaries that in the aggregate would constitute a "significant subsidiary", pursuant to or within the meaning of any Bankruptcy Law:
 - (i) commences a voluntary case or proceeding;
 - (ii) consents to the entry of an order for relief against it in an involuntary case or proceeding;

- (iii) consents to the appointment of a custodian of it or for any substantial part of its property; or
- (iv) makes a general assignment for the benefit of its creditors; or takes any comparable action under any foreign laws relating to insolvency;
- (i) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (i) is for relief against the Corporation or any of its Subsidiaries that is a “significant subsidiary” or any group of the Corporation’s Subsidiaries that in the aggregate would constitute a “significant subsidiary” in an involuntary case;
 - (ii) appoints a custodian of the Corporation or any of its Subsidiaries that is a “significant subsidiary” or any group of the Corporation’s Subsidiaries that in the aggregate would constitute a “significant subsidiary”, or for any substantial part of the property of the Corporation or such Subsidiaries; or
 - (iii) orders the winding up or liquidation of the Corporation or any of its Subsidiaries that is a “significant subsidiary” or any group of the Corporation’s Subsidiaries that in the aggregate would constitute a “significant subsidiary”;or any similar relief is granted under any foreign laws and the order or decree remains unstayed and in effect for 90 days;
- (j) if a resolution is passed for the winding-up or liquidation of the Corporation or any of its Subsidiaries that is a “significant subsidiary” or any group of the Corporation’s Subsidiaries that in the aggregate would constitute a “significant subsidiary”, except in the course of carrying out or pursuant to a transaction in respect of which the conditions of Section 11.1 are duly observed and performed;
- (k) if, after the date of this Indenture, any proceedings with respect to the Corporation or any of its Subsidiaries that is a “significant subsidiary” or any group of the Corporation’s Subsidiaries that in the aggregate would constitute a “significant subsidiary” are taken with respect to a compromise or arrangement, with respect to creditors of the Corporation or such Subsidiaries generally, under the applicable legislation of any jurisdiction; or
- (l) the Corporation fails to comply with 10.1(j) hereof.

In each and every such event the Debenture Trustee may, in its discretion, and shall, 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 fees, costs, expenses and liabilities to be incurred, subject to the provisions of Section 8.3, by notice in writing to the Corporation declare the principal of (and premium, if any) and interest on all Debentures then outstanding and all other monies outstanding hereunder to be due and payable and the same shall forthwith become immediately due and payable to the Debenture Trustee, and the Corporation shall subject to Article 5 forthwith pay to the Debenture Trustee for the benefit of the Debentureholders such principal, premium, if any, accrued and unpaid interest and interest on amounts in default on such Debenture 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 shall be deemed to have been made in discharge of the Corporation's obligations hereunder and any monies so received by the Debenture Trustee shall be applied in the manner provided in Section 8.6.

For greater certainty, for the purposes of this Section 8.1, a series of Debentures shall be in default in respect of an Event of Default 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 8.1 refer to Debentures of that particular series.

For purposes of this Article 8, where the Event of Default refers to an Event of Default with respect to a particular series of Debentures as described in this Section 8.1, then this Article 8 shall apply *mutatis mutandis* to the Debentures of such series and references in this Article 8 to the Debentures shall mean Debentures of the particular series and references to the Debentureholders shall refer to the Debentureholders of the particular series, as applicable.

8.2 Notice of Events of Default

If an Event of Default shall occur and be continuing the Debenture Trustee shall, 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 14.1; provided that the Debenture Trustee shall be entitled to rely on such notice and shall not be subject to any liability as a result of its inadvertent failure to provide such notice. Notwithstanding the foregoing, unless the Debenture Trustee shall have been requested to do so by the holders of at least 25% of the principal amount of the Debentures then outstanding, the Debenture Trustee shall not be required to give such notice if the Debenture Trustee in good faith shall have determined that the withholding of such notice is in the best interests of the Debentureholders and shall have so advised the Corporation in writing.

When notice of the occurrence of an Event of Default has been given and the Event of Default is thereafter cured, notice that the Event of Default is no longer continuing shall be given by the Debenture Trustee to the Debentureholders within 15 days after the Debenture Trustee receives written notice that the Event of Default has been cured.

8.3 Waiver of Default

Upon the happening of any Event of Default hereunder:

- (a) the holders of the Debentures shall have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided) by requisition in writing by the holders of a majority of the principal amount of Debentures then outstanding or by Ordinary Resolution of Debentureholders at a meeting held in accordance with Article 13 hereof, to instruct the Debenture Trustee to waive any Event of Default and to cancel any declaration made by the Debenture Trustee pursuant to Section 8.1 and the Debenture Trustee shall thereupon waive the Event of Default and cancel such declaration, or either, upon such terms and conditions as shall 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 Corporation 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 shall be entitled to exercise the foregoing power and the Debenture Trustee shall so act and it shall 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, shall have power to waive any Event of Default if, in the Debenture Trustee's opinion, relying on the opinion of Counsel, the same shall have been cured or adequate satisfaction made therefor, and in such event to cancel any such declaration theretofore 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 shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

8.4 Enforcement by the Debenture Trustee

Subject to the provisions of Section 8.3 and to the provisions of any Extraordinary Resolution that may be passed by the Debentureholders, if the Corporation shall fail to pay to the Debenture Trustee, forthwith after the same shall have been declared to be due and payable under Section 8.1, 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 shall 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 shall have been directed to take, or if such request contains no such direction, or if the Debenture Trustee shall act without such request, then by such proceedings authorized by this Indenture or by suit at law or in equity as the Debenture Trustee shall deem expedient.

The Debenture Trustee shall be entitled and empowered, either in its own name or as trustee of an express trust, or as attorney-in-fact 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 or other judicial proceedings relative to the Corporation 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 shall be conclusively deemed to have so appointed the Debenture Trustee) the true and lawful attorney-in-fact 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 Corporation 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 8.3, nothing contained in this Indenture shall 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 or otherwise by action of any character in such proceeding to waive or change in any way any right of any Debentureholder.

The Debenture Trustee shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests and the interests of the Debentureholders.

All rights of action hereunder may be enforced by the Debenture Trustee without the possession of any of the Debentures or the production thereof at the trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Debenture Trustee shall be brought in the name of the Debenture Trustee as trustee of an express trust, and any recovery of judgment shall 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 shall be a party) the Debenture Trustee shall be held to represent all the holders of the Debentures, and it shall not be necessary to make any holders of the Debentures parties to any such proceeding.

8.5 No Suits by Debentureholders

No holder of any Debenture shall 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 premium (if any) 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 any other bankruptcy, insolvency or analogous laws, or to have the Corporation 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 shall previously have 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 shall have made a request to the Debenture Trustee and the Debenture Trustee shall have been afforded reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose; and (c) the Debentureholders or any of them shall have 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 shall have 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.

8.6 Application of Monies by Debenture Trustee

- (a) Except as herein otherwise expressly provided, any monies received by the Debenture Trustee from the Corporation pursuant to the foregoing provisions of this Article 8, or as a result of legal or other proceedings or from any trustee in bankruptcy or liquidator of the Corporation, shall 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 8.6 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 shall 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 Corporation or its assigns; provided, however, that no payment shall 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 Corporation (other than any Debenture pledged for value and in good faith to a person other than the Corporation 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 shall 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 such amount as the Debenture Trustee may think necessary to provide for the payments mentioned in Section 8.6(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 in Section 15.9 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 shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner hereinbefore set forth. The foregoing shall, however, not apply to a final payment or distribution hereunder.

8.7 Notice of Payment by Debenture Trustee

Not less than 15 days' notice shall be given by the Debenture Trustee to the Debentureholders of any payment to be made under this Article 8. Such notice shall state the time when and the 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 shall have been duly demanded and have been refused, the Debentureholders shall 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, after deduction of the respective amounts payable in respect thereof on the day so fixed.

8.8 Debenture Trustee May Demand Production of Debentures

The Debenture Trustee shall have the right to demand production of the Debentures in respect of which any payment of principal, interest or premium required by this Article 8 is made and may cause to be endorsed on the Certificated Debentures (if applicable), or may cause appropriate entries to be made in its records with respect to an Uncertificated Debenture, 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 Corporation as the Debenture Trustee shall deem sufficient.

8.9 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 shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute.

8.10 Judgment Against the Corporation

The Corporation 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.

8.11 Immunity of Directors, Officers 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 employee of the Corporation or of any successor 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 Corporation contained herein or in the Debentures.

8.12 Subordination

This Article 8 and the powers, rights and authority granted to the Debenture Trustee hereunder, are subject to the terms and provisions of Article 5.

ARTICLE 9- SATISFACTION AND DISCHARGE

9.1 Cancellation and Destruction

Subject to applicable retention requirements, all Debentures shall 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 shall be destroyed by the Debenture Trustee and, if required by the Corporation, the Debenture Trustee shall furnish to it a destruction certificate setting out the designating numbers of the Debentures so destroyed.

9.2 Non-Presentation of Debentures

In case the holder of any Debenture shall fail 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 shall not accept payment on account thereof and give such receipt therefor, if any, as the Debenture Trustee may require:

- (a) the Corporation shall be entitled to pay or deliver to the Debenture Trustee and direct the Debenture Trustee to set aside;
- (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 Corporation shall 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 monies or Common Shares, as the case may be (after deduction of any applicable withholding taxes), in trust to be paid or delivered to the holder of such Debenture upon due presentation or surrender thereof in accordance with the provisions of this Indenture;

and thereupon the principal or premium (if any) or the interest payable on or represented by each Debenture in respect whereof such monies or Common Shares have been set aside shall be deemed to have been paid and the holder thereof shall thereafter have no right in respect thereof except that of receiving delivery and payment of the monies or Common Shares, if applicable, (less applicable withholding taxes, if any), so set aside by the Debenture Trustee upon due presentation and surrender thereof, subject always to Section 9.3.

9.3 Repayment of Unclaimed Monies or Common Shares

Subject to applicable law, any monies or Common Shares, if applicable, set aside under Section 9.2 and not claimed by and paid to holders of Debentures as provided in Section 9.2 within six years after the date of such setting aside shall be repaid and delivered to the Corporation by the Debenture Trustee and thereupon the Debenture Trustee shall be released from all further liability with respect to such monies or Common Shares, if applicable, and thereafter the holders of the Debentures in respect of which such monies or Common Shares, if applicable, were so repaid to the Corporation shall have no rights in respect thereof except to obtain payment and delivery of the monies or Common Shares, if applicable, from the Corporation subject to any prescription provided by the laws of the Province of British Columbia. Notwithstanding the foregoing, the Debenture Trustee shall pay any remaining funds prior to the expiry of six years after the setting aside described in Section 9.2 to the Corporation upon receipt from the Corporation 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 Corporation prior to the expiry of six years after such setting aside, the Corporation shall 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 Corporation but prior to six years after such setting aside.

9.4 Discharge

The Debenture Trustee shall at the written request of the Corporation release and discharge this Indenture and execute and deliver such instruments as it shall be advised by Counsel are requisite for that purpose and to release the Corporation 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.

9.5 Satisfaction

- (a) The Corporation shall be deemed to have fully paid, satisfied and discharged all of the outstanding Debentures of any series and the Debenture Trustee, at the expense of the Corporation, shall 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 Corporation 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 or Common Shares, if applicable, sufficient to pay, satisfy and discharge the entire amount of principal, premium, if any, and interest, if any, to maturity or any repayment date or Redemption Dates, or any Change of Control Purchase Date or upon conversion or otherwise, as the case may be, of such Debentures (including, if applicable, the maximum amount that may be payable as a Make Whole Premium Shares); or
 - (ii) the Corporation has deposited or caused to be deposited with the Debenture Trustee as trust property in trust for the purpose of making payment on such Debentures:
 - A. if the Debentures are issued in Canadian dollars, such amount in Canadian dollars of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or Common Shares, if applicable; or
 - B. if the Debentures are issued in a currency or currency unit other than Canadian Dollars, cash in the currency or currency unit in which the Debentures are payable and/or such amount in such currency or currency unit 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 the Debentures are payable or Common Shares, if applicable,

as shall, 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, provided that, for the purposes of Section 9.5(a)(ii)B, the Debenture Trustee will be entitled to rely on an opinion of Counsel or such other advisor satisfactory to it in making such a determination;

so long as in any such event:

- (iii) the Corporation 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); and
- (iv) the Corporation has delivered to the Debenture Trustee a 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 9.5 shall be irrevocable, subject to Section 9.6, and shall be made under the terms of an escrow and/or trust agreement in form and substance satisfactory to the Debenture Trustee and the Corporation and which provides for the due and punctual payment of the principal of, and interest and premium, if any, on the Debentures being satisfied. In the event that the Debenture Trustee enters into any such agreement contemplated by this Section 9.5(a), the Debenture Trustee shall be deemed to have completely and satisfactorily discharged its duties and obligations under this indenture with respect to the Debentures being satisfied and all future duties and obligations of the Debenture Trustee with respect to the satisfied Debentures shall be governed solely pursuant to the terms of the new escrow and/or trust agreement, as applicable.

- (b) Notwithstanding anything to the contrary in Section 9.5(a), the Debenture Trustee shall not be obligated to accept holdings of any nature or kind which it does not hold for its clients in the ordinary course of business.
- (c) Upon the satisfaction of the conditions set forth in this Section 9.5 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 4, Section 15.17 and the other provisions of this Indenture pertaining to the foregoing provisions) shall no longer be binding upon or applicable to the Corporation.

- (d) Any funds or obligations deposited with the Debenture Trustee pursuant to this Section 9.5 shall be denominated in the currency or denomination of the Debentures in respect of which such deposit is made.
- (e) If the Debenture Trustee is unable to apply any money or securities in accordance with this Section 9.5 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 Corporation's obligations under this Indenture and the affected Debentures shall be revived and reinstated as though no money or securities had been deposited pursuant to this Section 9.5 until such time as the Debenture Trustee is permitted to apply all such money or securities in accordance with this Section 9.5, provided that if the Corporation 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 Corporation shall 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.

9.6 Continuance of Rights, Duties and Obligations

Where trust funds or trust property have been deposited pursuant to Section 9.5, the holders of Debentures and the Corporation shall continue to have and be subject to their respective rights, duties and obligations under Article 2, Article 4, Section 15.17 and the other provisions of this Indenture pertaining to the foregoing provisions.

In the event that, after the deposit of trust funds or trust property pursuant to Section 9.5 in respect of a series of Debentures (the “**Defeased Debentures**”), any holder of any of the Defeased Debentures from time to time converts its Debentures to Common Shares or other securities of the Corporation in accordance with Section 2.4(f), Article 6 or any other provision of this Indenture, the Debenture Trustee must, upon receipt of a Written Direction, return to the Corporation from time to time the proportionate amount of the trust funds or other trust property deposited with the Debenture Trustee pursuant to Section 9.5 in respect of the Defeased Debentures which is applicable to the Defeased Debentures so converted (which amount shall be based on the applicable principal amount of the Defeased Debentures being converted in relation to the aggregate outstanding principal amount of all the Defeased Debentures).

In the event that, after the deposit of trust funds or trust property pursuant to Section 9.5, the Corporation is required to purchase any outstanding Debentures pursuant to Section 2.4(i) 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 Corporation shall be entitled to use any trust money or trust property deposited with the Debenture Trustee pursuant to Section 9.5 for the purpose of paying to any holders of Defeased Debentures who have accepted any such offer of the Corporation 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, the Debenture Trustee shall be entitled to pay to such holder from

such trust money or trust property deposited with the Debenture Trustee pursuant to Section 9.5 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 Corporation (which amount shall 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 10- COMMON SHARE INTEREST PAYMENT ELECTION

10.1 Common Share Interest Payment Election

- (a) Provided that no Event of Default exists at such time and that all necessary regulatory approvals have been obtained (including any required approval of any stock exchange on which the Debentures or Common Shares are then listed), the Corporation shall have the right, from time to time, to make a Common Share Interest Payment Election in respect of any Interest Obligation, in whole or in part, by delivering a Common Share Interest Payment Election Notice to the Debenture Trustee no later than the earlier of: (i) the date required by applicable law or the rules of any stock exchange on which the Debentures or Common Shares are then listed, and (ii) the day which is 15 Business Days prior to the Interest Payment Date to which the Common Share Interest Payment Election relates.

- (b) Upon delivery of a Common Share Interest Payment Election Notice, the Corporation shall in accordance with this Article 10 and such Common Share Interest Payment Election Notice: (i) deliver Common Share Bid Requests to the investment banks, brokers or dealers (each, a **"Broker"**) identified by the Corporation, in its absolute discretion, in the Common Share Interest Payment Election Notice, and (ii) establish an account or accounts with a Broker identified by the Corporation, in its absolute discretion, in the Common Share Interest Payment Election Notice for the purpose of such Broker selling Freely Tradeable Common Shares on behalf of the Corporation in accordance with the terms hereof (which Broker shall notify the Corporation and the Debenture Trustee as such Common Shares are sold and the settlement rules prescribed by securities regulatory policies shall apply in respect of the payment for such Common Shares). The Broker shall send copies of the monthly statements and transaction slips in respect of all sales of Common Shares to the Corporation (with a duplicate copy to the Debenture Trustee, or as it may otherwise in writing direct), as soon as reasonably practicable after preparation thereof. All fees payable in respect of such accounts shall be paid by the Corporation; provided, however, that it shall be a condition precedent to the Corporation establishing such an account with one or more Brokers that all necessary legal, regulatory and other requirements have been satisfied by the Corporation and the Debenture Trustee, if applicable, and the Corporation shall assume, to the maximum extent permitted herein and at law, all responsibility for administering such account(s).

In connection with the Common Share Interest Payment Election, the Debenture Trustee shall have the power to: (i) accept delivery of the Common Shares from the Corporation and process the Common Shares in accordance with the Common Share Interest Payment Election Notice, (ii) consummate sales of, such Common Shares, each as the Corporation shall direct in its absolute discretion through the Broker identified by the Corporation in the Common Share Interest Payment Election Notice, (iii) invest the proceeds of such sales in Canadian Government Obligations which mature prior to the applicable Interest Payment Date, all on a best efforts basis, (iv) deliver proceeds to holders of Debentures to satisfy all or a portion of the Corporation's Interest Obligations, as directed by the Corporation in the Common Share Interest Payment Election Notice, and (v) perform any other action necessarily incidental thereto as directed by the Corporation in its absolute discretion. The Common Share Interest Payment Election Notice shall provide that the acceptance of any bid is conditional on the acceptance of, sufficient bids to result in aggregate net proceeds from such issue and sale of Common Shares which, together with the cash payments to be made by the Corporation, if any, equal the Interest Obligation on the Common Share Delivery Date.

- (c) The Common Share Interest Payment Election Notice shall provide confirmation from the Corporation that all necessary regulatory approvals have been obtained and shall also provide for, and all bids, if any, shall be subject to, the right of the Corporation, by delivering written notice to the Debenture Trustee at any time prior to the consummation of such delivery and sale of the Common Shares on the Common Share Delivery Date, to withdraw the Common Share Interest Payment Election (which shall have the effect of withdrawing each related Common Share Bid Request), whereupon the Corporation shall be obliged to pay in cash the Interest Obligation in respect of which the Common Share Interest Payment Election Notice has been delivered.
- (d) Any sale of Common Shares pursuant to this Article 10 may be made to one or more Persons whose bids are solicited, but all such sales with respect to a particular Common Share Interest Payment Election shall take place concurrently on the Common Share Delivery Date.
- (e) The amount receivable in cash by a holder of a Debenture in respect of the Interest Obligation or the entitlement thereto shall not be affected by whether or not the Corporation elects to satisfy the Interest Obligation pursuant to a Common Share Interest Payment Election.
- (f) The Corporation shall accept such bid or bids for Common Shares solicited pursuant to the Common Share Bid Requests, as the Corporation, in its absolute discretion, decides provided that the aggregate net proceeds of all sales of Common Shares through the facilities of a registered broker/dealer resulting

from the acceptance of such bids, together with the amount of any cash payment by the Corporation, on the Common Share Delivery Date, must be equal to the related Common Share Interest Payment Election Amount in connection with any bids so accepted. The Corporation and the applicable bidders shall, not later than the Common Share Delivery Date, enter into Common Share Purchase Agreements in a form satisfactory to the Corporation and the Debenture Trustee and shall comply with all Applicable Securities Legislation, including the securities rules and regulations of any stock exchange on which the Debentures or Common Shares are then listed. The Corporation shall pay all fees and expenses in connection with the Common Share Purchase Agreements including the fees and commissions charged by the investment banks, brokers and dealers and the fees of the Debenture Trustee.

- (g) Provided that (i) all conditions specified in each Common Share Purchase Agreement to the closing of all sales thereunder have been satisfied, other than the delivery of the Common Shares to be sold thereunder against payment of the purchase price thereof, and (ii) the purchasers under each Common Share Purchase Agreement shall be ready, willing and able to perform thereunder, in each case on the Common Share Delivery Date, the Corporation shall, on the Common Share Delivery Date, cause to be delivered to the Debenture Trustee the Common Shares to be sold on such date through the facilities of a registered broker/dealer, an amount in cash equal to the value of any fractional Common Shares and a Certificate to the effect that all conditions precedent to such sales, including those set forth in this Indenture and in each Common Share Purchase Agreement, have been satisfied. Upon such deliveries, the Debenture Trustee shall consummate such sales on such Common Share Delivery Date by the delivery of the Common Shares to such purchasers against payment to the Debenture Trustee in immediately available funds of the purchase price therefor in an aggregate amount equal to the Common Share Interest Payment Election Amount (less any amount attributable to any fractional Common Shares), whereupon the sole right of a holder of Debentures to receive such holder's portion of the Common Share Interest Payment Election Amount shall be to receive same from the Debenture Trustee out of the proceeds of such sales of Common Shares plus any amount received by the Debenture Trustee from the Corporation attributable to any fractional Common Shares in full satisfaction of the Interest Obligation and the holder shall have no further recourse to the Corporation in respect of the Interest Obligation.
- (h) The Debenture Trustee shall use best efforts to, on the Common Share Delivery Date, use the sale proceeds of the Common Shares (together with any cash received from the Corporation) to purchase, on the direction of the Corporation in writing, Canadian Government Obligations which mature prior to the applicable Interest Payment Date and which the Debenture Trustee is required to hold until maturity (the "**Common Share Proceeds Investment**") and shall, on such date, deposit the balance, if any, of such sale proceeds in the Property

Account for such Debentures. The Debenture Trustee shall hold such Common Share Proceeds Investment (but not income earned thereon) under its exclusive control in an irrevocable trust for the benefit of the holders of the Debentures. At least one Business Day prior to the Interest Payment Date, the Debenture Trustee shall deposit amounts from the proceeds of the Common Share Proceeds Investment in the Property Account to bring the balance of the Property Account to the Common Share Interest Payment Election Amount. On the Interest Payment Date, the Debenture Trustee shall pay the amount held in the Property Account to the holders of record of the Debentures on the record date of such Interest Payment Date (less any tax required to be withheld or deducted, if any) and, provided that there is no Event of Default, shall remit amounts, if any, in respect of income earned on the Common Share Proceeds Investment or otherwise in excess of the Common Share Interest Payment Election Amount to the Corporation.

- (i) Neither the making of a Common Share Payment Election nor the consummation of sales of Common Shares on a Common Share Delivery Date shall (i) result in the holders of the Debentures not being entitled to receive on the applicable Interest Payment Date cash in an aggregate amount equal to the Interest Obligation payable on such date or (ii) entitle or require such holders to receive any Freely Tradeable Common Shares in satisfaction of such Interest Obligation.
- (j) No fractional Common Shares shall be issued in satisfaction of interest but in lieu thereof the Corporation shall satisfy such fractional interest by a cash payment equal to the market price of such fractional interest (less any tax required to be deducted, if any) provided, however, that the Corporation shall not be required to make any payment of less than \$1.00. Upon request by the Debenture Trustee, the Corporation shall provide in writing to the Debenture Trustee, the price to be paid in respect to such fractional common shares.
- (k) The Debenture Trustee will only act on the Written Direction of the Corporation when acting hereunder.

ARTICLE 11-SUCCESSORS

11.1 Corporation may Consolidate, etc., only on Certain Terms

- (a) The Corporation may not, without the consent of the holders, consolidate with or amalgamate or merge with or into, or undertake a reorganization or arrangement with, any Person (other than a directly or indirectly wholly-owned Subsidiary of the Corporation) or sell, convey, transfer or lease all or substantially all of the properties and assets of the Corporation to another Person (other than a directly or indirectly wholly-owned Subsidiary of the Corporation) unless:

- (i) the Person formed by such consolidation or into which the Corporation is amalgamated or merged, or who is the successor resulting from such reorganization or arrangement or the Person which acquires by sale, conveyance, transfer or lease all or substantially all of the properties and assets of the Corporation is a corporation, organized and existing under the laws of Canada or any province or territory thereof or the laws of the United States or any state thereof and such corporation (if other than the Corporation or the continuing corporation resulting from such a transaction of the Corporation with another corporation under the laws of Canada or any province or territory thereof) expressly assumes, by an indenture supplemental hereto, executed and delivered to the Debenture Trustee, in form satisfactory to the Debenture Trustee, the obligations of the Corporation under the Debentures and this Indenture and the performance or observance of every covenant and provision of this Indenture and the Debentures required on the part of the Corporation to be performed or observed and the conversion rights shall be provided for in accordance with Article 6, by supplemental indenture satisfactory in form to the Debenture Trustee, executed and delivered to the Debenture Trustee, by the Person (if other than the Corporation or the continuing corporation resulting from such a transaction, formed by such consolidation or into which the Corporation shall have been merged or who is the successor or by the Person which shall have acquired the Corporation's assets);
 - (ii) after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have occurred and be continuing; and
 - (iii) if the Corporation shall not be the resulting, continuing or surviving corporation, the Corporation shall have, at or prior to the effective date of such consolidation, amalgamation, merger or sale, conveyance, transfer or lease, delivered to the Debenture Trustee a Certificate and an opinion of Counsel, each stating that such consolidation, merger or transfer or other transaction complies with this 10.1(j) and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture complies with this 10.1(j), and that all conditions precedent herein provided for relating to such transaction have been complied with.
- (b) For purposes of the foregoing, the sale, conveyance, transfer or lease (in a single transaction or a series of related transactions) of the properties or assets of one or more Subsidiaries of the Corporation (other than to the Corporation or another wholly-owned Subsidiary of the Corporation), which, if such properties or assets were directly owned by the Corporation, would constitute all or substantially all of the properties and assets of the Corporation and its Subsidiaries, taken as a whole, shall be deemed to be the sale, conveyance,

transfer or lease of all or substantially all of the properties and assets of the Corporation.

11.2 Successor Substituted

Upon any consolidation, reorganization or arrangement of the Corporation with, or amalgamation or merger of the Corporation into, any other Person or any sale, conveyance, transfer or lease of all or substantially all of the properties and assets of the Corporation and its Subsidiaries, taken as a whole, in accordance with Section 11.1, the successor Person formed by such transaction shall succeed to, and be substituted for, and may exercise every right and power of, the Corporation under this Indenture with the same effect as if such successor Person had been named as the Corporation herein, and thereafter, except in the case of a lease, and except for obligations the predecessor Person may have under a supplemental indenture entered into pursuant to Section 11.1(a)(iii), the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Debentures.

ARTICLE 12- COMPULSORY ACQUISITION

12.1 Definitions

In this Article:

- (a) “**Affiliate**” and “**Associate**” shall have their respective meanings set forth in the *Securities Act* (British Columbia);
- (b) “**Dissenting Debentureholders**” means a Debentureholder who does not accept an Offer referred to in Section 12.2 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) “**Offer**” means an offer to acquire outstanding Debentures, which is a take-over bid within the meaning of Multilateral Instrument 62-104 - *Take-Over Bids and Issuer Bids* if the Debentures were considered equity securities, where, as of the date of the offer to acquire, the Debentures that are subject to the offer to acquire, together with the Offeror’s Debentures, constitute in the aggregate 20% or more of the outstanding principal amount of the Debentures;
- (d) “**offer to acquire**” includes an offer to purchase, or a satisfaction of an offer to sell, an acceptance of an offer to sell whether or not such offer to sell has been solicited or any combination thereof and the Person accepting an offer to sell shall be deemed to be making an offer to acquire to the Person that made the offer to sell;
- (e) “**Offeror**” means a Person, or two or more Persons acting jointly or in concert, who make an Offer to acquire Debentures;

- (f) **“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 the Corporation acting jointly or in concert with the Offeror; and
- (g) **“Offeror’s Notice”** means the notice described in Section 12.3.

For purposes of this Article 12, where the Offer relates only with respect to a particular series of Debentures, then this Article 12 shall apply *mutatis mutandis* to the Debentures of such series, and references in this Article 12 to the Debentures shall mean Debentures of the particular series, and references to the Debentureholders shall mean the Debentureholders of the particular series, as applicable.

12.2 Offer for Debentures

If an Offer for outstanding Debentures of a series (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 period, 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 is bound to take up and pay for, or has taken up and paid for the Debentures of the Debentureholders who accepted the Offer; and
- (c) the Offeror complies with Sections 12.3 and 12.5;

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

12.3 Offeror’s Notice to Dissenting Debentureholders

Where an Offeror is entitled to acquire Debentures held by Dissenting Debentureholders pursuant to Section 12.2 and the Offeror wishes to exercise such right, the Offeror shall send by registered mail within 10 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 is bound to take up and pay for, or has taken up and paid for, the Debentures of the Debentureholders who accepted the Offer;

- (c) Dissenting Debentureholders must elect to transfer their respective Debentures to the Offeror on the terms on which the Offeror acquired the Debentures of the Debentureholders who accepted the Offer; and
- (d) Dissenting Debentureholders must send their respective Debenture certificate(s) to the Debenture Trustee within 21 days after the date of the sending of the Offeror's Notice.

12.4 Delivery of Debenture Certificates

A Dissenting Debentureholder to whom an Offeror's Notice is sent pursuant to Section 12.3 shall, within 21 days after the date of receiving the Offeror's Notice with respect to the election in Section 12.3(c), send his or her Debenture certificate(s) (if applicable) to the Debenture Trustee duly endorsed for transfer.

12.5 Payment of Consideration to Debenture Trustee

Within 21 days after the Offeror sends an Offeror's Notice pursuant to Section 12.3, the Offeror shall pay or transfer to the Debenture Trustee, or to such other person as the Debenture Trustee may direct, the cash or other consideration that would be payable if all Dissenting Debentureholders elected to accept the Offer in accordance with Section 12.3. The acquisition by the Offeror of all Debentures held by all Dissenting Debentureholders shall be effective as of the time of such payment or transfer.

12.6 Consideration to be held in Trust

The Debenture Trustee, or the person directed by the Debenture Trustee, shall hold in trust for the Dissenting Debentureholders the cash or other consideration they or it receives under Section 12.5. The Debenture Trustee, or such person, shall deposit cash in a separate account in a Canadian chartered bank, or other body corporate, which may include an Affiliate of the Debenture Trustee, any of whose deposits are insured by the Canada Deposit Insurance Corporation, and shall place other consideration in the custody of a Canadian chartered bank or such other body corporate.

12.7 Completion of Transfer of Debentures to Offeror

Within 30 days after the date of the sending of an Offeror's Notice pursuant to Section 12.3, the Debenture Trustee, if the Offeror has complied with Section 12.5, shall:

- (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 made or deemed to have made an election and, if applicable has complied with Section 12.4, the consideration to which such Dissenting Debentureholder is entitled under this Article 12 net of applicable withholding taxes, if applicable; and

- (c) send to each Dissenting Debentureholder 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 which the Dissenting Debentureholder is entitled to receive for such Debentures if the Debentureholder elected to receive the consideration payable or paid under the Offer; and
 - (iii) the Debenture Trustee, or such other Person, shall 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 with respect to the Debentures, 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 Depositary.

12.8 Communication of Offer to the Corporation

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 Corporation who shall then provide a copy to the Debenture Trustee.

ARTICLE 13- MEETINGS OF DEBENTUREHOLDERS

13.1 Right to Convene Meeting

The Debenture Trustee or the Corporation may at any time and from time to time, and the Debenture Trustee shall, on receipt of a written request of the Corporation 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 Corporation 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 and indemnification, to give notice convening a meeting, the Corporation or such Debentureholders, as the case may be, may convene such meeting. Every such meeting shall be held in the City of Vancouver or at such other place as may be approved or determined by the Corporation and the Debenture Trustee.

13.2 Notice of Meetings

- (a) At least 21 days' notice of any meeting shall be given to the Debentureholders and a copy of such notice shall be sent by post to the Debenture Trustee, unless the meeting has been called by it. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat and it shall 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 shall 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 13.15, 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 Sections 13.2(c) and (d)), then:
 - (i) a reference to such fact, indicating each series of Debentures in the opinion of the Debenture Trustee, as advised by counsel, so especially affected (hereinafter referred to as the "**especially affected series**") shall be made in the notice of such meeting, and in any such case the meeting shall be and be deemed to be and is herein referred to as a "**Serial Meeting**"; and

 - (ii) the holders of Debentures of an especially affected series shall not be bound by any action taken at a Serial Meeting or by instrument in writing under Section 13.15 unless in addition to compliance with the other provisions of this Article 13:
 - 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 13 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 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 13.15, such instrument is signed in one or more counterparts by the holders of not less than 66 2/3% in

principal amount of the Debentures of such series then outstanding.

- (c) Subject to Section 13.2(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 13.15, 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) shall be determined by an opinion of Counsel, which shall be binding on all Debentureholders, the Debenture Trustee and the Corporation 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 any redemption premium thereon or to impair any conversion right thereof;
 - (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 this Section 13.2 or Sections 13.4, 13.12 and 13.15,

shall be 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.

13.3 Chairman

Some person, who need not be a Debentureholder, nominated in writing by the Corporation (in case it convenes the meeting) or the Debenture Trustee (in any other case) shall be chairman 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 shall choose some person present to be chairman.

13.4 Quorum

Subject to the provisions of Section 13.12, at any meeting of the Debentureholders a quorum shall consist of not less than two 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 shall not be 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, shall be dissolved, but in any other case the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day in which case it shall be adjourned to the next following Business Day thereafter) at the same time and place, to the extent possible, and no notice shall be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Debentureholders present in person or by proxy shall, subject to the provisions of Section 13.12, 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 shall be transacted at any meeting unless the required quorum be present at the commencement of business.

13.5 Power to Adjourn

The chairman 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.

13.6 Show of Hands

Every question submitted to a meeting shall, subject to Section 13.7, be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions shall 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 shall be conclusive evidence of the fact. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Debentures, if any, held by him.

13.7 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 shall be taken in such manner and either at once or after an adjournment as the chairman shall direct. Questions other than Extraordinary Resolutions shall, 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.

13.8 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, shall have one vote.

On a poll each Debentureholder present in person or represented by a proxy duly appointed by an instrument in writing shall be entitled to one vote in respect of each \$1,000 principal amount of Debentures of which he or she shall then be the holder. In the case of any Debenture denominated in a currency or currency unit other than U.S. dollars, the principal amount thereof for these purposes must be computed in U.S. 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 shall be rounded to the nearest \$1,000. A proxyholder 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 shall vote together in respect of the Debentures of which they are joint holders.

13.9 Proxies

A Debentureholder may be present and vote at any meeting of Debentureholders by an authorized representative. The Corporation (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 shall think fit providing for and governing any or all of the following matters:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any person signing on behalf of a Debentureholder;
- (b) the deposit of instruments appointing proxies at such place as the Debenture Trustee, the Corporation or the Debentureholder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited; and
- (c) the deposit of instruments appointing proxies at 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 Corporation 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 shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only persons who shall 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, shall be Debentureholders and persons whom Debentureholders have by instrument in writing duly appointed as their proxies.

13.10 Persons Entitled to Attend Meetings

The Corporation and the Debenture Trustee, by their respective officers, directors, employees and agents (as applicable), the Auditors of the Corporation and the legal advisers of the Corporation, the Debenture Trustee or any Debentureholder may attend any meeting of the Debentureholders, but shall have no vote as such.

13.11 Powers Exercisable by Extraordinary Resolution

In addition to the powers conferred upon them by any other provisions of this Indenture or by applicable law, a meeting of the Debentureholders shall have the following powers exercisable from time to time by Extraordinary Resolution, subject, if required, in the case of the matters in paragraphs (a), (b), (c), (d) and (l) to receipt of the prior approval of the TSX 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 against the Corporation, or against its property, whether such rights arise under this Indenture or the Debentures or otherwise;
- (c) power to assent to any modification of or change in or addition to or omission from the provisions contained in this Indenture or any Debenture which shall be agreed to by the Corporation and to authorize the 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 Corporation or for the consolidation, amalgamation or merger of the Corporation with any other Person or for the sale, leasing, transfer or other disposition of all or substantially all of the undertaking, property and assets of the Corporation or any part thereof, provided that no such sanction shall be necessary in respect of any such transaction if the provisions of Section 11.1 shall 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) 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 8.1 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 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 shall have been permitted by Section 8.5, 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 Corporation;
- (j) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the 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 shall be included in the resolution appointing the committee. The resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee. Such committee shall consist of such number of persons as shall be prescribed in the resolution appointing it and the members need not be themselves Debentureholders. Every such committee may elect its chairman and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be binding upon all Debentureholders. Neither the committee nor any member thereof shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith;
- (k) power to remove the Debenture Trustee from office and to appoint a new Debenture Trustee or Debenture Trustees provided that no such removal shall be effective unless and until a new Debenture Trustee or Debenture Trustees shall have become bound by this Indenture;

- (l) power to sanction the conversion of the Debentures for or the conversion thereof into Common Shares, bonds, debentures or other securities or obligations of the Corporation or of any other Person formed or to be formed;
- (m) power to authorize the distribution *in specie* of any securities received pursuant to a transaction authorized under the provisions of Section 13.11(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 Section 13.11(j).

Notwithstanding the foregoing provisions of this Section 13.11, none of such provisions shall in any manner allow or permit any amendment, modification, abrogation or addition to the provisions of Article 5 which could reasonably be expected to detrimentally affect the rights, remedies or recourse of the priority of the Senior Creditors.

13.12 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, shall be dissolved but in any other case it shall stand adjourned to such date, being not less than 14 nor more than 60 days later, and to such place and time as may be appointed by the chairman. Not less than 10 days’ notice shall be given of the time and place of such adjourned meeting. Such notice shall state that at the adjourned meeting the Debentureholders present in person or by proxy shall form a quorum. At the adjourned meeting the Debentureholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was

originally convened and a resolution proposed at such adjourned meeting and passed thereat by the affirmative vote of holders of not less than $66\frac{2}{3}\%$ of the 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 voted upon on a poll shall be an Extraordinary Resolution within the meaning of this Indenture, notwithstanding that the holders of not less than 25% in 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 not present in person or by proxy at such adjourned meeting.

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

13.13 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 shall not be deemed to exhaust the rights of the Debentureholders to exercise the same or any other such power or powers thereafter from time to time.

13.14 Minutes

Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Debenture Trustee at the expense of the Corporation, 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, shall 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 shall have been made, shall 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.

13.15 Instruments in Writing

All actions which may be taken and all powers that may be exercised by the Debentureholders at a meeting held as hereinbefore in this Article provided may also be taken and exercised by the holders of $66\frac{2}{3}\%$ of the principal amount of all the outstanding Debentures and, if the meeting at which such actions might be taken would be a Serial Meeting, by the holders of $66\frac{2}{3}\%$ of the principal amount of the Debentures then outstanding of each especially affected series, by an instrument in writing signed in one or more counterparts and the expression “**Extraordinary Resolution**” when used in this Indenture shall include an instrument so signed.

13.16 Binding Effect of Resolutions

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article at a meeting of Debentureholders shall 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 13.15 shall 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) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

13.17 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 personally or by an attorney duly appointed in writing.
- (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 shall consider proper.

13.18 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 13.15, does not adversely affect the rights of the holders of Debentures of one or more series, the provisions of this Article 13 shall 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 shall be deemed not to adversely affect the rights of the holders of Debentures of any other series.

ARTICLE 14- NOTICES

14.1 Notice to the Corporation

Any notice to the Corporation or to the Debenture Trustee (on its own account or on behalf of the Debentureholders) under the provisions of this Indenture shall be valid and effective if delivered to the Corporation at Suite 650, 200 Burrard Street, Vancouver, British Columbia, V6C 3L6, Attention: Luis Ganoza Durant, Chief Financial Officer, Email: ldganoza@fortunasilver.com with a copy delivered to Blake, Cassels & Graydon LLP at Suite 2600, 595 Burrard Street, Vancouver, British Columbia, V7X 1L3, Attention: Peter O'Callaghan, Email: peter.ocallaghan@blakes.com and a copy delivered to the Debenture Trustee at 510 Burrard Street, 3rd Floor, Vancouver, British Columbia V6C 3B9, Attention: General Manager, Corporate Trust , Email: corporatetrust.vancouver@computershare.com or if given by registered letter,

postage prepaid, or by email or other electronic transmission to such offices and so addressed and if mailed, shall be deemed to have been effectively given three days following the mailing thereof or if sent by email or other electronic transmission on the first Business Day after confirmed transmission. The Corporation may from time to time notify the Debenture Trustee in writing of a change of address which thereafter, until changed by like notice, shall be the address of the Corporation for all purposes of this Indenture.

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Corporation would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to this Section 14.1, such notice shall be valid and effective only if delivered or sent via email or other electronic transmission in accordance with this Section 14.1.

14.2 Notice to Debentureholders

All notices to be given hereunder with respect to the Debentures shall 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 shall 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 shall be deemed to have been given or served on the day upon which it is delivered. Accidental error or omission in giving notice or accidental failure to mail or otherwise deliver notice to any Debentureholder or the inability of the Corporation to give or mail or otherwise deliver any notice due to any event beyond the reasonable control of the Corporation shall not invalidate any action or proceeding founded thereon.

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 Corporation shall give such notice by publication at least once in the City of Vancouver, British Columbia (or in such of those cities as, in the opinion of the Debenture Trustee, is sufficient in the particular circumstances), such publication to be made in a daily newspaper of general circulation in the designated city.

Any notice given to Debentureholders by publication shall be deemed to have been given on the day on which publication shall have been effected at least once in the newspaper in which publication was required.

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 shall be sufficient notice to all holders having an interest in such Debenture.

14.3 Notice to Debenture Trustee

Any notice to the Debenture Trustee under the provisions of this Indenture shall be valid and effective if delivered to the Debenture Trustee at its principal office in the City of Vancouver at 510 Burrard Street, 3rd Floor, Vancouver, British Columbia V6C 3B9, Attention: General Manager, Corporate Trust or if sent by electronic transmission to Email: corporatetrust.vancouver@computershare.com or if given by registered letter, postage prepaid, to such office and so addressed and, if mailed, shall be deemed to have been effectively given three days following the mailing thereof. The Debenture Trustee may from time to time notify the Corporation in writing of a change of address which thereafter, until by like notice shall be the address of the Debenture Trustee to receive notices from the Corporation.

14.4 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 14.3, such notice shall be valid and effective only if delivered at the appropriate address in accordance with Section 14.3.

ARTICLE 15- CONCERNING THE DEBENTURE TRUSTEE

15.1 No Conflict of Interest

The Debenture Trustee represents to the Corporation 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 15.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture, and the Debentures issued hereunder, shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises but the Debenture Trustee shall, 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 15.2.

15.2 Replacement of Debenture Trustee

The Debenture Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the Corporation 30 days' notice in writing or such shorter notice as the Corporation 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 shall, 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 15.2. The validity and enforceability of this Indenture and of the Debentures issued hereunder shall 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 Corporation shall forthwith appoint a new Debenture Trustee unless a new

Debenture Trustee has already been appointed by the Debentureholders. Failing such appointment by the Corporation, the retiring Debenture Trustee or any Debentureholder may apply to a judge of the Superior Court of British Columbia, Vancouver Commercial Division, on such notice as such judge may direct at the Corporation's expense, for the appointment of a new Debenture Trustee but any new Debenture Trustee so appointed by the Corporation or by the Court shall be subject to removal as aforesaid by the Debentureholders and the appointment of such new Debenture Trustee shall be effective only upon such new Debenture Trustee becoming bound by this Indenture. Any new Debenture Trustee appointed under any provision of this Section 15.2 shall be a corporation authorized to carry on the business of a trust company in all of the provinces and territories of Canada. On any new appointment the new Debenture Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Debenture Trustee.

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 shall be a party, or any company succeeding to the corporate trust business of the Debenture Trustee shall be the successor 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 Corporation, the Debenture Trustee ceasing to act shall execute and deliver an instrument assigning and transferring to such successor Debenture Trustee, upon the trusts herein expressed, all the rights, powers and trusts of the Debenture Trustee so ceasing to act, and shall 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 Corporation 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 shall on request of said new Debenture Trustee, be made, executed, acknowledged and delivered by the Corporation.

15.3 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 shall 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.

15.4 Reliance Upon Declarations, Opinions, etc.

In the exercise of its rights, duties and obligations hereunder the Debenture Trustee may, if acting in good faith, act and 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 15.5, 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 act and rely on an opinion of Counsel satisfactory to the Debenture Trustee notwithstanding that it is delivered by a solicitor or firm which acts as solicitors for the Corporation.

15.5 Evidence and Authority to Debenture Trustee, Opinions, etc.

The Corporation shall 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 Corporation 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 Corporation, 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 15.5, or (b) the Debenture Trustee, in the exercise of its rights and duties under this Indenture, gives the Corporation written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice.

Such evidence shall consist of:

- (a) a Certificate, 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 Corporation 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 trustee, officer or employee of the Corporation it shall be in the form of a statutory declaration. Such evidence shall be, so far as appropriate, in accordance with the immediately preceding paragraph of this Section 15.5.

Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in the Indenture shall 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 Corporation shall furnish to the Debenture Trustee at any time if the Debenture Trustee reasonably so requires, a Certificate affirming compliance with all covenants, conditions or other requirements contained in this Indenture, the noncompliance 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 Corporation shall, 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 Corporation or as a result of any obligation imposed by this Indenture.

15.6 Debenture Trustee May Rely on a Certificate

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Debenture Trustee shall deem 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 act and rely upon a Certificate.

15.7 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, valuator, engineer, surveyor, appraiser or other expert or advisor, whether obtained by the Debenture Trustee or by the Corporation, or otherwise, and shall not be liable for acting, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid. The reasonable costs of such services shall be added to and become part of the Debenture Trustee's remuneration hereunder; 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 shall be entitled to receive reasonable remuneration for all services performed by it) 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 Corporation.

15.8 Debenture Trustee May Deal in Debentures

Subject to Sections 15.1 and 15.3, 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 Corporation or otherwise, without being liable to account for any profits made thereby.

15.9 Investment of Monies Held by Debenture Trustee

Until released in accordance with this Agreement, monies held by the Debenture Trustee shall be kept segregated in the records of the Debenture Trustee and shall be deposited in one or more interest-bearing trust accounts to be maintained by the Debenture Trustee in the name of the Debenture Trustee at one or more banks having a Standard and Poors Issuer Credit rating of AA- or above (an "Approved Bank"). All amounts held by the Debenture Trustee pursuant to this Agreement shall be held by the Debenture Trustee pursuant to the term of this Agreement and shall not give rise to a debtor-creditor or other similar relationship. The amounts held by the Debenture Trustee pursuant to this Agreement are at the sole risk of Corporation and, without limiting the generality of the foregoing, the Debenture Trustee shall have no responsibility or liability for any diminution of the monies which may result from any deposit made with an Approved Bank pursuant to this Section 15.9, including any losses resulting from a default by the Approved Bank or other credit losses (whether or not resulting from such a default) and any credit or other losses on any deposit liquidated or sold prior to maturity. The parties hereto acknowledge and agree that the Debenture Trustee will have acted prudently in depositing the monies at any Approved Bank.

15.10 Debenture Trustee shall Disburse Only Monies Deposited

The Debenture Trustee shall disburse monies according to this Indenture only to the extent that monies have been deposited and have cleared with it.

15.11 Debenture Trustee Not Ordinarily Bound

Except as provided in Section 8.2 and as otherwise specifically provided herein, the Debenture Trustee shall not, subject to Section 15.3, 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 Corporation of any of the obligations herein imposed upon the Corporation or of the covenants on the part of the Corporation herein contained, nor in any way to supervise or interfere with the conduct of the Corporation's business, unless the Debenture Trustee shall have 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 13, and then only after it shall have 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.

15.12 Debenture Trustee Not Required to Give Security

The Debenture Trustee shall 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.

15.13 Debenture Trustee Not Bound to Act on the Corporation's Request

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

15.14 Debenture Trustee Protected in Acting

The Debenture Trustee may act and rely, and shall be protected in acting and relying absolutely, upon any resolution, Certificate, statement, instrument, opinion, report, notice, request, consent, order, letter, email, facsimile transmission, directions or other paper document believed in good faith by it to be genuine and to have been signed, sent or presented by or on behalf of the proper party or parties. The Debenture Trustee shall be protected in acting and relying upon any written notice, request, waiver, consent, certificate, receipt, statutory declaration, affidavit or other paper or document furnished to it, not only as to its due execution and the validity and the effectiveness of its provisions but also as to the truth and acceptability of any information therein contained which it in good faith believes to be genuine and what it purports to be.

15.15 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 shall 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 shall 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 shall issue receipts.

15.16 Authority to Carry on Business

The Debenture Trustee represents to the Corporation that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in all of the provinces and territories of Canada but if, notwithstanding the provisions of this Section 15.16, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the securities issued hereunder shall not be affected in any manner whatsoever by reason only of such event but the Debenture Trustee shall, within 90 days after ceasing to be authorized to carry on the business of a trust company in any of the provinces or territories of Canada either become so authorized or resign in the manner and with the effect specified in Section 15.2.

15.17 Compensation and Indemnity

- (a) The Corporation shall pay to the Debenture Trustee from time to time compensation for its services hereunder as agreed separately by the Corporation and the Debenture Trustee, and shall pay and 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 shall be finally and fully performed. The Debenture Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust.
- (b) The Corporation hereby indemnifies and agrees to hold harmless the Debenture Trustee, its affiliates, their officers, directors, employees, agents, successors and assigns (the "Indemnified Parties") from and against any and all liabilities whatsoever, losses, damages, penalties, claims, demands, actions, suits, proceedings, costs, charges, assessments, judgments, expenses and disbursements, including reasonable legal fees and disbursements of whatever kind and nature which may at any time be imposed on or incurred by or asserted against the Indemnified Parties, or any of them, whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of the Indemnified Parties' duties, or any other services that the Debenture Trustee may provide in connection with or in any way relating to this Indenture. The Corporation agrees that its liability hereunder shall be absolute and unconditional regardless of the correctness of any representations of any third parties and regardless of any liability of third parties to the Indemnified Parties, and shall accrue and become enforceable

without prior demand or any other precedent action or proceeding; provided that the Corporation shall not be required to indemnify the Indemnified Parties in the event of the gross negligence, bad faith or wilful misconduct of the Debenture Trustee, and this provision shall survive the resignation or removal of the Debenture Trustee or the termination or discharge of this Indenture; and

- (c) Notwithstanding any other provision of this Indenture, and whether such losses or damages are foreseeable or unforeseeable, the Debenture Trustee shall not be liable under any circumstances whatsoever for any (a) breach by any other party of securities law or other rule of any securities regulatory authority, (b) lost profits or (c) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages.
- (d) The Debenture Trustee must notify the Corporation promptly of any claim for which it may seek indemnity. The Corporation must defend the claim and the Debenture Trustee must co-operate in the defence. The Debenture Trustee may have separate counsel and the Corporation must pay the reasonable fees and expenses of such Counsel. The Corporation need not pay for any settlement made without its consent, which consent must not be unreasonably withheld.

15.18 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 shall from time to time be Debentureholders, subject to all the terms and conditions herein set forth.

15.19 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 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’s prescribed form or in such other form as may be satisfactory to it, as to the particulars of such third party.

15.20 Anti-Money Laundering

The Debenture Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Debenture Trustee, in its sole judgment, acting reasonably, determines that such act might cause it to be in noncompliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Debenture Trustee, in its sole judgment, acting reasonably,

determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' prior written notice sent to the Corporation provided that (i) the Debenture Trustee's written notice shall describe the circumstances of such non-compliance; and (ii) if such circumstances are rectified to the Debenture Trustee's satisfaction within such 10-day period, then such resignation shall not be effective.

15.21 Privacy Laws

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "**Privacy Laws**") applies to certain obligations and activities under this Indenture. Notwithstanding any other provision of this Indenture, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Corporation shall, prior to transferring or causing to be transferred personal information to the Debenture Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Debenture Trustee shall 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 Indenture and to comply with applicable laws and not to use it for any other purpose except with the consent of or direction from the Corporation or the individual involved or as permitted by Privacy Laws; (d) not to sell or otherwise improperly disclose personal information to any third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

15.22 Withholding Obligation

- (a) For greater certainty, the Debenture Trustee shall, as directed by the Corporation, withhold, from any payment made to a holder of a Debenture pursuant to the terms of this Indenture, whether of interest or other amounts, and including with respect to delivery of Common Shares or other securities or property upon conversion of Debentures, the amount of any applicable withholding taxes required or permitted to be withheld in respect of such payment, and the Debenture Trustee shall remit such withheld amounts to the appropriate governmental authority, as and when required.
- (b) In connection with the Debenture Trustee's obligation to withhold pursuant to Section 15.22(a) above, to the extent any payment to be made to a holder of a Debenture pursuant to the terms of this Indenture is to be satisfied by the Corporation delivering, or causing the delivery of, Common Shares or other securities or property to the Debentureholder (including, without limitation, the delivery of Common Shares or other securities or property upon a

conversion of Debentures pursuant to Article 6), the Debenture Trustee shall, subject to applicable laws, upon a Written Direction but for the account of the Debentureholder, sell or cause to be sold, through the investment banks, registered brokers or registered dealers or other Persons selected by the Corporation, out of the Common Shares or other securities or property issued on conversion pursuant to Article 6 or otherwise, such number of Common Shares or other securities that is sufficient to yield net proceeds (after payment of all costs) to cover the amount of applicable withholding taxes required to be withheld, and the Debenture Trustee shall withhold such net proceeds and remit such amounts to the appropriate governmental authority, as and when required. Any amounts of net proceeds (after payment of all costs) in excess of the amount required to cover applicable withholding taxes will be remitted to the Debentureholder.

- (c) For the purposes of determining the appropriate withholdings to be made from any payment to be made to a holder of a Debenture, the Corporation and the Debenture Trustee agree to co-operate and to provide each other with any relevant information they have with respect to the holders of the Debentures.

15.23 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, general 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 16- SUPPLEMENTAL INDENTURES

16.1 Supplemental Indentures

From time to time the Debenture Trustee and, when authorized by a resolution of the Directors, the Corporation, may, and shall when required by this Indenture, subject to the prior written approval of the TSX or such other exchange on which the Debentures are listed, as required, execute, acknowledge and deliver by its proper officers, deeds or indentures supplemental hereto which thereafter shall 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 Corporation 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), shall not be prejudicial to the interests of the Debentureholders;
- (d) evidencing the succession, or successive successions, of others to the Corporation 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 13; and
- (f) for any other purpose not inconsistent with the terms of this Indenture, provided that, in the opinion of the Debenture Trustee (relying on an opinion of Counsel), the rights of the Debentureholders are in no way prejudiced thereby.

Unless 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, shall not be required in connection with the execution, acknowledgement or delivery of a supplemental indenture. The Corporation and the Debenture Trustee (relying on the opinion of Counsel) 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 properly done in accordance with applicable law in the United States without the consent or approval of the Debentureholders. Further, the Corporation 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 shall have 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 a Written Direction 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 and the Senior Creditors are in no way prejudiced thereby.

ARTICLE 17- EXECUTION AND FORMAL DATE

17.1 Execution

This Indenture may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

17.2 **Formal Date**

For the purpose of convenience this Indenture may be referred to as bearing the formal date of October 2, 2019 irrespective of the actual date of execution hereof.

IN WITNESS whereof the parties hereto have executed these presents by the hands of their proper officers.

COMPUTERSHARE TRUST COMPANY OF CANADA

By: (SIGNED) “Jennifer Wong”
Name: Jennifer Wong
Title: Corporate Trust Officer

By: (SIGNED) “Yasmin Ali”
Name: Yasmin Ali
Title: Corporate Trust Officer

FORTUNA SILVER MINES INC.

By: (SIGNED) “Luis Ganoza Durant”
Name: Luis Ganoza Durant
Title: Chief Financial Officer

Signature Page – Debenture Indenture

**SCHEDULE A
FORM OF INITIAL DEBENTURE**

**TO THE DEBENTURE INDENTURE BETWEEN
FORTUNA SILVER MINES INC. AND COMPUTERSHARE TRUST
COMPANY OF CANADA**

FORM OF INITIAL DEBENTURE*(below legends only to be inserted for a Global Debenture)*

This Initial Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Initial Debenture may not be transferred to or exchanged for Initial Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Initial Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Initial Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this Initial Debenture is presented by an authorized representative of CDS Clearing and Depository Services Inc. (“CDS”) to Fortuna Silver Mines 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 in 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 as 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.

No. [●]

[●]

CUSIP 349915AA6
ISIN CA349915AA62**FORTUNA SILVER MINES INC.****4.65% SENIOR SUBORDINATED UNSECURED CONVERTIBLE DEBENTURE
DUE OCTOBER 31, 2024**

Fortuna Silver Mines Inc. (the “**Corporation**”) for value received hereby acknowledges itself indebted and, subject to the Debenture Indenture (the “**Indenture**”) dated as of October 2, 2019, between the Corporation and Computershare Trust Company of Canada (the “**Debenture Trustee**”), promises to pay to the registered holder hereof on October 31, 2024 (the “**Maturity Date**”), or on such earlier date as the principal amount hereof may become due in accordance with the Indenture, the principal amount indicated in the center of this certificate in lawful money of the United States on presentation and surrender of this Initial Debenture at the main branch of the Debenture Trustee in Vancouver, British Columbia in accordance with the terms of the Indenture, and to pay interest on the principal amount hereof from the date hereof, or from the last interest payment date to which interest shall have been paid or made available for payment of the outstanding Initial Debentures (as defined below), whichever is later, at the rate of 4.65% per annum, in like money, in arrears in equal semi-annual installments (less any tax required by law to be deducted) on the last business day in April and October in each year commencing on April 30, 2020 and, should the Corporation at any time make default in the payment of any principal or interest, to pay interest on the amount in default at the same rate, in like money.

Interest shall be payable by cheque mailed by prepaid ordinary mail or by electronic transfer of funds to the registered holder hereof and, subject to the Indenture, the mailing of such cheque or the sending of the electronic transfer of funds, as the case may be, shall, to the extent of the sum represented thereby (plus the amount of any tax withheld), satisfy and discharge all liability for interest on this Initial Debenture.

This initial debenture is one of the 4.65% Senior Subordinated Unsecured Convertible Debentures (the “**Initial Debentures**”) of the Corporation issued or issuable under the Indenture. The Initial Debentures authorized for issuance is limited to an aggregate principal amount of \$46,000,000. 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 Corporation 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 Initial Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with 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 principal of this Initial Debenture is convertible, subject to the terms and conditions and in the manner set forth in the Indenture, into Common Shares at a conversion price of \$5.00 (the “**Conversion Price**”) per Common Share, being a rate of 200 Common Shares for each \$1,000 principal amount of Initial Debentures, at the option of the holder hereof, upon surrender of this Initial Debenture at the principal office of the Debenture Trustee in Vancouver, British Columbia, at any time before 5:00 p.m. (Toronto time) on the earlier of: (i) the business day immediately before the Maturity Date; (ii) the business day immediately before the date specified by the Corporation for redemption; and (iii) the business day immediately before the payment date for any repurchase pursuant to a change of control. Accrued and unpaid interest up to, but not including the Date of Conversion shall be paid in cash. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified, including without limitation, in the event of a Cash Change of Control. No fractional Common Shares shall be issued on any conversion but in lieu thereof, the Corporation shall satisfy such fractional interest by a cash payment equal to the fractional interest multiplied by the Current Market Price of the Common Shares on the Date of Conversion determined in accordance with the Indenture, provided, however, that the Corporation shall not be required to make any payment of less than \$1.00.

The Initial Debentures may not be redeemed by the Corporation before October 31, 2022 (the “**First Call Date**”), except if certain conditions are satisfied after a Change of Control has occurred, as provided in the Indenture. On and after the First Call Date and before October 31, 2023 (the “**Second Call Date**”), the Initial Debentures may be redeemed at the option of the Corporation in accordance with Article 4 of the Indenture in whole or in part from time to time on notice as provided for in Section 4.3 of the Indenture at a Redemption Price equal to the principal amount of the Initial Debentures; provided that the Current Market Price on the date on which such notice of redemption is given is at least 125% of the Conversion Price and the Corporation must have provided to the Debenture Trustee a Certificate confirming such Current Market Price. In

addition thereto, at the time of redemption, the Corporation shall pay to the holder accrued and unpaid interest up to but not including the Redemption Date. On and after the Second Call Date and before the Maturity Date, the Initial Debentures may be redeemed at the option of the Corporation in accordance with Article 4 of the Indenture in whole or in part from time to time on notice as provided for in Section 4.3 of the Indenture, at a Redemption Price equal to the principal amount of the Initial Debentures, irrespective of the Current Market Price. In addition thereto, at the time of redemption, the Corporation shall pay to the holder accrued and unpaid interest up to but not including the Redemption Date.

Within 30 days of the occurrence of a Change of Control of the Corporation, the Corporation is required to make an offer to purchase all the Initial Debentures at a price equal to 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 “**Debenture Offer**”). If 90% or more of the aggregate principal amount of the Debentures issued under the Indenture outstanding on the date the Corporation provides notice of a Change of Control to the Debenture Trustee have been tendered for purchase pursuant to the Debenture Offer, the Corporation has the right to redeem all the remaining outstanding Initial Debentures at the same price.

In the event of the occurrence of a Cash Change of Control, subject to regulatory approval, then during the period beginning on the 10th trading day prior to the anticipated Effective Date of the Cash Change of Control and ending at 5:00 p.m. (Toronto time) on the 30th day after the date on which the Debenture Offer in respect of the Cash Change of Control is delivered or mailed to holders of Initial Debentures, Debentureholders will be entitled to convert their Initial Debentures, in whole or in part, and receive, in addition to the number of Common Shares that such holders are otherwise entitled to receive upon such conversion, an additional number of Common Shares per \$1,000 principal amount of Debentures converted as set forth in the Indenture.

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 shall 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 Corporation may, on notice as provided in the Indenture, at its option and subject to any applicable regulatory approval, elect to satisfy the obligation to repay all or any portion of the principal amount of this Initial Debenture and all accrued and unpaid interest thereon due upon redemption or on the Maturity Date by the issue of that number of Freely Tradeable Common Shares obtained by dividing the principal amount of this Initial Debenture and all accrued and unpaid interest thereon to be paid for in Common Shares pursuant to the exercise by the Corporation of the Common Share Repayment Right by 95% of the Current Market Price on the Maturity Date, or, if applicable, the Redemption Date.

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 Corporation, 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.

The Indenture contains provisions disclaiming any personal liability on the part of the directors, officers or employees of the Corporation in respect of any obligation or claim arising out of the Indenture or this Initial Debenture.

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 Vancouver, British Columbia and in such other place or places and/or by such other registrars (if any) as the Corporation with the approval of the Debenture Trustee may designate. No transfer of this Initial Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their attorney 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 shall be issued to the transferee in exchange hereof.

This Initial Debenture shall not become obligatory for any purpose until it shall have been Authenticated 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 shall take precedence and shall 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 FORTUNA SILVER MINES INC. has caused this Initial Debenture to be signed by its authorized representatives.

FORTUNA SILVER MINES INC.

By: _____
Name:
Title:

FORM OF DEBENTURE TRUSTEE'S CERTIFICATE

This Initial Debenture is one of the 4.65% Senior Subordinated Unsecured Convertible Debentures due October 31, 2024 referred to in the Indenture within mentioned.

DATED:

COMPUTERSHARE TRUST COMPANY OF CANADA

By: _____
(Authorized Officer)

FORM OF REGISTRATION PANEL

(No writing hereon except by Debenture Trustee or other registrar)

Date of Registration	In Whose Name registered	Signature of Debenture Trustee or Registrar
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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 Fortuna Silver Mines 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.

Dated: _____

Address of Transferee: _____
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: _____

*If less than the full principal amount of the Initial Debenture is to be transferred, indicate in the space provided the principal amount (which must 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 Initial Debenture in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by a Canadian chartered bank or trust company or by a member of an acceptable Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The guarantor must affix a stamp bearing the actual words: "SIGNATURE 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

**EXHIBIT 1
TO CDS GLOBAL DEBENTURE
FORTUNA SILVER MINES INC.**

4.65% SENIOR SUBORDINATED UNSECURED CONVERTIBLE DEBENTURES

Initial Principal Amount: \$ _____

CUSIP: **349915AA6**

Authorization: _____

ADJUSTMENTS

Date	Amount of Increase	Amount of Decrease	New Principal Amount	Authorization

**SCHEDULE B
FORM OF REDEMPTION NOTICE**

**TO THE DEBENTURE INDENTURE BETWEEN
FORTUNA SILVER MINES INC. AND COMPUTERSHARE TRUST
COMPANY OF CANADA**

FORM OF REDEMPTION NOTICE

**FORTUNA SILVER MINES INC.
4.65% SENIOR SUBORDINATED UNSECURED CONVERTIBLE DEBENTURES
REDEMPTION NOTICE**

To: Holders of 4.65% Senior Subordinated Unsecured Convertible Debentures (the “**Debentures**”) of Fortuna Silver Mines Inc. (the “**Corporation**”)

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 Debenture Indenture (the “**Indenture**”) dated as of October 2, 2019 between the Corporation and Computershare Trust Company of Canada (the “**Debenture Trustee**”), that the aggregate principal amount of \$ _____ of the \$ _____ of Debentures outstanding shall be redeemed as of _____ (the “**Redemption Date**”), upon payment of a redemption amount of \$1,000 for each \$1,000 principal amount of Debentures, being equal to the aggregate of (a) \$ _____ (the “**Redemption Price**”), and (b) all accrued and unpaid interest hereon to but excluding the Redemption Date (collectively, the “**Total Redemption Price**”).

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

Computershare Trust Company of Canada
510 Burrard Street, 3rd Floor
Vancouver, BC V6C 3B9

Attention: General Manager, Corporate Trust

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

[Pursuant to Section 4.6 of the Indenture, the Corporation hereby irrevocably elects to satisfy its obligation to pay to the holders of Debentures \$ _____ of the Redemption Price payable to holders of Debentures in accordance with this notice by issuing and delivering to the holders that number of Freely Tradeable Common Shares obtained by dividing the Redemption Price by 95% of the then Current Market Price of the Common Shares on the Redemption Date.]

No fractional Common Shares shall be delivered upon the exercise by the Corporation of the above-mentioned redemption right but, in lieu thereof, the Corporation shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Common Shares on the Redemption Date (less any tax required to be deducted, if any), provided, however, that the Corporation shall not be required to make any payment of less than \$1.00.

[In this connection, upon presentation and surrender of the Debentures for payment on the Redemption Date, the Corporation shall, on the Redemption Date, make the delivery to the Debenture Trustee, at the above-mentioned corporate trust office, for delivery to and on account of the holders, the number of Freely Tradeable Common Shares (in book-based or certificated form) to which holders are entitled together with the cash equivalent in lieu of fractional Common Shares, cash for all accrued and unpaid interest up to, but excluding, the Redemption Date, and, if only a portion of the Debentures are to be redeemed by issuing Freely Tradeable Common Shares, cash representing the balance of the Redemption Price.]

DATED: _____

FORTUNA SILVER MINES INC.

By: _____

Name:

Title:

**SCHEDULE C
FORM OF MATURITY NOTICE**

**TO THE DEBENTURE INDENTURE BETWEEN
FORTUNA SILVER MINES INC. AND COMPUTERSHARE TRUST
COMPANY OF CANADA**

FORM OF MATURITY NOTICE

**FORTUNA SILVER MINES INC.
4.65% SENIOR SUBORDINATED UNSECURED CONVERTIBLE DEBENTURES
MATURITY NOTICE**

To: Holders of 4.65% Senior Subordinated Unsecured Convertible Debentures (the “**Debentures**”) of Fortuna Silver Mines Inc. (the “**Corporation**”)

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 4.11(b) of the Debenture Indenture (the “**Indenture**”) dated as of October 2, 2019 between the Corporation and Computershare Trust Company of Canada, as trustee (the “**Debenture Trustee**”), that the Debentures are due and payable as of October 31, 2024 (the “**Maturity Date**”) and the Corporation elects to satisfy its obligation to pay to holders of Debentures \$ _____ of the principal amount of the Debentures outstanding on the Maturity Date and all accrued and unpaid interest thereon by issuing and delivering to the holders that number of Freely Tradeable Common Shares equal to the number obtained by dividing such principal amount of the Debentures and all accrued and unpaid interest thereon by 95% of the Current Market Price of Common Shares on the Maturity Date.

No fractional Common Shares shall be delivered on exercise by the Corporation of the above mentioned repayment right but, in lieu thereof, the Corporation shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Common Shares on the Maturity Date (less any tax required to be deducted, if any), provided, however, that the Corporation shall not be required to make any payment of less than \$1.00.

In this connection, upon presentation and surrender of the Debentures for payment on the Maturity Date, the Corporation shall, on the Maturity Date, make delivery to the Debenture Trustee, at its principal corporate trust office in Vancouver, British Columbia, for delivery to and on account of the holders, of the number of Freely Tradeable Common Shares (in book-based, certificated or uncertificated form) to which holders are entitled together with the cash equivalent in lieu of fractional Common Shares, cash for all accrued and unpaid interest up to, but excluding, the Maturity Date and if only a portion of the Debentures are to be repaid by issuing Freely Tradeable Common Shares, cash representing the balance of the principal amount and premium (if any) due on the Maturity Date.

DATED: _____

FORTUNA SILVER MINES INC.

By: _____

Name:

Title:

**SCHEDULE D
FORM OF NOTICE OF CONVERSION**

**TO THE DEBENTURE INDENTURE BETWEEN
FORTUNA SILVER MINES INC. AND COMPUTERSHARE TRUST
COMPANY OF CANADA**

FORM OF NOTICE OF CONVERSION

CONVERSION NOTICE

TO: FORTUNA SILVER MINES INC.

Note: All capitalized terms used herein have the meaning attributed thereto in the Debenture Indenture between Fortuna Silver Mines Inc. and Computershare Trust Company of Canada dated October 2, 2019 (the “**Indenture**”), unless otherwise indicated.

The undersigned registered holder of this 4.65% Senior Subordinated Unsecured Convertible Debentures irrevocably elects to convert such Debentures (or \$ _____ principal amount thereof*) in accordance with the terms of the Indenture referred to in such Debentures and tenders herewith the Debentures, and, if applicable, directs that the Common Shares of Fortuna Silver Mines Inc. issuable upon a conversion (or such other securities or property required to be delivered as provided by the terms of the Indenture) be issued and/or delivered to the person indicated below. (If Common Shares or other securities are to be issued in the name of a person other than the holder, all requisite transfer taxes must be tendered by the undersigned and the Form of Assignment must be completed).

Dated: _____

(Signature of Registered Holder)

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

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

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

Name: _____

(Address)

(City, Province and Postal Code)

Name of guarantor: _____

Authorized signature: _____