

STORNOWAY DIAMOND CORPORATION

as Issuer,

- and -

Computershare Trust Company of Canada

as Trustee

INDENTURE

Dated as of July 8, 2014

providing for the issuance of 6.25% Convertible

Unsecured Debentures due July 8, 2021

 **NORTON ROSE FULBRIGHT**

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THIS INDENTURE dated as of July 8, 2014.

BETWEEN: **STORNOWAY DIAMOND CORPORATION**, a corporation continued under the federal laws of Canada;

(the “**Issuer**”)

- and -

COMPUTERSHARE TRUST COMPANY OF CANADA, a trust company existing under the laws of Canada.

(the “**Trustee**”)

RECITALS

A. The Issuer wishes to provide for the creation and issuance of convertible unsecured Debentures (as hereinafter defined) with the designation of “**6.25% Convertible Unsecured Debentures due July 8, 2021**”, all upon the terms and conditions set forth in this Indenture (as hereinafter defined);

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

D. All necessary acts and proceedings have been done and taken and all necessary resolutions have been passed to authorize the issuance of the Common Shares (as hereinafter defined) that may be issued upon conversion or maturity of the Debentures or otherwise pursuant to this Indenture; and

E. The foregoing recitals are made as representations and statements of fact by the Issuer and not by the Trustee;

NOW THEREFORE, 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 below shall have the following meanings:

“**Act**” or “**Act of Holder(s)**”, when used with respect to any Holder(s), has the meaning ascribed thereto in subsection 1.12(a);

“**Additional Amount**” has the meaning ascribed thereto in subsection 2.12(a);

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified;

“**Applicable Securities Legislation**” means applicable securities Laws (including rules, regulations, policies and instruments);

“**Applicants**” has the meaning ascribed thereto in subsection 3.4(b);

“**Ashton**” means Ashton Mining of Canada Inc./Les Mines Ashton du Canada Inc., a wholly-owned Subsidiary of the Issuer and a corporation continued under the *Business Corporations Act* (Ontario), including its successors and permitted assigns;

“**Authorized Investments**” means:

- (a) marketable direct obligations issued by, or unconditionally guaranteed by, the governments of Canada or the government of the United States of America, or any province, territory or state thereof or any agency or instrumentality of any of them, and backed by the full faith and credit of Canada, the United States of America or such province, territory or state, as the case may be, in each case maturing within one (1) year from the date of acquisition;
- (b) certificates of deposit, time deposits or overnight bank deposits having maturities of twelve (12) months or less from the date of acquisition issued by any commercial bank organized under the laws of Canada or the United States of America rated no worse than A by Standard & Poor’s, a division of The McGraw-Hill Companies, Inc. (“**S&P**”) or A-2 by Moody’s Investors Services Inc. (“**Moody’s**”) (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service);
- (c) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than thirty (30) days with respect to securities issued or fully guaranteed or insured by the Canadian Government or the government of the United States of America;
- (d) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed by any province or territory of Canada or state of the United States of America, by any political subdivision or taxing authority of any such province, territory, state, political subdivision or taxing authority (as the case may be) rated no worse than A by S&P or A-2 by Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service);

- (e) securities with maturities of six (6) months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition; or
- (f) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (e) of this definition;

“Beneficial Holder” means a Person who is the beneficial owner of a Debenture, being a Person who holds a beneficial interest in a Global Debenture or a Book-Entry Debenture as shown on the books of the Depository or on the books of a Participant;

“Board of Directors” means either the Board of Directors of the Issuer, or any committee of that board duly authorized to make a decision on the matter in question, or to the extent that a Successor Issuer is not a corporation, the persons performing the equivalent function of such Successor Issuer;

“Board Resolution” means a copy of a resolution certified by the Chairman, the Chief Executive Officer, the Chief Financial Officer, or any Vice-President, Secretary or Assistant Secretary of the Issuer, or to the extent that a Successor Issuer is not a corporation, the persons performing the equivalent function of such Successor Issuer, to have been duly adopted by the Board of Directors and to be in full force and effect and unamended on the date of such certification;

“Book-Based System” means, in relation to a Global Debenture, the debt clearing, record entry, transfer and pledge systems and services established and operated by or on behalf of the Depository for the Debentures (including, where applicable, pursuant to one or more agreements between such Depository and its Participants establishing the rules and procedures for such systems and services) or any successor systems or services thereof, including, for greater certainty, any “book entry only” procedures established by any such Depository;

“Book-Entry Debentures” means Debentures held in the Book-Based System of the Depository that may be issued as “book entry only securities”, which may include or be comprised of Global Debentures. For so long as one or more Global Debentures are held in a Depository’s Book-Based System, the terms “Book-Entry Debentures” and “Global Debentures” may be used interchangeably in this Indenture;

“Business Combination” has the meaning ascribed thereto in section 8.5;

“Business Day” means a day of the year, other than a Saturday, Sunday or statutory holiday in Montreal, Quebec;

“Canadian Dollars” and the symbol **“CDN\$”** shall mean the lawful currency of Canada;

“**Canadian GAAP**” means generally accepted accounting principles for publicly accountable enterprises at the relevant time determined with reference to the CPA Canada Handbook, or any successor thereto, as amended from time to time, which for greater certainty are, as of the date hereof, IFRS;

“**Canadian Private Placement Legend**” has the meaning ascribed thereto in section 2.11;

“**Canadian Taxes**” means any and all taxes, duties, levies, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of a Relevant Taxing Authority, including, without limitation, any penalties, interest, fines and other liabilities related thereto;

“**Capital Lease**” means a capital lease or a lease that should be treated as a capital lease under Canadian GAAP;

“**Capital Lease Obligations**” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real (immovable) or personal (movable) property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations at any time will be the capitalized amount thereof at such time determined in accordance with Canadian GAAP;

“**CBCA**” means the *Canada Business Corporations Act*;

“**CDS**” means CDS Clearing and Depository Services Inc., together with its successors from time to time;

“**Change of Control**” means: (i) any event as a result of or following which any Person (other than IQ, Orion or their respective Affiliates), or group of Persons (other than IQ, Orion or their respective Affiliates) acting jointly or in concert (within the meaning of MI 62-104 as at the date hereof), acquires the right to cast, at a general meeting of shareholders of the Issuer more than fifty percent (50%) of the votes that may be ordinarily cast at a general meeting; (ii) any amalgamation, consolidation, merger or arrangement by the Issuer with or into any other Person, or of any Person into the Issuer; or (iii) the conveyance, transfer, sale, lease or other disposition, directly or indirectly, of all or substantially all of the assets and properties of the Issuer and its Subsidiaries, taken as a whole, to another arm’s length Person; but with respect to each of (i) through (iii) above, will not include a sale, merger, amalgamation, consolidation, reorganization, arrangement, combination or other similar transaction if the previous holders of Common Shares beneficially own or exercise Control or direction over at least a majority of the voting securities in such merged, amalgamated, consolidated, reorganized, arranged, combined or other continuing entity (or, as applicable, in the entity which has acquired more than fifty percent (50%) of the Issuer’s consolidated assets) immediately following completion of such transaction;

“**Change of Control Conversion Price**” means the price resulting from the following calculation:

$$\frac{\text{ECP}}{1 + (\text{CP} \times (\text{C}/\text{T}))}$$

where:

ECP =	the Conversion Price in effect on the Effective Date
CP =	0.35
C =	the number of days from and including the Effective Date up to but excluding the Maturity Date;
T =	the number of days from and including the Issue Date up to but excluding the Maturity Date

“**Change of Control Holder Election**” has the meaning ascribed thereto in subsection 4.2(b);

“**Change of Control Issuer Notice**” has the meaning ascribed thereto in subsection 4.2(a);

“**Change of Control Issuer Offer**” has the meaning ascribed thereto in subsection 4.2(a);

“**Change of Control Repurchase/Conversion Date**” means the date specified by the Issuer pursuant to subsection 4.2(a)(iv) that is not less than thirty (30) nor more than forty-five (45) days after the date of the Change of Control Issuer Notice;

“**Change of Control Repurchase Price**” of any Debenture means one hundred percent (100%) of the principal amount of the Debenture to be purchased;

“**Common Share Bid Request**” means a request for bids to purchase Common Shares (to be issued by the Issuer on the Common Share Delivery Date) made by the Trustee in accordance with the Common Share Interest Payment Election Notice which shall make the acceptance of any bid conditional upon the acceptance of sufficient bids to result in aggregate proceeds from such issue and sale of Common Shares which, together with the cash payments by the Issuer, if any, equal to the amount payable pursuant to the Interest Obligation;

“**Common Share Delivery Date**” means a date not less than one (1) Business Day prior to the applicable Interest Payment Date, upon which Common Shares are issued by the Issuer and delivered to the Trustee (as agent or mandatary for and for the benefit of Holders and/or Beneficial Holders) for sale pursuant to Common Share Purchase Agreements;

“**Common Share Interest Payment Election**” means an election by the Issuer to satisfy all or part of an Interest Obligation on the applicable Interest Payment Date in the manner described in the Common Share Interest Payment Election Notice;

“**Common Share Interest Payment Election Amount**” means the sum of the amount of the aggregate 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 Requests, together with any amount paid by the Issuer in respect of fractional Common Shares pursuant to paragraph (g) of Article 13 or otherwise paid in cash, that is equal to the aggregate amount payable pursuant to the Interest Obligation in respect of which the Common Share Interest Payment Election Notice was delivered;

“**Common Share Interest Payment Election Notice**” means a written notice made by the Issuer to the Trustee (acting as agent or mandatary for and for the benefit of Holders and/or Beneficial Holders) specifying:

- (a) the Interest Obligation to which the election relates; and
- (b) the Common Share Interest Payment Election Amount;

“**Common Share Interest Payment**” means a payment of interest on the Debentures made in Common Shares, as permitted or required hereunder, and made in accordance with Article 13;

“**Common Share Proceeds Investment**” has the meaning ascribed thereto in paragraph (h) of Article 13;

“**Common Share Purchase Agreement**” means an agreement in customary form among the Issuer, the Trustee and the Persons making acceptable bids pursuant to a Common Share Bid Request, which complies with all applicable Laws, including Applicable Securities Legislation and the rules and regulations of the TSX or any other Recognized Stock Exchange;

“**Common Shares**” means the common shares in the share capital of the Issuer;

“**Contingent Obligation**” means, with respect to any Person, any obligation, whether secured or unsecured, of such Person guaranteeing or indemnifying, or in effect guaranteeing or indemnifying, any indebtedness, leases, dividends, letters of credit or other monetary obligations (the “**primary obligations**”) of any other Person (the “**primary obligor**”) in any manner, whether directly or indirectly, including any obligation of such Person as an account party in respect of a letter of credit or letter of guarantee issued to assure payment by the primary obligor of any such primary obligation and any obligations of such Person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds for the purchase or payment of any such primary obligation or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net

worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the obligee under any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the obligee under such primary obligation against loss in respect of such primary obligation; provided, however, that the term “Contingent Obligation” does not include endorsements of instruments for deposit or collection in the ordinary course of business;

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have corresponding meanings;

“**Conversion Date**” has the meaning ascribed thereto in subsection 6.1(b);

“**Conversion Notice**” has the meaning ascribed thereto in subsection 6.1(b);

“**Conversion Price**” means US\$0.8863 per Common Share, being the U.S. Dollar equivalent of CDN\$0.945 based on the Bank of Canada CDN/USD noon exchange rate on the Business Day immediately preceding the Issue Date, as may be adjusted from time to time in accordance with the provisions of Article 8 of this Indenture;

“**Corporate Trust Office**” means the principal office or offices of the Trustee in the City of Montréal, Province of Quebec, at which at any particular time its corporate trust business shall be administered;

“**Counsel**” means, in the case of Counsel to the Trustee, any barrister, solicitor or other lawyer or firm of barristers, solicitors or other lawyers retained or employed by the Trustee and, in the case of Counsel to the Issuer, any barrister, solicitor or other lawyer or firm of barristers, solicitors or other lawyers retained or employed by the Issuer;

“**Current Market Price**” on any date means the VWAP per Common Share for the twenty (20) consecutive Trading Days ending five (5) Trading Days prior to such date;

“**Debenture Liabilities**” has the meaning ascribed thereto in section 5.1;

“**Debentures**” means the 6.25% convertible unsecured debentures due July 8, 2021 issued under and certified pursuant to this Indenture, whether issued as Global Debentures or Definitive Debentures;

“**Default**” means any event or condition that constitutes an Event of Default or that would constitute an Event of Default except for satisfaction of any condition subsequent required to make the event or condition an Event of Default, including the giving of any notice, the passage of time, or both;

“**Definitive Debentures**” means Debentures that may be issued from time to time in the form of individual certificates in definitive fully registered form pursuant to section 2.2 and substantially in the form of Schedule 2.2 hereto;

“**Depository**”, in respect of the Book-Entry Debentures, means CDS and includes any successor corporation or any other depository subsequently appointed by the Issuer as the depository in respect of Book-Entry Debentures;

“**Distributed Securities**” has the meaning ascribed thereto in subsection 8.1(d);

“**Effective Date**” has the meaning ascribed thereto in subsection 4.2(a)(ii);

“**Event of Default**” means any of the events identified in subsection 11.1(a) as being an Event of Default;

“**Extraordinary Resolution**” means a resolution at a meeting of Holders duly convened and held in accordance with the provisions of Article 15 passed by the favourable votes of the Holders of not less than seventy-five percent (75%) of the aggregate principal amount of the Outstanding Debentures, represented in person or by proxy at such meeting or a resolution signed in the manner contemplated by section 15.8;

“**FCDC**” means FCDC Sales and Marketing Inc./Ventes et marketing FCDC Inc., a wholly-owned Subsidiary of the Issuer and a corporation incorporated under the CBCA, including its successors and permitted assigns;

“**Fiscal Year**” means any of the annual accounting periods of the Issuer ending on the last day of each financial year of the Issuer;

“**Freely Tradable**” means, in respect of shares of any class in the capital of any corporation, shares which: (i) are issuable by such corporation 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 the issuance of which does not constitute a distribution (other than a distribution already qualified by prospectus or similar offering document) or constitutes an exempt distribution under Applicable Securities Legislation; and (ii) can be traded by the holder thereof without any restriction under Applicable Securities Legislation, such as hold periods (other than the hold period referred to in section 2.11), except in the case of a “control distribution” as defined under Applicable Securities Legislation;

“**Global Debenture**” means one or more fully registered global Debentures as described in subsection 2.3. For so long as one or more Global Debentures are held in a Depository’s Book-Based System, the terms “Book-Entry Debentures” and “Global Debentures” may be used interchangeably in this Indenture;

“**Global Debenture Legend**” has the meaning ascribed thereto in subsection 2.6(c);

“Governmental Authority” means any (i) multinational, federal, provincial, territorial, state, municipal, local or other governmental or public department, court, commission, board, bureau, agency or instrumentality, domestic or foreign; (ii) any subdivision or authority of any of the foregoing; (iii) any quasi-governmental, self-regulatory organization or private body exercising any regulatory, expropriation or taxing authority under or for the account of its members or any of the above (including the TSX or any other Recognized Stock Exchange); or (iv) any arbitrator exercising jurisdiction over the affairs of the applicable Person, asset, obligation or other matter;

“Hedging Arrangement” means any arrangement or transaction which is a rate swap transaction, basis swap, forward rate transaction, commodity future contracts, commodity forward purchase contracts, commodity options, commodity cap, floor or cap collar transactions, commodity swap, interest rate option, spot or forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, equity hedging or any other similar transaction (including any option with respect to any such transactions or arrangements);

“Holder(s)” means the Persons appearing at the relevant time on the register for Debentures maintained by the Trustee as the registered holder(s) of Debentures, including, for greater certainty, in the case of any Global Debenture, the Depository or its nominee in whose name such Global Debenture is registered, as the case may be;

“IFRS” means International Financial Reporting Standards;

“Indebtedness” means any indebtedness for or in respect of:

- (a) borrowed money;
- (b) the face amount of all letters of credit issued for the account of any Person and without duplication all drafts drawn thereunder;
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) all ordinary course trade payables which are more than 60 days overdue;
- (e) any redeemable preference share;
- (f) any Capital Lease Obligation;
- (g) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (h) the acquisition cost of any asset or service to the extent payable after its acquisition or possession by the Person liable where the advance or deferred payment:

- (A) is arranged primarily as a method of raising finance or financing the acquisition of that asset or the construction of that asset; or
- (B) is due more than six months before or after the date of acquisition or supply;
- (i) any derivative transaction protecting against or benefitting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark-to-market value of the derivative transaction will be used to calculate its amount);
- (j) any other transaction (including any forward sale or purchase agreement or advance payment agreement) which has the commercial effect of a borrowing;
- (k) the Deposit (as such term is defined in the Purchase and Sale Agreement);
- (l) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, letter of credit or any other instrument issued by a bank or financial institution;
- (m) a Contingent Obligation to the extent that the primary obligation would be classified as “Indebtedness” (within the meaning of this definition) of the primary obligor; or
- (n) any guarantee, indemnity or similar assurance against financial loss of any Person in respect of any item referred to in the above paragraphs;

“**Indemnified Taxes**” has the meaning ascribed thereto in Section 2.12;

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

“**Indenture Documents**” means this Indenture, the Debentures and each other related document, instrument or agreement now or hereinafter executed and delivered by or on behalf of the Issuer or under or pursuant to any of them;

“**Ineligible Consideration**” has the meaning ascribed thereto in section 8.5;

“**Independent Member of IIROC**” means a member firm of the Investment Industry Regulatory Organization of Canada that, in the determination of the Board of Directors acting reasonably, is independent of the Issuer having regard to, among other things, the considerations set out in National Instrument 33-105–*Underwriting Conflicts* or any successor instrument;

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

“**Interest Payment Date**” means the last day of June and the last day of December in each year (except for the last Interest Payment Date, which shall be

the Maturity Date instead of June 30, 2021, unless the Debentures shall have been earlier redeemed in their entirety in accordance with the provisions of this Indenture, in which event the last Interest Payment Date shall be the Redemption Date) until all interest on the Debentures has been paid;

“**Interest Period**” has the meaning ascribed thereto in subsection 2.7(a);

“**Interest Record Date**” means, with respect to an Interest Payment Date, the fifteenth (15th) day of the month in which such Interest Payment Date occurs (or, if such day is not a Business Day, the immediately preceding Business Day);

“**IQ**” means Investissement Québec;

“**Issue Date**” means the date on which the Debentures are issued by the Issuer pursuant to this Indenture, being July 8, 2014;

“**Issuer**” means Stornoway Diamond Corporation until a Person shall have become a Successor Issuer pursuant to the applicable provisions of this Indenture, and thereafter, “Issuer” shall mean such Successor Issuer;

“**Issuer Request**” or “**Issuer Order**” means a written request or order signed in the name of the Issuer by any Responsible Officer of the Issuer and delivered to the Trustee;

“**Laws**” means the common law and any and all laws, including all federal, provincial, territorial, state and local statutes, codes, ordinances, guidelines, decrees, rules, regulations and municipal by-laws and all judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, and all published orders, directives, decisions, rulings of any Governmental Authority, binding on or affecting the Person referred to in the context in which the term is used;

“**Lien**” means, with respect to any Person, any hypothec, security interest, mortgage, debenture, pledge, lien, right of preference, charge, assignment by way of security, or any other agreement or encumbrance of any nature that secures the performance of an obligation, and a Person is deemed to own subject to a Lien any Property that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or similar arrangement (other than an operating lease) relating to such Property;

“**Material Adverse Effect**” means a material adverse effect on (a) the business, assets, operations, prospects or financial or other condition of the Issuer, (b) the Issuer’s ability to pay in cash any of its obligations under the Indenture Documents except where such payment may pursuant to the terms hereof be made at the election of the Issuer by a Common Share Interest Payment, (c) the Issuer’s ability to issue any Common Shares required to be issued pursuant to the terms hereof (including without limitation, pursuant to a conversion elected by a Holder), or (d) the Trustee’s or any Holder’s rights and remedies under the Indenture Documents; provided that the occurrence of a default in the

performance or observance of compliance with any term of any Indebtedness that does not constitute an Event of Default under subsection 11.1(a)(x) shall not constitute a Material Adverse Effect;

“**Material Subsidiary**” means any Subsidiary of the Issuer that (i) directly or indirectly holds Project Interests, or (ii) is a Project Company;

“**Maturity**” means the date on which principal becomes due and payable under the Debentures;

“**Maturity Date**” means July 8, 2021 or such other date on which Maturity occurs;

“**MI 62-104**” means Multilateral Instrument 62-104–*Take-Over Bids and Issuer Bids* as at the date of this Indenture;

“**Notice**” means any notice, document or other communication required or permitted to be given under this Indenture;

“**Officer’s Certificate**” means a written certificate signed by any Responsible Officer of the Issuer, and delivered to the Trustee;

“**Orion**” means Orion Co-Investments I LLC, including its successors and permitted assigns;

“**Opinion of Counsel**” means a written opinion addressed to the Trustee (among other addressees as applicable) by Counsel who shall be satisfactory to the Trustee, acting reasonably;

“**Outstanding**” when used with respect to Debentures means, as of the date of determination, all Debentures certified and delivered by the Trustee under this Indenture, except:

- (a) Debentures cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Debentures for whose payment, purchase, repurchase or redemption money in the necessary amount has been deposited with the Trustee under gratuitous deposit or set aside and segregated in trust by the Issuer (if the Issuer shall act as its own paying agent) for the Holders of such Debentures; and
- (c) Debentures that have been surrendered to the Trustee in exchange for or in lieu of which other Debentures have been certified and delivered pursuant to this Indenture, other than any such Debentures in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Debentures are held by a *bona fide* purchaser in whose hands such Debentures are valid obligations of the Issuer;

provided, however, that: (A) in determining whether the Holders of the requisite principal amount of Debentures then outstanding have taken any Act of Holders hereunder, Debentures owned by the Issuer or any Affiliate of the Issuer shall be disregarded and deemed not to be then outstanding; (B) in determining whether the Trustee shall be protected in acting and relying upon such Act of Holders, only Debentures of which the Trustee has actual notice that they are so owned shall be so disregarded; and (C) that Debentures so owned that have been pledged in good faith may be regarded as outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act with respect to such Debentures and that the pledgee is not the Issuer or any Affiliate of the Issuer;

"Participant" means, in relation to a Depository, a broker, dealer, bank, trust company, custodian or other financial institution or other Person on whose behalf such Depository or its nominee holds Debentures pursuant to a Book-Based System operated by such Depository;

"Permitted Conversion Period" means any time prior to 5:00 p.m. (Eastern Time) on the earlier of (i) the Business Day immediately preceding the Redemption Date, and (ii) the Maturity Date;

"Person" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity, however designated or constituted;

"Privacy Laws" has the meaning ascribed to it in section 14.16;

"Proceeding" means any suit, action or other judicial or administrative proceeding;

"Project" has the meaning ascribed to it in the Senior Loan Agreement as it exists on the date hereof;

"Project Companies" means any entity that holds all or a portion of the Project which as of the date hereof, consists solely of SDCI and FCDC;

"Project Interests" means any direct or indirect ownership of shares or units of, direct or indirect shareholder loans to, or any other direct or indirect investment in, interest or contribution to, SDCI or FCDC but shall not include any securities issued by the Issuer;

"Property" means, with respect to any Person, all or any portion of that Person's property, assets or undertaking, both movable (real) and immovable (personal);

"Property Account" means a segregated deposit account with a financial institution referred to in paragraph (h) of Article 13 which shall be established by the Issuer for the benefit of the Trustee in trust for and for the benefit of Holders

and/or Beneficial Holders and shall be maintained by and subject to the Control of the Trustee;

“Purchase and Sale Agreement” means the purchase and sale agreement of even date herewith, among FCDC and certain of its Affiliates, certain buyers and their permitted assignees, and Computershare Trust Company of Canada, in its capacity as agent for the buyers thereunder, as same may be amended, restated, replaced or otherwise modified from time to time;

“Recognized Stock Exchange” means the TSX or, if the Common Shares are not listed on the TSX, any other national securities exchange or market on which the Common Shares are then listed and posted for trading;

“Redemption Amount” has the meaning ascribed thereto in section 4.9;

“Redemption Date” means the date indicated by the Issuer in the Redemption Notice as being the date on which the Redemption Amount shall be paid;

“Redemption Notice” has the meaning ascribed thereto in section 4.9;

“Relevant Taxing Authority” means Canada, any province or territory of Canada, or any political subdivision, authority or agency thereof or therein having power to tax;

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

“Rights” and **“Rights Plan”** have the meanings ascribed thereto in subsection 8.1(e);

“SDCI” means Stornoway Diamonds (Canada) Inc./*Les Diamants Stornoway (Canada) Inc.*, a wholly-owned Subsidiary of the Issuer and a corporation incorporated under the CBCA, including its successors and permitted assigns;

“Senior Credit Documents” means, collectively, all guarantees, security agreements, hypothecs, mortgages and all other documents, instruments, certificates, and notices at any time delivered in connection with the Senior Loan Agreement, the Purchase and Sale Agreement, any Hedging Arrangement and other documents executed by the Issuer or any of its Subsidiaries in connection therewith;

“Senior Creditor” means a holder or holders of Specified Senior Indebtedness and includes any representative or representatives or trustee or trustees of any such holder or holders, including, for greater certainty, as of the date of this Indenture, the Senior Lender, the Senior Hedge Parties and the buyers under the Purchase and Sale Agreement;

“**Senior Hedge Parties**” means any financial institution that meets the requirements of the hedging policy which provide any Hedging Arrangement with SDCI;

“**Senior Lender**” means Diaquem Inc., and its successors and assigns under the Senior Loan Agreement;

“**Senior Loan Agreement**” means the loan agreement dated of even date herewith, between the Senior Lender, as lender, SDCI, as borrower, and the Issuer, as sponsor, making available the Senior Secured Loan;

“**Senior Secured Loan**” means the senior secured loan made available by the Senior Lender to SDCI pursuant to the Senior Loan Agreement;

“**Senior Security**” means any Lien held by or on behalf of any Senior Creditor and in any manner securing any Specified Senior Indebtedness, including control agreements related to any securities trading accounts in which Authorized Investments are made;

“**Specified Senior Indebtedness**” means, without duplication, the following Indebtedness:

- (a) Indebtedness in respect of the Purchase and Sale Agreement;
- (b) Indebtedness in respect of the Senior Loan Agreement;
- (c) Indebtedness in respect of any Hedging Arrangement entered into with lenders (or Affiliates thereof) or former lenders (or Affiliates thereof) under the Senior Loan Agreement and Indebtedness relating to cash management services provided to the Issuer and its Subsidiaries by lenders (or Affiliates thereof) or former lenders (or Affiliates thereof) under the Senior Loan Agreement, in each case that have the benefit of the Senior Security and that are entered into in the ordinary course of business and, in the case of Hedging Arrangements, not for speculative purposes;
- (d) such other Indebtedness as the Issuer shall designate as “Specified Senior Indebtedness” by notice to the Trustee in writing;
- (e) in addition to the Indebtedness identified in paragraph (a) above, all of the Issuer’s and its Subsidiaries’ Indebtedness, financial liabilities and obligations of whatsoever nature and however evidenced or arising in connection with the Senior Credit Documents (including principal, interest, premium, fees, reimbursement obligations, penalties, indemnities and legal and other fees and expenses, whether due after acceleration or otherwise);
- (f) renewals, extensions, restructurings, refinancings and refundings of any such Indebtedness liabilities or obligations; and
- (g) guarantees of any of the foregoing;

and for greater certainty, the Debenture Liabilities are not Specified Senior Indebtedness;

“**Spinoff Securities**” has the meaning ascribed thereto in subsection 8.1(d);

“**Spinoff Valuation Period**” has the meaning ascribed thereto in subsection 8.1(d);

“**Subordination Agreements**” has the meaning ascribed thereto in section 5.7;

“**Subsidiary**” means, at any time, with respect to any Person, any other Person, if at such time the first mentioned Person (i) owns, directly or indirectly, securities or other ownership interests in such other Person, having ordinary voting power to elect a majority of the board of directors or persons performing similar functions for such other Person, and (ii) directly or indirectly, through the operation of any agreement or otherwise, the ability to elect or cause the election of a majority of the board of directors or other persons performing similar functions for such other Person or otherwise exercise control over the management and policies of such other Person, and in either case will include any other Person in like relationship to a Subsidiary of such first mentioned Person;

“**Successor Issuer**” has the meaning ascribed thereto in subsection 16.1(a);

“**Supplemental Indenture**” has the meaning ascribed thereto in section 18.3;

“**Trading Day**” means, with respect to any Recognized Stock Exchange or any other market for securities, any day on which such exchange or market is open for trading or quotation;

“**Transfer Agent**” means any Person or Persons duly appointed as the registrar and transfer agent for the Common Shares, in such capacity, together with such Person’s or Persons’ successor from time to time in such capacity;

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

“**TSX**” means the Toronto Stock Exchange,;

“**U.S. Dollar**” or “**Dollar**” or “**\$**” means the lawful currency of the United States of America;

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

“**VWAP**” means, with respect to any security on a stock exchange or quotation service during a specified period, the quotient obtained by dividing (i) the aggregate sale price of all such securities sold on such stock exchange or quotation service during such period by (ii) the total number of such securities

sold on such stock exchange or quotation service during such period, as determined from time to time by the Board of Directors, or upon request of the Board of Directors, as determined by an Independent Member of IROC for such purpose; and

“**Written Order**” means a written order or request, respectively, signed in the name of the Issuer by a Responsible Officer of the Issuer or director of the Issuer.

1.2 Interpretation

In this Agreement, unless otherwise specifically provided or unless the context otherwise requires:

- (a) the terms “Agreement”, “this Agreement”, “the Agreement”, “hereto”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions refer to this Agreement in its entirety and not to any particular provision hereof;
- (b) references to an “Article”, “Section” or “Schedule” followed by a number or letter refer to the specified Article or Section of or Schedule to this Agreement;
- (c) the division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) references to a Person in this Agreement mean the Person and/or its successors or permitted assigns;
- (e) words importing the singular include the plural and vice versa and words importing gender include all genders;
- (f) the words “including”, “includes” and “include” shall be deemed to be followed by the words “without limitation”;
- (g) references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent such amendments and other modifications are not prohibited hereunder;
- (h) a reference to a statute includes all regulations made pursuant to such statute, and references to statutes or regulations are to be construed, unless otherwise expressly provided hereunder, as including all statutory and regulatory provisions consolidating, amending, supplementing, interpreting or replacing the statute or regulation referred to; and
- (i) the language used in this Agreement is the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any party.

1.3 Accounting Terms

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

1.4 Headings and Table of Contents

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

1.5 Section and Schedule References

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

1.6 Governing Law

This Indenture and each Debenture issued hereunder shall be governed by, and construed in accordance with, the laws of the Province of Quebec and the federal laws of Canada applicable therein and shall be treated in all respects as Quebec contracts.

1.7 Currency

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

1.8 Non-Business Days

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

1.9 Time

Unless otherwise expressly stated in this Indenture or in any Debenture, all references to a time will mean such time in Montréal, Quebec. Time shall be of the essence in this Indenture.

1.10 Independence of Covenants

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

1.11 Form of Documents Delivered to Trustee

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

1.12 Acts of Holders

- (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents (mandataries) duly appointed in writing. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may, alternatively, be embodied in and evidenced by the record of Holders voting in favour thereof, either in person or by proxies duly appointed in writing, at any meeting of Holders duly called and held in accordance with the provisions of Article 15, or a combination of such instruments and any such record. Except as herein otherwise expressly provided, such action shall become effective when such requisite instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “**Act of Holders**” or the “**Act**” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent

shall be sufficient for any purpose of this Indenture and, subject to section 14.3, conclusive in favour of the Trustee and the Issuer, if made in the manner provided in this section 1.12. The record of any meeting of Holders shall be provided in the manner specified in section 15.7.

- (b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgements of deeds, certifying that the individual signing such instrument or writing acknowledged to such notary public or other officer the execution thereof. Where such execution is by a signer acting in a capacity, other than such signer's individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer's authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any manner that the Trustee deems sufficient.
- (c) If the Issuer or the Trustee shall solicit from the Holders any Act, the Issuer or the Trustee, as the case may be, may, at its option, fix in advance a record date for the determination of Holders entitled to take such Act, but the Issuer or the Trustee, as the case may be, shall have no obligation to do so. Any such record date shall be fixed at the Issuer's or the Trustee's discretion, as the case may be, provided that such record date shall be fixed on a date not more than sixty (60) days and not less than twenty-one (21) days prior to the Act. If such a record date is fixed, such Act may be sought or taken before or after the record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purpose of determining whether Holders of the requisite proportion of Outstanding Debentures have authorized or agreed or consented to such Act, and for that purpose the Outstanding Debentures shall be computed as of such record date.
- (d) Any Act of the Holder of any Debenture shall bind every future Holder of the same Debenture and the Holder of every Debenture issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, suffered or omitted by the Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Debenture.

1.13 Interest Payments and Calculations

- (a) All interest payments to be made under this Indenture or any Debenture shall be paid without allowance or deduction for deemed re-investment or otherwise, both before and after Maturity and before and after default and/or judgment, if any, until payment of the amount on which such interest is accruing and, to the extent permitted by applicable Law, interest will accrue on overdue interest.

- (a) Unless otherwise specifically provided in the terms of the Debentures, interest for any period shall be computed on the basis of a year of 365 days and the actual number of days elapsed in such period. For the purposes of disclosure under the *Interest Act* (Canada), whenever interest is computed on the 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 such calendar year of calculation and dividing it by the number of days in the deemed year.
- (b) The interest payable under this Indenture or any Debenture will be calculated using the nominal rate method of calculation, and will not be calculated using the effective rate method of calculation or on any other basis that gives effect to the principle of deemed re-investment of interest.
- (c) In calculating interest under this Indenture or under a Debenture for any period, unless otherwise specifically stated, the first (1st) day of such period shall be included and the last day of such period shall be excluded.

1.14 English Language

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

1.15 Successors and Assigns

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

1.16 Severability Clause

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

1.17 Benefits of Indenture

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

Article 3, any Transfer Agent and the Holders and the Beneficial Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

1.18 Unclaimed Debentures

Subject to applicable Law, all Debentures together with any interest thereon which remain unclaimed after a period of three (3) calendar years from the Maturity Date shall be forfeited and shall revert to the Issuer and may, at the Issuer's sole option and discretion, be required to be cancelled by the Trustee.

1.19 Schedules

The following Schedules form part of this Indenture:

Schedule 2.2 – Form of Debenture

Schedule 4.9 – Form of Redemption Notice

Schedule 6.1(b) – Form of Conversion Notice

1.20 Benefits of Indenture through Trustee

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

ARTICLE 2 THE DEBENTURES

2.1 Limit of Issuance and Designation of Debentures

The Debentures authorized to be issued hereunder shall consist of, and be limited to, no more than \$81,257,000 aggregate principal amount and shall be designated as “**6.25% Convertible Unsecured Debentures due July 8, 2021**”.

2.2 Form and Terms of Debentures

- (a) The Debentures shall be dated as of the Issue Date. The Debentures shall bear interest from and including the Issue Date at the rate of 6.25% *per annum* (after as well as before Maturity, default and judgment, with interest on overdue interest at the said rate), payable in equal semi-annual instalments in arrears on each Interest Payment Date, subject to subsection 2.2(b) below and section 2.7, and the Debentures shall mature on the Maturity Date. Subject to the other terms hereof, the principal of the Debentures will be payable on the Maturity Date in U.S. Dollars against surrender for cancellation thereof by the Holder at the Corporate Trust Office or at such place or places as may be designated by the Issuer for that purpose.

- (b) The interest due on the first Interest Payment Date will include interest from and including the Issue Date up to, but excluding the first Interest Payment Date and shall be an amount equal to \$30.14 for each \$1,000 principal amount of Debentures. In addition, the interest due on the last Interest Payment Date (assuming such last Interest Payment Date occurs on the Maturity Date) will include interest from and including December 31, 2020 up to but excluding the Maturity Date and shall be an amount equal to \$32.36 for each \$1,000 principal amount of Debentures.
- (c) The Debentures shall be issued either as Definitive Debentures in denominations of \$1,000 and integral multiples of \$1,000, or as one or more Global Debentures (including, if required or applicable, one or more Global Debentures with applicable resale restrictions and legends as provided for in this Indenture and in compliance with Applicable Securities Legislation and one or more restricted CUSIP numbers) and shall be convertible as provided for in Article 6.
- (d) The Debentures and the certificate of the Trustee endorsed thereon shall be substantially in the form set forth in Schedule 2.2 hereto, provided that, if a Debenture is issued as a Global Debenture in accordance with section 2.6, it shall have appended thereto a principal amount grid in the form of Schedule A to Schedule 2.2, which shall be appropriately adjusted at such times as Debentures are converted or repurchased in accordance with the terms hereof.

2.3 Issuance of Debentures

Debentures in such aggregate principal amounts as the Board of Directors shall determine in accordance with the terms hereof and denominated in U.S. Dollars shall be executed by the Issuer from time to time and, forthwith after such execution, shall be delivered to the Trustee and shall be certified by the Trustee and delivered to the Issuer in accordance with the terms of section 2.5. Other than as contemplated by subsection 3.1(d), the Trustee shall receive no remuneration or fees for the certification of Debentures.

2.4 Execution

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

- (b) If Debentures are issued as Definitive Debentures, the Issuer shall provide to the Trustee a supply of certificates to evidence such Definitive Debentures in such form, in such amounts, bearing such distinguishing letters and numbers, and as at such times as are necessary to enable the Trustee to fulfil its responsibilities under this Indenture.

2.5 Certification by Trustee

- (a) At any time and from time to time after the execution and delivery of this Indenture, and in accordance with the terms hereof, the Issuer may deliver Debentures executed on behalf of the Issuer to the Trustee for certification, pursuant to an Issuer Order applicable thereto and evidence of compliance, if requested by the Trustee, in accordance with section 14.4 and applicable Law. Upon receipt by the Trustee of an Issuer Order applicable to such Debentures and such evidence of compliance, as applicable, the Trustee shall certify and deliver such Debentures in the manner specified in such Issuer Order, without receiving any consideration for such certification and delivery.
- (b) No Holder or Beneficial Holder shall be entitled to any right or benefit under this Indenture with respect to a Debenture, and such Debenture shall not be valid, binding or enforceable for any purpose, unless such Debenture has been duly certified by the Trustee in accordance with the provisions of this Indenture, as evidenced by the manual signature of an authorized officer of the Trustee. Such certification upon any Debenture shall be conclusive evidence, and the only evidence, that such Debenture has been issued under this Indenture.
- (c) The certification by the Trustee on the Debentures shall not be construed as a representation or warranty by the Trustee as to the validity of this Indenture or of the Debentures (except in respect of the due certification thereof and any other warranties implied by law) or as to the performance by the Issuer of its obligations under this Indenture, and the Trustee shall in no respect be liable or answerable for the use made of the Debentures or any of them or of the proceeds thereof.

2.6 Issuance of Global Debentures

- (a) The Issuer may specify that the Debentures 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 Issuer in the Written Order delivered to the Trustee at the time of issuance of such Debentures, and in such event the Issuer shall execute and the Trustee shall certify and deliver one or more Global Debentures that shall:
 - (i) represent an aggregate amount equal to the principal amount specified in the applicable Written Order;

- (ii) be delivered by the Trustee to such Depository or pursuant to such Depository's instructions; and
 - (iii) bear the Global Debenture Legend.
- (b) The Global Debenture(s) shall initially be held by, or on behalf of, CDS as Depository of the Participants in the Book-Based System and shall be registered in the name of "CDS & Co." (or such other name as CDS may use from time to time as its nominee for the purposes of the Book-Based System). No Beneficial Holder will receive Definitive Debentures representing their beneficial ownership in Debentures unless the Issuer determines that Debentures will no longer be held in the Book-Based System.
- (c) The Global Debenture(s) deposited with CDS as Depository shall bear a legend in substantially the following form subject to modification as required by CDS as the Depository (the "**Global Debenture Legend**"):

"UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. ("CDS") TO STORNOWAY DIAMOND CORPORATION (THE "ISSUER") 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 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."

2.7 Interest

- (a) Each Debenture issued hereunder, whether issued originally or in exchange for another Debenture, shall bear interest from and including the Issue Date or from and including the last Interest Payment Date on which interest shall have been paid or made available for payment on the Debentures then Outstanding, whichever shall be the later, up to but excluding the earlier of:
- (i) the following Interest Payment Date;

- (ii) if purchased in accordance with section 4.1, the date of payment;
- (iii) if repurchased or converted in accordance with section 4.2, the Change of Control Repurchase/Conversion Date;
- (iv) if redeemed in accordance with section 4.8, the Redemption Date;
- (v) if converted in accordance with section 6.1, the Conversion Date;
and
- (vi) the Maturity Date;

as the case may be (the “**Interest Period**”), upon due presentation and surrender thereof for payment on or after the appropriate date. The interest payable per \$1,000 principal amount of Debentures in respect of an Interest Period other than an Interest Period that begins and ends on an Interest Payment Date shall be calculated by multiplying \$1,000 by the interest rate of 6.25% *per annum*, dividing the product so obtained by 365 or 366 days, as the case may be, and multiplying the quotient by the actual number of days in the said Interest Period. The interest payable per \$1,000 principal amount of Debentures in respect of an Interest Period that begins and ends on an Interest Payment Date shall be calculated by multiplying \$1,000 by the interest rate of 6.25% *per annum* and dividing the product so obtained by two.

- (b) Upon and subject to the provisions and conditions of Article 13, the Issuer may elect, from time to time, to issue and solicit bids to sell a sufficient number of Freely Tradable Common Shares in order to raise funds to satisfy its Interest Obligation, in whole or in part, on any Interest Payment Date.

2.8 Payments of Principal and Interest

- (a) Subject to repurchase, redemption or conversion pursuant to the terms hereof, as payments in respect of interest on the Debentures become due, interest payable on the Debentures on an Interest Payment Date will be payable by the Issuer to the Holders thereof in whose names the Debentures are registered at the close of business on the Interest Record Date with respect to the applicable Interest Payment Date.
- (b) The Issuer shall, (A) no later than 10:00 a.m. on the day that is three (3) Business Days preceding such Interest Payment Date, deliver a certified cheque for the amount of interest payment payable on such Interest Payment Date (less any tax required to be withheld therefrom), to the order of the Trustee at the Corporate Trust Office, or (B) no later than 10:00 a.m. on the Business Day preceding such Interest Payment Date, provide to the Trustee such payment by electronic funds transfer to an account designated by the Trustee for all amounts due in respect of such interest (less any tax required to be withheld therefrom), in each case to

enable the Trustee to forward such payment to the Holder in whose name any Debenture is registered at the close of business on the Interest Record Date with respect to the applicable Interest Payment Date.

- (c) Subject to Section 2.12, the delivery of such cheque, or the making of such payment by other means, by the Issuer to the Trustee as provided above shall satisfy and discharge the Issuer's liability for payment of the interest on the Debentures to the extent of the sums represented thereby, plus the amount of any withholding or other tax deducted as aforesaid, unless such cheque is not paid at par on presentation; provided that in the event of the non-receipt of such cheque by the Holder, or the loss or destruction thereof, the Trustee on being furnished with reasonable evidence of such non-receipt, loss or destruction and indemnity reasonably satisfactory to it shall issue to such Holder a replacement cheque for the amount of such cheque.
- (d) Notwithstanding the foregoing, if the Issuer 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 Issuer may make payment of such interest or make such interest available for payment in any other manner acceptable to the Trustee, acting reasonably, with the same effect as though payment had been made in the manner provided above as long as payment is made in cash and there is no material delay in making such payment.
- (e) If a Debenture or a portion thereof is called or presented for repurchase, redemption or conversion and the repurchase date, Redemption Date or Conversion Date is subsequent to an Interest Record Date but prior to the related Interest Payment Date, interest accrued on such Debenture will be paid up to but excluding the repurchase date, Redemption Date or the Conversion Date, as applicable, to the Holders thereof in whose names the Debentures are registered at the close of business on the Interest Record Date.
- (f) Subject to the foregoing provisions of this section, each Debenture delivered upon the transfer of or in exchange for or in lieu of any other Debenture shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Debenture.
- (g) All payments of interest in cash on Global Debentures shall be made by electronic funds transfer or certified cheque made payable to the Depository or its nominee on the day interest is payable for subsequent payment to Beneficial Holders of the applicable Global Debenture by the relevant Participant, unless the Issuer and the Depository otherwise agree.

2.9 Record of Payment

- (a) The Trustee shall maintain accounts and records evidencing each payment of principal of and interest on the Debentures, which accounts and records shall constitute, in the absence of manifest error, *prima facie* evidence thereof.
- (b) Neither the Issuer nor the Trustee will be liable or responsible to any Person for any aspect of the records related to or payments made on account of beneficial interests in any Global Debenture or for maintaining, reviewing or supervising any records relating to such beneficial interests.

2.10 Rank

The Debentures shall be direct, unsecured obligations of the Issuer. The Debentures certified and issued under this Indenture rank *pari passu* with one another, in accordance with their tenor without discrimination, preference or priority and, subject to statutory preferred exceptions, shall rank equally with all other unsecured Indebtedness of the Issuer (except for such Indebtedness that is specifically subordinated to the Debentures). For greater certainty and without limiting the generality of the foregoing, the Debentures shall be subordinated, in accordance with the provisions of Article 5, to the Specified Senior Indebtedness.

2.11 Legend on Debentures and Common Shares

Each certificate representing the Debentures and, if issued before November 9, 2014, the Common Shares issuable upon conversion or in lieu of cash as interest on the Debentures, shall bear a legend in the following form (the “**Canadian Private Placement Legend**”) unless, in any such case, the Issuer determines that such legend is not required by Applicable Securities Legislation in order to permit the holder to freely trade such Debentures or Common Shares, as applicable:

**“UNLESS PERMITTED UNDER SECURITIES LEGISLATION,
THE HOLDER OF THIS SECURITY MUST NOT TRADE THE
SECURITY BEFORE NOVEMBER 9, 2014.”**

2.12 Additional Amounts

- (a) Any payments made by or on behalf of the Issuer under or with respect to the Debentures, including any Common Share Interest Payment, will be made free and clear of and without withholding or deduction for or on account of any Canadian Taxes, unless the Issuer or any other payor is required to withhold or deduct Canadian Taxes by applicable Law or by the interpretation or administration thereof by the Relevant Taxing Authority. If the Issuer or any other payor of any amount under or in respect of the Debentures (including any amount paid in respect of proceeds of disposition of the Debenture to a Holder) is so required to withhold or deduct any amount for or on account of Canadian Taxes from any payment made under or with respect to the Debentures, the Trustee

will make such withholding or deduction and will remit the full amount withheld or deducted to the Relevant Taxing Authority as and when required by applicable Law and the Issuer will pay to the Trustee or, in respect of any amount paid by any payor other than the Issuer under or in respect of the Debentures (including any amount paid in respect of proceeds of disposition of the Debentures to a Holder), will pay to each Holder such additional amounts (the “**Additional Amounts**”) as may be necessary so that the net amount received by each Holder and Beneficial Holder (including Additional Amounts) after such withholding or deduction will not be less than the amount such Holder or Beneficial Holder would have received if such Canadian Taxes had not been withheld or deducted; provided, however, that no Additional Amounts will be payable for Canadian Taxes with respect to any payment to a Holder or Beneficial Holder:

- (i) to the extent the Canadian Taxes giving rise to such Additional Amounts would not have been imposed but for the existence of any present or former connection between the Holder or Beneficial Holder (or between a fiduciary, settlor, beneficiary or member of, or possessor of a power over, such Holder or Beneficial Holder, if such Holder or Beneficial Holder is an estate, trust, partnership, limited liability company or other entity) and the Relevant Taxing Authority (other than any connection resulting solely from the acquisition, ownership, holding or disposition of Debentures, or by reason of receiving payments under or enforcing any rights in respect of such Debentures);
- (ii) to the extent the Canadian Taxes giving rise to such Additional Amounts would not have been imposed but for the failure of the Holder or Beneficial Holder, following the Issuer’s or any payor’s written request addressed to the Holder, to the extent such Holder or Beneficial Holder is legally eligible to do so, to comply with any certification, identification, information or other reporting requirements, whether required by statute, treaty, regulation or administrative practice of a Relevant Taxing Authority, as a precondition to exemption from, or reduction in the rate of deduction or withholding of, Canadian Taxes imposed by the Relevant Taxing Authority;
- (iii) to the extent that the Canadian Taxes are estate, inheritance, gift or any similar Canadian Taxes;
- (iv) to the extent the Canadian Taxes giving rise to such Additional Amounts would not have been imposed but for the Holder or Beneficial Holder not dealing at arm’s length, within the meaning of the *Income Tax Act* (Canada), with the Issuer or any payor;
- (v) to the extent the Canadian Taxes are imposed on a payment of interest to a Holder or Beneficial Holder by reason of the payment

being deemed to be paid as a dividend to the Holder or Beneficial Holder pursuant to subparagraph 214(16)(a)(i) of the *Income Tax Act* (Canada), other than by reason of an interest or right in property that secures payment of a debt or other obligation which interest or right was provided directly or indirectly by a non-resident of Canada that is a Subsidiary of the Issuer or that is otherwise related to the Issuer for purposes of the *Income Tax Act* (Canada);

- (vi) to the extent the Canadian Taxes giving rise to such Additional Amounts were imposed on a payment to a Holder who is a fiduciary or partnership or Person other than the sole Beneficial Holder of such payment but only to the extent such Canadian Taxes would not have been imposed on such payment had the Holder been the beneficiary, partner or sole Beneficial Holder, as the case may be, of such Debentures;
- (vii) to the extent that the Holder or Beneficial Holder has waived its right to receive such Additional Amounts in respect of the Canadian Taxes;
- (viii) to the extent that the Canadian Taxes are payable otherwise than by deduction or withholding in respect of such payment; and
- (ix) any combination of the foregoing items (i) through (viii).

(Any Canadian Taxes, other than Canadian Taxes described in the foregoing items (i) to (ix), being “**Indemnified Taxes**”.)

Within ninety (90) days after the date the payment or remittance of any Indemnified Taxes is due pursuant to applicable Law, the Trustee will furnish to the Issuer copies of tax receipts, if any, evidencing such payment or remittance by the Trustee.

- (b) As soon as practicable prior to each date on which any payment under or with respect to the Debentures is due and payable, if the Issuer to its knowledge will be obligated to pay Additional Amounts with respect to such payment, the Issuer will deliver to the Trustee an Officer’s Certificate stating the fact that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Trustee to pay such Additional Amounts to Holders on the date payment is due.
- (c) Whenever in the Indenture or in any Debenture there is mentioned, in any context, the payment of principal (and premium, if any), a purchase price, Redemption Amount, interest or any other amount payable under or with respect to any Debenture, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such

context, Additional Amounts are, were or would be payable in respect thereof.

- (d) The Issuer will indemnify and hold harmless each Holder and Beneficial Holder and upon written request reimburse each of the Holders and Beneficial Holders for the amount of (i) any Indemnified Taxes so levied or imposed and paid by the Holder or Beneficial Holder as a result of payments made under or with respect to the Debentures (including any amount paid by the Issuer in respect of proceeds of disposition of the Debenture to a Holder), and (ii) any Indemnified Taxes levied or imposed and paid by the Holder or Beneficial Holder with respect to reimbursement under (i) above.
- (e) If the Issuer pays any indemnity or Additional Amounts under this section 2.12 to a Holder and the Holder or Beneficial Holder determines, in its sole discretion, that it has at any time thereafter received a refund in respect of Indemnified Taxes or a credit with respect to payment of Indemnified Taxes, then such Holder or Beneficial Holder shall promptly pay to the Issuer the amount of such refund or credit, including any interest paid in respect thereof, net of all out-of pocket expenses reasonably incurred by the Holder or Beneficial Holder to obtain such refund or credit (including Taxes payable on any interest), provided that the Issuer, upon the request of the Holder or Beneficial Holder, agrees to repay the amount paid over to the Issuer (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Holder or Beneficial Holder in the event the Holder or Beneficial Holder is required to repay such refund to such Governmental Authority. This Section 2.12(e) shall not be construed to require the Holder or Beneficial Holder to make available its tax returns (or any other information relating to its taxes which it deems confidential) to the Issuer or any other Person, to arrange its affairs in any particular manner or to claim any available refund.
- (f) The obligations described under this heading will survive any termination or discharge of the Indenture and any transfer by a Holder or Beneficial Holder of its Debentures to another Holder or Beneficial Holder, and will apply, *mutatis mutandis*, to any jurisdiction in which any successor to the Issuer is incorporated, engaged in business for tax purposes or resident for tax purposes, or any jurisdiction from or through which such successor makes any payment on a Debenture and, in each case, any department or political subdivision thereof or therein.

2.13 Cancellation of Debentures

- (a) All Debentures surrendered for payment of the final amount required to be paid thereon, or that have been surrendered to the Trustee for registration of exchange or transfer, shall be promptly cancelled by the Trustee on receipt. The Trustee shall, if requested in writing by the Issuer, give

written notice to the Issuer of the particulars of any Debentures cancelled by it.

- (b) The Issuer may, in its discretion at any time, deliver to the Trustee for cancellation any Debentures which the Issuer has purchased as provided for in this Indenture, and all such Debentures so delivered shall be cancelled by the Trustee.
- (c) All Debentures which have been cancelled by the Trustee shall be handled by the Trustee in accordance with its standard practices, and the Trustee shall furnish to the Issuer a destruction certificate.

2.14 Mutilated, Lost, Stolen or Destroyed Debentures

- (a) If any Debenture has been mutilated or defaced or has or has been alleged to have been lost, stolen or destroyed, then, on application by the applicable Holder to the Trustee, the Issuer may, in its discretion, execute, and upon such execution the Trustee shall certify and deliver, a new Debenture of the same date and amount as the defaced, mutilated, lost, stolen or destroyed Debenture in exchange for and in place of the defaced or mutilated Debenture, and in lieu of and in substitution for the lost, stolen or destroyed Debenture. Notwithstanding the foregoing, no Debenture shall be delivered as a replacement for any Debenture which has been mutilated or defaced otherwise than upon surrender of the mutilated or defaced Debenture, and no Debenture shall be delivered as a replacement for any Debenture which has been lost, stolen or destroyed unless the applicant for the replacement Debenture has furnished to the Issuer and the Trustee evidence, satisfactory in form and substance to the Issuer and the Trustee, of its ownership of, and of such loss, theft or destruction of, such Debenture and has provided a surety bond and indemnity to the Issuer and the Trustee in amount, form and substance satisfactory to each of them. Any instructions by the Issuer to the Trustee under this section shall include such indemnity for the protection of the Trustee as the Trustee may reasonably require.
- (b) If any mutilated, defaced, lost, stolen or destroyed Debenture has become or is about to become due and payable, the Issuer, in its sole discretion, may, instead of executing a replacement Debenture, pay to the Holder thereof the full amount outstanding on such mutilated, defaced, lost, stolen or destroyed Debenture.
- (c) Upon the issuance of a replacement Debenture, the Issuer may require the applicant for such replacement Debenture to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such issuance and any other expenses (including the fees and expenses of the Trustee and the Issuer) connected with such issuance.
- (d) Each replacement Debenture shall bear a unique serial number and be in a form otherwise identical to the Debenture it replaces and shall be entitled

to the benefits of this Indenture to the same extent and in the same manner as the Debenture it replaces.

- (e) Unless the Issuer instructs otherwise, the Trustee shall, in accordance with its practice, destroy each mutilated or defaced Debenture surrendered to and cancelled by it and in respect of which a replacement Debenture has been delivered or moneys have been paid and shall, as soon as reasonably practicable, furnish to the Issuer a certificate as to such destruction specifying in numerical sequence the serial numbers of the Debentures so destroyed.

2.15 Prescription

The right of the Holders to exercise their rights under this Indenture shall become void unless the Debentures are presented for payment within a period of three (3) years from Maturity, after which payment thereof shall be governed by the provisions of Article 12 hereof. The Issuer shall have satisfied its obligations under the Debentures upon irrevocable remittance to the Trustee for the account of the Holders, upon repurchase, redemption, conversion or at the Maturity Date, of any and all consideration due hereunder in cash or, to the extent provided for and permitted hereunder, by the making of a Common Share Interest Payment, subject to and in accordance with the provisions of this Indenture, and such remittance shall for all purposes be deemed a payment to the Holders, and to that extent such Debentures shall thereafter not be considered as Outstanding and the Holders shall have no right, except to receive payment out of the moneys so paid and deposited or, if so provided and permitted, Freely Tradable Common Shares deposited, upon surrender of its Debentures.

ARTICLE 3 REGISTRATION, TRANSFER, EXCHANGES AND OWNERSHIP

3.1 Definitive Debentures; Transfers and Exchanges

- (a) With respect to Debentures issuable as Definitive Debentures, the Issuer shall cause to be kept by and at the principal offices of the Trustee in the City of Montréal, Province of Quebec and in the City of Toronto, Province of Ontario, a register, and in such other place or places as the Issuer with the approval of the Trustee may designate, branch registers, in which shall be entered the names and latest known addresses of the Holders and all transfers of Definitive Debentures. Such registration shall be noted on the Debentures by the Trustee.
- (b) No transfer of a Definitive Debenture shall be effective as against the Issuer unless and until made on one of the appropriate registers by the Trustee as instructed in writing by the registered Holder or his executors or administrators or other legal representatives or his or their attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee, upon compliance with such requirements as the Trustee

may prescribe, and unless and until such transfer shall have been duly noted on such Debenture by the Trustee.

- (c) Definitive Debentures may be exchanged for one or more Definitive Debentures in an equal aggregate principal amount upon surrender of the Definitive Debentures to be exchanged at one of the specified offices of the Trustee; provided, however, that each Definitive Debenture issued in exchange for such original Definitive Debenture shall have a principal amount in an authorized denomination as provided for herein.
- (d) The Trustee may make a charge to reimburse itself for any stamp taxes or governmental charges required to be paid and a reasonable charge for its services and a reasonable sum per Definitive Debenture created and issued upon any exchange or transfer of Definitive Debentures effected by it. Payment of such charges will be made by the Person requesting the exchange or transfer as a condition precedent to such exchange or transfer.

3.2 Global Debentures; Transfers and Exchanges

- (a) With respect to Debentures issued as Global Debentures or Book-Entry Debentures, the Issuer shall cause to be kept by and at the principal offices of the Trustee in the City of Montréal, Province of Quebec and in the City of Toronto, Province of Ontario, a central register in which shall be entered the name(s) and latest known address(es) of the Holder(s) of each Global Debenture (being the Depository, or its nominee, for such Global Debenture) and the other particulars prescribed by law of the Debentures held by it (them) and all transfers of Debentures.
- (b) Notwithstanding any other provision of this Indenture, a Global Debenture may not be transferred by the Holder thereof and accordingly, no Definitive Debentures shall be issued to Beneficial Holders, and no Global Debenture(s) may be exchanged in whole or in part for Debentures registered, and no transfer of a Global Debenture in whole or in part may be registered, in either such case, in the name of any Person other than the Depository for such Global Debenture or a nominee thereof, except through records maintained by CDS or its nominee in the following circumstances or as otherwise specified in a Board Resolution or Written Order:
 - (i) a Global Debenture may be transferred by a Depository to a nominee of such Depository or by a nominee of a Depository to such Depository or to another nominee of such Depository or by a Depository or its nominee to a successor Depository or its nominee;
 - (ii) a Global Debenture may be transferred at any time after the Depository for such Global Debenture (A) has notified the Trustee, or the Issuer has notified the Trustee, that it is unwilling or unable to continue as Depository for such Global Debenture, or (B) ceases

to be eligible to be a Depository, provided that at the time of such transfer the Issuer has not appointed a successor Depository for such Global Debenture;

- (iii) a Global Debenture may be transferred at any time after the Issuer has determined, in its sole discretion, that Debentures will no longer be held in the Book-Based System in respect of such Global Debenture and has communicated such determination to the Trustee in writing;
- (iv) a Global Debenture may be transferred at any time after the Trustee has determined that an Event of Default has occurred and is continuing with respect to the Debentures issued as a Global Debenture, provided that at the time of such transfer the Trustee has not waived the Event of Default pursuant to Article 11;
- (v) a Global Debenture may be transferred or exchanged for Definitive Debentures at any time after a Depository has determined, in its sole discretion, that such transfer or exchange is required to effect conversion and/or redemption rights in accordance with the terms hereof and has communicated such determination to the Trustee in writing;
- (vi) a Global Debenture may be transferred if required by applicable Law; or
- (vii) a Global Debenture may be transferred at any time after the Book-Based System ceases to exist,

following which, if and to the extent required in the circumstances, Definitive Debentures may be issued to the Beneficial Holders of such Debentures or their nominees, as directed by the Holder. The Issuer shall provide an Officer's Certificate giving notice to the Trustee and to the TSX of the occurrence of any event outlined in this subsection 3.2(b).

- (c) With respect to the Global Debentures, unless and until Definitive Debentures have been issued to Beneficial Holders pursuant to subsection 3.2(b):
 - (i) the Issuer and the Trustee may deal with the Depository for all purposes (including paying interest on the Debentures) as the sole holder of such Debentures and the authorized representative of the Beneficial Holders;
 - (ii) the rights of the Beneficial Holders shall be exercised only through the Depository and shall be limited to those established by Law and agreements between such Beneficial Holders and the Depository or Participants;

- (iii) the Depository will make book-entry transfers among the Participants; and
 - (iv) whenever this Indenture requires or permits actions to be taken based upon instruction or directions of Holders evidencing a specified percentage of the Outstanding Debentures, the Depository 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 Participants, and has delivered such instructions to the Trustee.
- (d) Whenever a notice or other communication is required to be provided to Holders that hold a Global Debenture, unless and until Definitive Debentures have been issued to Beneficial Holders pursuant to this section 3.2, the Trustee shall provide all such notices and communications to the Depository and the Depository shall deliver such notices and communications to such Beneficial Holders in accordance with its procedures and Applicable Securities Legislation. Upon the termination of the Book-Based System on the occurrence of one of the conditions specified in subsection 3.2(b), with respect to Debentures issued hereunder, the Trustee shall notify all applicable Participants and Beneficial Holders, through the Depository, of the availability of Definitive Debentures. Upon surrender by the Depository of the certificate(s) representing the Global Debenture(s) and receipt of new registration instructions from the Depository, the 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 will be governed by section 3.1 and the remaining sections of this Article 3, provided any Definitive Debentures that are issued in exchange for the Global Debenture(s) prior to November 9, 2014 shall bear the Canadian Private Placement Legend, unless the Issuer determines that such legend is not required by Applicable Securities Legislation in order to permit the holder to freely trade such Debentures.

3.3 Transferee Entitled to Registration

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

3.4 Access to Lists of Holders

- (a) The register of Holders referred to in sections 3.1 and 3.2 maintained by the Trustee will, at all reasonable times during the regular business hours of the Trustee, be open for inspection by the Issuer.
- (b) If any Beneficial Holder or group of Beneficial Holders, or such one or more Holders as may be permitted by applicable Law (in each case, the “**Applicants**”) apply to the Trustee (with a copy to the Issuer) for access to a list of registered holders, then the Trustee, after having been funded and indemnified to its reasonable satisfaction by such Applicants for its related costs and expenses, shall afford the Applicants access during normal business hours to the most recent list of Holders within ten (10) Business Days after the receipt of such application by the Trustee. Such list shall be as of a date no more than ten (10) days (or such other date as may be mandated by applicable Law) prior to the date of receipt of the Applicants’ request.

3.5 Persons Entitled to Payment

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

ARTICLE 4 REPURCHASE AND CANCELLATION OF DEBENTURES

4.1 Purchase of Debentures

Provided that no Event of Default has occurred and is continuing, the Issuer may at any time, and from time to time, purchase all or any of the 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, subject to compliance with Applicable Securities Legislation (including, for greater certainty, any applicable rules of the TSX). Debentures so purchased by the Issuer shall be submitted to the Trustee for cancellation in accordance with subsection 2.13(b).

If, upon an invitation for tenders, more Debentures than the Issuer is prepared to accept are tendered at the same lowest price, the Debentures to be purchased by the Issuer will be selected by the Trustee on a *pro rata* basis or, if the Debentures are then listed for trading on a Recognized Stock Exchange, with the approval of such Recognized Stock Exchange, in such other manner (which may include selection by lot, random selection by computer or any other method) as the Trustee considers appropriate, from the Debentures tendered by each tendering Holder who tendered at such lowest price. For this purpose the Trustee may make, and may from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made shall be valid and binding upon all Holders, notwithstanding the fact that as a result thereof one or more such Debentures becomes subject to purchase in part only. The Holder of any Debenture of which only a part is purchased upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such Holder, a replacement Debenture for and evidencing the same obligation as the unpurchased part so surrendered, and the Trustee shall certify and deliver such replacement Debenture upon receipt of the Debenture so surrendered or, with respect to a Global Debenture, the Trustee shall, working together with any Depository, make notations on the Global Debenture of the principal amount thereof so purchased.

4.2 Repurchase or Conversion of Debentures at Option of the Holder upon a Change of Control

- (a) If a Change of Control occurs prior to the Maturity Date, the Issuer shall make an offer to Holders of Outstanding Debentures (the “**Change of Control Issuer Offer**”) to, at such Holders’ election, either: (i) repurchase for cash all or any portion of the Debentures of such Holders at the Change of Control Repurchase Price on the Change of Control Repurchase/Conversion Date; or (ii) convert the Debentures of such Holders at the Change of Control Conversion Price; provided that Holders may elect to keep their Debentures and not provide a Change of Control Holder Election whereby such Holders shall thereafter not be entitled to the Change of Control Repurchase Price or the Change of Control Conversion Price; and provided further that if ninety percent (90%) or

more of the aggregate principal amount of the Debentures Outstanding on the date of the Change of Control Issuer Notice have been tendered (under either option (i) or (ii) above) to the Issuer pursuant to the Change of Control Issuer Offer, the Issuer will have the right (but not the obligation) to force the redemption of and to redeem all of the remaining Debentures at the Change of Control Repurchase Price. Within thirty (30) days after the Effective Date, the Issuer shall provide notice of the Change of Control to the Trustee and the Holders in the manner provided in sections 17.2 and 17.3 (the “**Change of Control Issuer Notice**”). The Change of Control Issuer Notice shall include the form of a Change of Control Holder Election (as defined below) to be completed by the Holder and shall set forth the Change of Control Issuer Offer as well as the following:

- (i) the events causing such Change of Control;
- (ii) the effective date or the date of completion of such Change of Control (the “**Effective Date**”);
- (iii) the last date by which the Change of Control Holder Election must be delivered to elect the repurchase or conversion option pursuant to this section 4.2;
- (iv) the Change of Control Repurchase/Conversion Date;
- (v) the Change of Control Repurchase Price;
- (vi) the Change of Control Conversion Price;
- (vii) the Holder’s right to require the Issuer to purchase all or a portion of the Debentures held by such Holder at the Change of Control Repurchase Price;
- (viii) the Holder’s right to require the Issuer to convert all or a portion of the Debentures held by such Holder at the Change of Control Conversion Price;
- (ix) the then effective Conversion Price and any adjustments thereto resulting from such Change of Control;
- (x) the name and address of the Trustee;
- (xi) the procedures that the Holder must follow to exercise rights under this section 4.2;
- (xii) the procedures that the Holder must follow to withdraw a Change of Control Holder Election;
- (xiii) that, in connection with the delivery of a Change of Control Holder Election, unless the Issuer fails to (A) pay such Change of Control

Repurchase Price, or (B) convert the Debentures of such Holder at the Change of Control Conversion Price, Debentures covered by any such Change of Control Holder Election will cease to be Outstanding and interest will cease to accrue on and after the Change of Control Repurchase/Conversion Date; and

(xiv) the CUSIP number of the Debentures, if applicable.

At the Issuer's request, the Trustee shall give such Change of Control Issuer Notice in the Issuer's name, at the Issuer's expense, and within the notice period set out above; provided, that, in all cases, the text of such Change of Control Issuer Notice shall be prepared by the Issuer. If any of the Debentures is in the form of a Book-Entry Debenture, then the Issuer shall modify such notice to the extent necessary to accord with the applicable procedures of the Book-Based System relating to the purchase of Book-Entry Debentures.

- (b) A Holder may exercise its rights specified in section 4.2 upon delivery of a written notice (which may be delivered by letter, overnight courier, hand delivery, facsimile transmission or in any other written form and, in the case of a Book-Entry Debenture, may be delivered electronically or by other means in accordance with the Depository's applicable procedures) of the exercise of such rights (a "**Change of Control Holder Election**") to the Issuer or the Trustee at any time prior to the close of business on the third (3rd) Business Day immediately prior to the Change of Control Repurchase/Conversion Date, subject to extension solely to comply with applicable Laws.
- (c) The Change of Control Holder Election shall state (A) the certificate number of the Debenture which the Holder will deliver to be purchased or converted (if such Debenture is a Definitive Debenture or, if the Debenture is a Global Debenture or a Book-Entry Debenture, any other items required to comply with the applicable procedures), (B) the portion of the principal amount of the Debenture which the Holder will deliver to be purchased or converted, in integral multiples of \$1,000, and (C) the portions of the delivered principal amount of such Debenture that shall be (i) purchased at the Change of Control Repurchase Price, or (ii) converted at the Change of Control Conversion Price, pursuant to the terms and conditions specified in the Debentures and in this Indenture.
- (d) The delivery of a Debenture (whether a Definitive Debenture or a Global Debenture or Book-Entry Debenture), for which a Change of Control Holder Election has been timely delivered to the Trustee and not validly withdrawn, prior to, on or after the Change of Control Repurchase/Conversion Date (together with all necessary endorsements) at the office of the Trustee shall be a condition to the receipt by the Holder of the Change of Control Repurchase Price therefor, or Common Shares issuable upon conversion thereof.

- (e) The Issuer shall only be obligated to purchase or convert, as applicable, pursuant to this section 4.2, a portion of a Debenture if the principal amount of such portion is \$1,000 or an integral multiple of \$1,000 (provisions of this Indenture that apply to the purchase or conversion, as applicable, of all of a Debenture also apply to the purchase or conversion, as applicable, of such portion of such Debenture).
- (f) The Trustee shall promptly notify the Issuer of the receipt by it of each and every Change of Control Holder Election or written withdrawal thereof.
- (g) Notwithstanding anything herein to the contrary, in the case of Book-Entry Debentures, any Change of Control Holder Election may be delivered or withdrawn and such securities may be surrendered or delivered for purchase or conversion in accordance with the applicable Depository procedures of the Book-Based System as in effect from time to time.

4.3 Effect of Change of Control Holder Election

- (a) Upon receipt by the Trustee of a Change of Control Holder Election from a Holder containing the information specified in subsection 4.2(c), the Holder of the Debenture in respect of which such Change of Control Holder Election was given shall (unless such Change of Control Holder Election is withdrawn as specified in subsection 4.3(b)), thereafter be entitled to (A) receive the Change of Control Repurchase Price with respect to the specified portion of such Debenture, and/or (B) have the specified portion of such Debenture converted into Common Shares at the Change of Control Conversion Price, as elected by the Holder. The Change of Control Repurchase Price shall be paid, or the Common Shares issuable upon conversion shall be delivered, as applicable, to such Holder promptly following the later of (1) the Change of Control Repurchase/Conversion Date, and (2) the time of delivery of such Debenture to the Trustee by the Holder thereof in the manner required by section 4.2. Debentures in respect of which a Change of Control Holder Election for payment of the Change of Control Repurchase Price has been given by the Holder thereof may not be converted into Common Shares pursuant to Article 6 on or after the date of the delivery of such Change of Control Holder Election unless such Change of Control Holder Election has first been validly withdrawn in accordance with subsection 4.3(b) with respect to the Debentures to be converted.
- (b) A Change of Control Holder Election may be withdrawn by means of a written notice of withdrawal delivered by the Holder to the Trustee (by mail, courier, hand delivery, facsimile transmission or in any other written form and, in the case of Book-Entry Debentures, electronically or by other means in accordance with the applicable procedures of the Book-Based System) at any time prior to the close of business on the third (3rd) Business Day immediately prior to the Change of Control

Repurchase/Conversion Date, specifying (1) the principal amount of the Debenture or portion thereof (which must be a principal amount of \$1,000 or an integral multiple of \$1,000 in excess thereof), with respect to which such notice of withdrawal is being submitted, (2) if Definitive Debentures have been issued, the certificate number of the Debentures being withdrawn in whole or in part (or if the Debentures are not Definitive Debentures, such written notice must comply with the applicable procedures of the Book-Based System) and (3) the portion, if any, of the principal amount of the Debentures that will remain subject to the Change of Control Holder Election, which portion must be a principal amount of \$1,000 or an integral multiple thereof.

4.4 Deposit of Change of Control Repurchase Price

- (a) On or before 12:00 p.m. (noon) (Eastern Time) on the Business Day prior to the applicable Change of Control Repurchase/Conversion Date, the Issuer shall deposit with the Trustee an amount of money (in immediately available funds), sufficient to pay the aggregate Change of Control Repurchase Price of all the Debentures or portions thereof that are to be purchased as of such Change of Control Repurchase/Conversion Date, together with accrued and unpaid interest up to but excluding the Change of Control Repurchase/Conversion Date (less any tax required by law to be deducted in respect of accrued and unpaid interest) on such Debentures or portions thereof.
- (b) If the Trustee holds, in accordance with the terms hereof, money sufficient to pay the Change of Control Repurchase Price and accrued interest of any Debenture for which a Change of Control Holder Election has been tendered and not withdrawn in accordance with this Indenture then, on the Change of Control Repurchase/Conversion Date, such Debenture will cease to be Outstanding, whether or not the Debenture is delivered to the Trustee, and interest shall cease to accrue, and the rights of the Holder in respect of the Debenture shall terminate (other than the right to receive the Change of Control Repurchase Price and accrued and unpaid interest as aforesaid). The Issuer shall publicly announce the principal amount of Debentures repurchased on or as soon as practicable after the Change of Control Repurchase/Conversion Date. No amount will be paid on account of the principal amount of any Debenture so repurchased until the debenture has been presented to the Trustee for cancellation.
- (c) The Trustee will promptly return to the respective Holders thereof any Debentures with respect to which a Change of Control Holder Election has been withdrawn in compliance with this Indenture.
- (d) If a Change of Control Repurchase/Conversion Date falls after an Interest Record Date and on or before the related Interest Payment Date, then interest on the Debentures payable on such Change of Control Repurchase/Conversion Date will instead be payable to the Holders in

whose names the Debentures are registered at the close of business on such Interest Record Date.

4.5 Repayment to the Issuer

To the extent that the aggregate amount of cash deposited by the Issuer pursuant to section 4.3 exceeds the aggregate Change of Control Repurchase Price of the Debentures or portions thereof that the Issuer is obligated to purchase, then on the Change of Control Repurchase/Conversion Date, the Trustee shall return any such excess cash to the Issuer.

4.6 Conversion at Change of Control Conversion Price

The procedures, terms and conditions set forth in Article 6 shall apply to the conversion of Debentures for which a Change of Control Holder Election for conversion has been delivered, provided that such Change of Control Notice shall be deemed to have satisfied the requirement for a Conversion Notice to be delivered, the Conversion Price for such purpose shall be the Change of Control Conversion Price, and the Conversion Date for such purpose shall be the Change of Control Repurchase/Conversion Date.

4.7 Debentures Purchased in Part

Any Debenture that is to be repurchased or converted only in part shall be surrendered at the office of the Trustee, and promptly after the Change of Control Repurchase/Conversion Date, the Issuer shall execute and the Trustee shall authenticate and deliver to the Holder of such Debenture, without service charge, a new Debenture or Debentures, of such authorized denomination or denominations as may be requested by such Holder (which must be equal to \$1,000 principal amount or any integral thereof), in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Debenture so surrendered that is not purchased or converted.

4.8 Optional Redemption of Debentures

- (a) The Issuer may at its option at any time following July 8, 2017, and from time to time thereafter up to and including the Maturity Date, redeem all, or any of the Debentures (on a *pro rata* basis) on not less than thirty (30) and not more than sixty (60) days' prior notice to the Holders for cash at a redemption price equal to one hundred percent (100%) of the principal amount of the Debentures to be redeemed, plus accrued and unpaid interest thereon, if any, up to but excluding the Redemption Date; provided that such redemption shall only be permitted if the VWAP per Common Share for the twenty (20) consecutive Trading Days ending on the Trading Day immediately preceding the date the Redemption Notice is given by the Issuer to the Trustee and the Holders is not less than one hundred and thirty-five percent (135%) of the applicable Conversion Price.

This redemption right shall not prejudice the right of Holders to convert Debentures to Common Shares as provided for in Article 6.

- (b) Concurrently with providing a Redemption Notice, the Issuer shall provide the Trustee with an Officer's Certificate setting forth the details of any redemption contemplated by this section 4.8 (including the eligibility and interest calculations, if necessary) upon which the Trustee may rely without any independent obligation to verify the accuracy of information set out therein.

4.9 Notice of Redemption

Notice of redemption of the Debentures (the "**Redemption Notice**") shall be given by the Issuer to the Trustee and Holders in the form set forth in Schedule 4.9 hereof and in the manner provided in sections 17.2 and 17.3. Such notice shall include the repurchase price per Debenture (being one hundred percent (100%) of the principal amount thereof) (the "**Redemption Amount**"), the Redemption Date, the places of payment, a statement as to the right of the Holders to convert such Debentures as provided in Article 6, that interest upon the principal amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date, and that the Debentures are to be redeemed by the Issuer pursuant to the applicable provisions of the Debentures and the Indenture. If the Debentures are Book-Entry Debentures, the Redemption Notice must comply with the applicable procedures of the Depository's Book-Based System. Any Redemption Notice shall be binding and irrevocable.

4.10 Debentures Due on Redemption Date

Upon a Redemption Notice being given in accordance with section 4.9, the Redemption Amount shall be and become due and payable on the Redemption Date specified in such Redemption Notice and with the same effect as if it were the Maturity Date of such Debentures, the provisions hereof or of any such Debentures notwithstanding and, from and after such Redemption Date and the deposit of the Redemption Amount with the Trustee in accordance with section 4.11, interest shall cease to accrue and the Debentures shall cease to be Outstanding, whether or not any such Debenture is delivered to the Trustee. Thereafter, all other rights of the Holder will terminate, other than the right to receive the Redemption Amount payable in respect of such Debentures upon presentation for surrender for cancellation of such Debentures at any of the places specified in section 4.9 on or after the Redemption Date.

4.11 Deposit of Redemption Moneys

Upon the Debentures being called for redemption as provided for in section 4.9, the Issuer shall deposit with the Trustee or for the account of the Trustee at least one (1) Business Day prior to the Redemption Date specified in the Redemption Notice, such sums as are sufficient to pay the aggregate Redemption Amount of the Debentures. From the sums so deposited, the Trustee shall pay or cause to be paid to the Holders, upon surrender for cancellation of the Debentures, the

aggregate Redemption Amount thereof together with all accrued and unpaid interest payable.

4.12 Payment and Surrender of Debentures

The Redemption Amount will be payable promptly following presentation and surrender of the Debentures called for redemption, together with necessary endorsements, at the Corporate Trust Office or at any other places specified in the Redemption Notice on or after the Redemption Date.

4.13 Compliance with Applicable Securities Legislation upon Purchase of Debentures

In connection with any offer to repurchase or the redemption of Debentures under section 4.2 or section 4.8, the Issuer shall comply with all Applicable Securities Legislation in connection with such offer to purchase or the redemption of Debentures, all so as to permit the rights of the Holders and obligations of the Issuer under this Article 4 to be exercised in the time and in the manner specified herein.

4.14 Cancellation of Purchased Debentures

All Debentures purchased, repurchased or redeemed in whole or in part pursuant to this Article 4 shall be forthwith delivered to and cancelled by the Trustee and may not be reissued or resold and no Debentures shall be issued in substitution therefor.

ARTICLE 5 SUBORDINATION OF DEBENTURES

5.1 Applicability of Article

The Indebtedness, liabilities and obligations of the Issuer hereunder (except as provided in subsection 14.12(d)) or under the Debentures, whether on account of principal, premium, if any, interest or otherwise, but excluding the issuance of Common Shares or other securities similar in nature thereto upon any conversion pursuant to Article 6 (collectively, such non-excluded Indebtedness, liabilities and obligations of the Issuer are referred to as the “**Debenture Liabilities**”), shall be subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in section 2.10 and the following sections of this Article 5, to the full and final payment of all Specified Senior Indebtedness of the Issuer, and each Holder and Beneficial Holder of any Debenture agrees to and shall be bound by the provisions of this Article 5.

5.2 Order of Payment

In the event of any dissolution, winding-up, liquidation, bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar Proceedings relating to the Issuer or any of their respective property (whether voluntary or

involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Issuer or any sale of all or substantially all of the assets of the Issuer:

- (a) all Specified Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment is made on account of Debenture Liabilities;
- (b) any payment or distribution of assets of the Issuer, whether in cash, property or securities, to which Holders or the 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 Specified 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 Specified Senior Indebtedness may have been issued, to the extent necessary to pay all Specified Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Specified Senior Indebtedness; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Issuer or of all or part of their respective assets or any other enforcement agent may sell, mortgage, hypothecate, or otherwise dispose of the Issuer's assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Holders or the Trustee or any requirement to account to the Trustee or the Holders until after the Specified Senior Indebtedness has been paid in full.

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

- (i) whether any Senior Security has been granted or is in effect;
- (ii) 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 any Senior Security;
- (iii) the time or order of the attachment, perfection or crystallization of any security constituted by any Senior Security;
- (iv) the taking of any collection, enforcement or realization proceedings pursuant to the Specified Senior Indebtedness, including pursuant to any Senior Security;
- (v) 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 holders of any Specified Senior Indebtedness, to any money or property of the Issuer;

- (vi) the failure to exercise any power or remedy reserved to the Senior Creditors, including under the Senior Security, or to insist upon a strict compliance with any terms thereof;
- (vii) 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;
- (viii) the date of giving or failing to give notice to or making demand upon the Issuer; or
- (ix) any other matter whatsoever.

All references to “perfection” of or “perfected” liens or security interests shall include a reference to an “opposable” or “set up” lien or security interest as against third parties.

5.3 Subrogation to Rights of Holders of Specified Senior Indebtedness

Subject to the prior payment in full of all Specified Senior Indebtedness, the Holders shall be subrogated to the rights of the Senior Creditors to receive payments or distributions of assets of the Issuer to the extent of the application thereto of such payments or other assets which would have been received by the Holders but for the provisions hereof until the principal of and interest on the Debentures shall be paid in full, and no such payments or distributions to the Holders of cash, property or securities, which otherwise would be payable or distributable to the Senior Creditors, shall, as between the Issuer or its creditors (other than the Senior Creditors), and the Holders, be deemed to be a payment by the Issuer to the Senior Creditors or on account of the Specified Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the Holders, on the one hand, and the Senior Creditors, on the other hand.

The Trustee, for itself and on behalf of each of the Holders, hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Issuer 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

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as among the Issuer, its creditors other than the Senior Creditors, and the Holders, the obligation of the Issuer, which is absolute and unconditional, to pay to the Holders the principal of 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 and creditors of the Issuer other than the Senior Creditors, nor shall anything herein or therein prevent the Trustee or the Holders 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 Senior Creditors.

5.5 No Payment if Specified Senior Indebtedness in Default

Upon the maturity of any Specified Senior Indebtedness by lapse of time, acceleration or otherwise, or any other enforcement of any Specified Senior Indebtedness, then all such Specified 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 default with respect to any Specified Senior Indebtedness permitting (either at that time or upon notice, lapse of time or satisfaction of other condition precedent) a Senior Creditor to demand payment or accelerate the maturity thereof, unless and until such default shall have been cured or waived or shall have ceased to exist, no payment (by purchase, repurchase or redemption of Debentures or otherwise) shall be made by the Issuer with respect to the Debenture Liabilities and neither the Trustee nor the Holders shall be entitled to demand, institute Proceedings for the collection of, or receive any payment or benefit (including without limitation by set-off (compensation), combination of accounts or otherwise in any manner whatsoever) on account of the Debentures after the happening of such a default (except as provided in section 5.6), and unless and until such default shall have been cured or waived or shall have ceased to exist, such payments shall be held in trust for the benefit of, and, if and when such Specified Senior Indebtedness shall have become due and payable, shall be paid over to, the Senior Creditors or to the trustee or trustees under any indenture under which any instruments evidencing an amount of the Specified Senior Indebtedness remaining unpaid until all such Specified Senior Indebtedness shall have been paid in full, after giving effect to any concurrent payment or distribution to such Senior Creditors.

5.6 Payment on Debentures Permitted

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Issuer to make, or prevent the Issuer from making, at any time except as prohibited by section 5.2 or 5.5, any payment of principal of or interest on the Debentures. The fact that any such payment is prohibited by section 5.2 or 5.5 shall not prevent the failure to make such payment from being an Event of Default under subsections 11.1(a)(i) to (v). 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 5.2 or 5.5, the application by the Trustee of any monies deposited with the Trustee hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

5.7 Confirmation of Subordination

Each Holder and Beneficial Holder by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5, including the entering into of contractual subordination and/or inter-creditor agreements (collectively, “**Subordination Agreements**”) with one or more Senior Creditors or a trustee or agent (mandatary) for it or them, and appoints the Trustee his attorney-in-fact for any and all such purposes. Upon request of the Issuer, and upon being furnished an Officer’s Certificate stating that one or more named persons are Senior Creditors and specifying the amount and nature of the Specified Senior Indebtedness of such Senior Creditor and stating that such Subordination Agreement provides for provisions that are, in the opinion of the Issuer, acting reasonably, in substance not inconsistent with the provisions of this Article 5, the Trustee shall enter into one or more Subordination Agreements with the Issuer and the Person or Persons named in such Officer’s Certificate providing that such Person or Persons are entitled to all the rights and benefits of this Article 5 as a Senior Creditor and for such other matters, including those in addition to the provisions of this Article 5, as the Senior Creditor may reasonably request that, in the opinion of the Issuer, acting reasonably, are in substance not inconsistent with the provisions of this Article 5, and including for certainty, an agreement not to amend the provisions of this Article 5 and the definitions used herein without the consent of such Senior Creditor. Such agreement shall be conclusive evidence that the Indebtedness specified therein is Specified Senior Indebtedness, however, nothing herein shall impair the rights of any Senior Creditor who has not entered into such an agreement.

5.8 Knowledge of Trustee

Notwithstanding the provisions of this Article 5 or any provision in this Indenture or in the Debentures, the Trustee will not be charged with knowledge of any Specified Senior Indebtedness or of any default in the payment thereof, or of the existence of any other fact that would prohibit the making of any payment of monies to or by the Trustee, or the taking of any other action by the Trustee, unless and until the Trustee has received written notice thereof from the Issuer, any Holder or any Senior Creditor.

5.9 Trustee May Hold Specified Senior Indebtedness

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

5.10 Rights of Holders of Specified Senior Indebtedness Not Impaired

No right of any present or future holder of any Specified Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Issuer or by any

non-compliance by the Issuer with the terms, provisions and covenants of this Indenture or any other Indenture Documents, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

5.11 Altering the Specified Senior Indebtedness

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

5.12 Right of Holder to Receive Common Shares Not Impaired

The subordination of the Debentures to the Specified Senior Indebtedness and the provisions of this Article 5 do not impair in any way the right of a Holder to convert its Debentures pursuant to Article 6, or to receive Common Shares or other securities similar in nature thereto upon any conversion pursuant to Article 6.

5.13 Invalidated Payments

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

5.14 Contesting Security

The Trustee, for itself and on behalf of the Holders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security, or the relative priority of the Senior Security.

**ARTICLE 6
CONVERSION**

6.1 Conversion Right

- (a) Each Holder shall have the right at any time during a Permitted Conversion Period, at its option, to convert each \$1,000 principal amount of its Debentures into Common Shares at the Conversion Price in effect at such time, all on the terms and subject to the conditions provided in this Article 6. Notwithstanding the foregoing, if Holders would otherwise be entitled to receive, upon conversion of the Debentures, any property

(including cash) or securities that would constitute Ineligible Consideration, such Holders shall not be entitled to receive such Ineligible Consideration but rather will be entitled to receive “prescribed securities” for the purpose of clause 212(1)(b)(vii)(E) of the *Income Tax Act* (Canada) as it applied on December 31, 2007 having a fair market value equal to the fair market value of such Ineligible Consideration. However, the Issuer shall have the right (at the sole option of the Issuer) to satisfy its obligation to deliver such “prescribed securities” by delivering either such Ineligible Consideration or other consideration (“other consideration”) consisting of “prescribed securities” of the Issuer for the purpose of clause 212(1)(b)(vii)(E) of the *Income Tax Act* (Canada) as it applied on December 31, 2007, provided that such other consideration (i) has a market value on the date of delivery (as conclusively determined by the Board of Directors based on a formula analogous to the formula for determining Current Market Price) equal to the market value on such date of such Ineligible Consideration, (ii) is Freely Tradable, fully paid and non-assessable and free of any Lien or adverse claim, and (iii) is listed for trading on a Recognized Stock Exchange.

- (b) In order to exercise its option to convert provided pursuant to subsection 6.1(a), a Holder will, subject to the proviso herein, be required to deliver to the Trustee at the Corporate Trust Office or any other place specified in a Redemption Notice at least seven (7) Business Days prior to the Conversion Date (as defined below), a conversion notice in the form set forth in Schedule 6.1(b) (the “**Conversion Notice**”) (with a copy to the Issuer), duly completed and executed by the Holder or its executors, administrators or other legal representatives or its or their attorney duly appointed by instrument in form and execution satisfactory to the Trustee, together with the related Debentures. The Conversion Notice shall specify the date of conversion (the “**Conversion Date**”) of the Debentures, which Conversion Date shall be a date that falls within a Permitted Conversion Period. Incomplete or incorrect documentation submitted to the Trustee by a Holder will be rejected. The date of receipt will be the date the documentation is received in complete order by the Trustee. Any dispute arising as to date of receipt and timing of conversions shall be presented to the Issuer who may provide written instruction to the Trustee to accept a conversion notice less than seven (7) Business Days prior to a Conversion Date.

6.2 Completion of Conversion

- (a) Subject to section 6.1, as promptly as practicable but no later than the Conversion Date, the Issuer shall make a payment to the Trustee by wire transfer or electronic funds transfer of immediately available funds in the amount of the accrued and unpaid interest on the principal amount of Debentures to be converted, and if the Holder has elected to convert a principal amount of Debentures (the “**exercised amount**”) which is less than the principal amount of all Debentures of which such person is the

Holder immediately prior to such conversion (the “**registered amount**”), the Issuer shall deliver to the Trustee Debenture(s) registered in the name of such Holder in an aggregate principal amount equal to the amount by which the registered amount exceeds the exercised amount.

- (b) All Debentures converted in whole or in part pursuant to this Article 6 shall be forthwith delivered to and cancelled by the Trustee and the Trustee shall amend the register maintained by it accordingly or, with respect to a Global Debenture, the obligation to surrender a Debenture to the Trustee shall be satisfied if the Trustee, working together with the Depository, makes notation on the Global Debenture of the principal amount thereof so converted and the Trustee is provided with all other documentation which it may request.
- (c) Except as provided herein, Debentures which have been converted may not be reissued or resold.

6.3 Relating to the Issuance of Common Shares

- (a) A Holder shall be treated as the shareholder of record of the Common Shares issued on due conversion of such Holder’s Debentures and the issuance of Common Shares shall be deemed to have occurred, for all purposes, effective immediately after the close of business on the Conversion Date; such Holder shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including stock dividends and dividends or distributions in kind) thereon in respect of which the relevant record date for any such dividends or distributions falls or occurs after the Conversion Date and in the event that the Trustee receives the same, it shall hold the same under gratuitous deposit for the benefit of such Holder.
- (b) The Issuer 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 issuance and delivery upon the conversion of Debentures, and shall issue to Holders who may exercise their conversion rights hereunder such number of Common Shares as shall be issuable in such events.
- (c) The Issuer shall comply with all Applicable Securities Legislation regulating the issuance and delivery of Common Shares upon conversion of Debentures, shall obtain any regulatory approval in respect thereof as may be required pursuant to Applicable Securities Legislation and shall cause to be listed and posted for trading such Common Shares on the TSX (or such other Recognized Stock Exchange on which the Common Shares are then listed) prior to the issuance thereof.
- (d) Where delivery of Common Shares to Holders is required pursuant to the terms hereof, the Issuer shall deliver to the Trustee for delivery to and on account of the Holders, or in the case of Global Debentures or Book-Entry

Debentures, to the Depository, certificates representing the Common Shares to which the Holders are entitled. All such Common Shares shall be fully paid and non-assessable and free of any Lien or adverse claim. In the case of delivery to the Trustee, the Trustee shall deliver to the Holders entitled thereto, the certificates representing such Common Shares, and any cash representing fractional shares as provided for below. No fractional Common Shares shall be delivered to the Trustee or Holders and, in lieu thereof, if such a fraction shall become owing, the Issuer shall pay to the Trustee on account of the Holders, at the time of delivery of Common Shares, the cash equivalent thereof determined on the basis of the then current market value of the fractional share. The current market value of a fractional share shall be determined (calculated to the nearest 1/100th of a share) by multiplying the closing price of the Common Shares on the Trading Day immediately preceding the date of delivery by such fractional share and rounding the product to the nearest whole cent. The Common Shares issuable upon conversion in accordance with the provisions hereof shall be issued as Freely Tradable Common Shares in Canada.

6.4 No Remuneration for Soliciting Conversions

The Issuer and the Trustee agree that no commission or other remuneration will be paid or given, directly or indirectly, to any person in connection with the solicitation of any conversion or exchange of the Debentures into or for the Common Shares.

ARTICLE 7 MATURITY

On the Maturity Date, the Issuer shall pay to the Holders all of the principal then owing and outstanding under the Debentures and all accrued and unpaid interest thereon, from and including the last Interest Payment Date up to but excluding the Maturity Date. Payment of principal and accrued and unpaid interest shall be made to the Holders in the manner contemplated by section 2.8.

ARTICLE 8 ADJUSTMENTS

8.1 Adjustment of Conversion Price

The Conversion Price shall be adjusted from time to time by the Issuer as follows:

- (a) If the Issuer pays a dividend, or makes a distribution on outstanding Common Shares, in Common Shares, the Conversion Price in effect immediately prior to the record date for the determination of shareholders entitled to receive such dividend or other distribution shall be decreased so that the same shall equal the price determined by the Issuer by multiplying the Conversion Price in effect immediately prior to such record date by a fraction, of which the numerator shall be the number of Common Shares

outstanding at the close of business on such record date and of which the denominator shall be the sum of the number of Common Shares outstanding at the close of business on such record date plus the total number of Common Shares constituting such dividend or other distribution. Such adjustment shall be made successively whenever any such dividend or distribution is made and shall become effective immediately after such record date. If any dividend or distribution of the type described in this clause is declared but not so paid or made, the Conversion Price shall again be adjusted to the Conversion Price that would then be in effect if such dividend or distribution had not been declared.

- (b) If the Issuer subdivides its outstanding Common Shares into a greater number of shares, or combines its outstanding Common Shares into a smaller number of shares, the Conversion Price in effect immediately prior to the day upon which such subdivision or combination becomes effective shall be, in the case of a subdivision of Common Shares, proportionately decreased and, in the case of a combination of Common Shares, proportionately increased. Such adjustment shall be made successively whenever any such subdivision or combination of the Common Shares occurs and shall become effective immediately after the date upon which such subdivision or combination becomes effective.
- (c) If the Issuer fixes a record date for the issuance of rights, options or warrants to all or substantially all holders of its outstanding Common Shares entitling them (for a period expiring within forty-five (45) days after such issuance) to subscribe for or purchase Common Shares (or securities convertible into Common Shares) at a price per share (or having a conversion price per share) less than ninety-five percent (95%) of the then Current Market Price per Common Share on the record date for the determination of shareholders entitled to receive such rights, options or warrants, the Conversion Price in effect immediately prior thereto shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to such record date by a fraction, of which the numerator shall be the number of Common Shares outstanding at the close of business on such record date plus the number of shares which the aggregate offering price of the total number of Common Shares so offered for subscription or purchase (or the aggregate conversion price of the convertible securities so offered for subscription or purchase, which shall be determined by multiplying the number of Common Shares issuable upon conversion of such convertible securities by the conversion price per Common Share pursuant to the terms of such convertible securities) would purchase at the Current Market Price per Common Share on such record date and of which the denominator shall be the number of Common Shares outstanding at the close of business on such record date plus the number of additional Common Shares that such rights, options or warrants entitle holders thereof to subscribe for or purchase (or into which such convertible securities are convertible). Such

adjustment shall be made successively whenever any such rights, options or warrants (or convertible securities) are issued, and shall become effective immediately after such record date.

To the extent that Common Shares (or securities convertible into Common Shares) are not delivered after the expiration of such rights, options or warrants, the Conversion Price shall be readjusted to the Conversion Price that would then be in effect had the adjustments made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the specific number of Common Shares (or securities convertible into Common Shares) actually delivered. If such rights, options or warrants are not so issued, the Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if the record date for the determination of shareholders entitled to receive such rights, options or warrants had not been fixed.

In determining whether any rights, options or warrants entitle the shareholders to subscribe for or purchase Common Shares at a price less than ninety-five percent (95%) of the then Current Market Price per Common Share and in determining the aggregate offering price of the total number of Common Shares so offered, there shall be taken into account any consideration received by the Issuer for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

- (d) If the Issuer pays a dividend or other distribution to all or substantially all holders of its Common Shares consisting of evidences of Indebtedness or other assets of the Issuer, including securities (excluding: (i) any issuance of rights, options or warrants for which an adjustment was made pursuant to subsection 8.1(c); (ii) dividends or distributions in connection with a reclassification, consolidation, merger, combination, sale or conveyance resulting in a change in the conversion consideration pursuant to section 8.5, or pursuant to any Rights Plan; or (iii) any dividend or distribution paid in Common Shares for which an adjustment was made pursuant to subsection 8.1(a)) (the “**Distributed Securities**”), then in each such case the Conversion Price in effect immediately prior to the record date fixed for the determination of shareholders entitled to receive such dividend or distribution shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to such record date by a fraction, of which the numerator shall be the Current Market Price per share on such record date less the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive evidence of such fair market value, subject to the prior approval of the TSX, and which shall be evidenced by an Officers’ Certificate delivered to the Trustee) on such record date of the portion of the Distributed Securities so distributed applicable to one Common Share (determined on the basis of the number

of Common Shares outstanding at the close of business on such record date) and of which the denominator shall be the Current Market Price per Common Share on such record date. Such adjustment shall be made successively whenever any such distribution is made and shall become effective immediately after the record date for the determination of shareholders entitled to receive such distribution. In the event that such dividend or distribution is not so paid or made, the Conversion Price shall again be adjusted to be the Conversion Price that would then be in effect if such dividend or distribution had not been declared.

The Issuer shall not make a distribution of Distributed Securities if the fair market value (as so determined) of the portion of the proposed Distributed Securities applicable to one (1) Common Share would be equal to or greater than the Current Market Price per Common Share on the applicable record date.

Notwithstanding the foregoing, if the securities distributed by the Issuer to all holders of its Common Shares consist of common shares of, or similar equity interests in, a Subsidiary or other business unit of the Issuer (the “**Spinoff Securities**”), the Conversion Price shall be adjusted so that the same shall be equal to the price determined by multiplying the Conversion Price in effect on the record date fixed for the determination of shareholders entitled to receive such distribution by a fraction, the numerator of which shall be the VWAP per Common Share during the five (5) consecutive Trading Days commencing on and including the fifth (5th) Trading Day after the date on which ex-dividend trading commences for such distribution on the TSX or such other Recognized Stock Exchange on which the Common Shares are then listed or quoted (the “**Spinoff Valuation Period**”), and the denominator of which shall be the sum of (A) the VWAP per Common Share (including, as applicable, ex-dividend Common Shares trading on a “when-issued” basis) during the Spinoff Valuation Period and (B) (i) the VWAP per Spinoff Security during the Spinoff Valuation Period (including, as applicable, Spinoff Securities trading on a “when-issued” basis) or, if no such prices are available, the fair market value of a Spinoff Security as reasonably determined by the Board of Directors in its sole discretion (which determination shall be conclusive and shall be evidenced by an Officer’s Certificate delivered to the Trustee) multiplied by (ii) the number of Spinoff Securities distributed in respect of one Common Share, such adjustment to become effective immediately prior to the opening of business on the tenth (10th) Trading Day after the date on which ex-dividend trading commences.

- (e) With respect to any rights or warrants to acquire Common Shares (the “**Rights**”) that may be issued or distributed pursuant to any rights plan that the Issuer proposes to implement after the date of this Indenture (a “**Rights Plan**”), such Rights Plan must provide that such Rights attach to all Common Shares issued after the date of the Rights Plan provided that,

if, at the time of conversion, however, the Rights have already separated from the Common Shares in accordance with the provisions of the Rights Plan so that Holders would not be entitled to receive any rights in respect of the Common Shares issuable upon conversion of the Debentures as a result of the timing of the Conversion Date, the Conversion Price will be adjusted as if the Issuer had distributed to all holders of Common Shares Distributed Securities constituting such rights as provided in the first paragraph of subsection 8.1(d), subject to the deferral rights of the Issuer provided in the second paragraph of subsection 8.1(f) and to appropriate readjustment in the event of the expiration, termination, repurchase or redemption of the Rights. Any distribution of Rights pursuant to a Rights Plan complying with the requirements set forth in the immediately preceding sentence of this paragraph shall not otherwise constitute a distribution of rights, options or warrants pursuant to this Article 8. Other than as specified in this subsection 8.1(e), there will not be any adjustment to the Conversion Price as the result of the issuance of any Rights, the distribution of separate certificates representing such Rights, the exercise or redemption of such Rights in accordance with any Rights Plan or the termination or invalidation of any Rights.

- (f) Notwithstanding the foregoing, whenever successive adjustments to the Conversion Price are called for pursuant to this section 8.1, such adjustments shall be made to the Current Market Price as may be necessary or appropriate to effectuate the intent of this section 8.1 and to avoid unjust or inequitable results as determined in good faith by the Board of Directors and evidenced by an Officers' Certificate delivered to the Trustee.

In any case in which this section 8.1 shall require that an adjustment be made following a record date established for the purposes specified in this section 8.1, the Issuer may elect to defer (but only until five (5) Business Days following the filing by the Issuer with the Trustee of the certificate described in section 8.3 in respect of the event for which the adjustment is required) issuing to the Holder of any Debenture converted after such record date, the Common Shares of the Issuer issuable upon such conversion over and above the Common Shares (or other cash, property or securities, as applicable) issuable upon such conversion only on the basis of the Conversion Price prior to adjustment; and, in lieu of any cash, property or securities the issuance of which is so deferred, the Issuer shall issue or cause its Transfer Agent to issue due bills or other appropriate evidence prepared by the Issuer of the right to receive such cash, property or securities. If any distribution in respect of which an adjustment to the Conversion Price is required to be made as of the record date therefor is not thereafter made or paid by the Issuer for any reason, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or such record date had not occurred.

For purposes of this section 8.1, “**record date**” shall mean, with respect to any dividend, distribution or other transaction or event in which the holders of Common Shares have the right to receive any cash, securities or other property or in which the Common Shares (or other applicable security) are exchanged or converted into any combination of cash, securities or other property, the date fixed for determination of shareholders entitled to receive such cash, security or other property (whether or not such date is fixed by the Board of Directors or by statute, contract or otherwise).

If one or more event occurs requiring an adjustment to be made to the Conversion Price for a particular period, adjustments to the Conversion Price shall be determined by the Issuer’s Board of Directors to reflect the combined impact of such Conversion Price adjustment events, as set out in this section 8.1, during such period.

- (g) If the Issuer takes any action affecting the Common Shares other than an action described in this Section 8.1 which, in the opinion of the Board of Directors, would materially affect the conversion rights of Holders, the Conversion Price shall be adjusted in such manner and at such time, by action of the Board of Directors, subject to the prior written consent of the TSX (or such other Recognized Stock Exchange on which the Debentures are then listed), as the Board of Directors, in its sole discretion, may determine to be equitable in the circumstances. Failure of the Board of Directors to make such an adjustment shall be conclusive evidence that it has determined that it is equitable to make no adjustment in the circumstances.
- (h) In the event of any question arising with respect to the adjustments provided in this Section 8.1, such question shall be conclusively determined by a firm of nationally recognized chartered professional accountants appointed by the Issuer and acceptable to the Trustee (who may be the auditors of or act as advisors to the Issuer); such accountants shall have access to all necessary records of the Issuer and such determination shall be binding upon the Issuer, the Trustee and the Holders.

8.2 No Adjustment

- (a) Subject to approval of the TSX, no adjustment to the Conversion Price shall be required if Holders may participate in the relevant transaction(s) set forth in section 8.1 above (to the same extent as if the Debentures had been converted into Common Shares immediately prior to such transactions) without converting the Debentures held by such Holders. Any such participation in a transaction by Holders will be subject to the prior approval of the TSX.
- (b) No adjustment in the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least one percent

(1%) in the Conversion Price as last adjusted; provided, however, that any adjustments which would be required to be made but for this subsection 8.2(b) shall be carried forward and taken into account in any subsequent adjustment. The Issuer shall adjust for any carry forward amount upon conversion regardless of the one percent (1%) threshold. All calculations under this Article 8 shall be made to the nearest tenth of a cent or to the nearest one ten thousandth of a share, as the case may be, with 0.05 of a cent and 0.00005 of a share, respectively, being rounded upward.

- (c) No adjustment in the Conversion Price shall be required for issuances of Common Shares pursuant to an Issuer plan for reinvestment of dividends or interest. Except as expressly provided in section 8.1, no adjustment in the Conversion Price shall be required for issuances of Common Shares or any securities convertible into, exercisable into or exchangeable for Common Shares, including the issuance of Common Shares or options to purchase Common Shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Issuer, upon the issuance of Common Shares pursuant to any option, warrant or right, or exercise of any exchangeable or convertible security outstanding as of the Issue Date, and repurchases by the Issuer of Common Shares not expressly discussed in this Article 8.
- (d) To the extent that the Debentures become convertible into the right to receive cash, no adjustment need be made thereafter as to the cash.
- (e) For the avoidance of doubt, except as otherwise expressly stated above in this Article 8, no adjustment will be made to the Conversion Price for any Debentures as a result of the issuance of Common Shares (or any securities convertible into, exercisable into or exchangeable for Common Shares) subsequent to the date hereof, whether by way of public offering, private placement or otherwise, irrespective of the price at which such Common Shares or convertible, exercisable or exchangeable securities may be issued.

8.3 Notice of Adjustment

Whenever the Conversion Price is required to be adjusted pursuant to this Indenture, the Issuer shall promptly mail to Holders a notice of the adjustment and file with the Trustee an Officers' Certificate briefly stating the facts requiring the adjustment and the manner of computing it. Failure to mail such notice or any defect therein shall not affect the validity of any such adjustment. Unless and until the Trustee shall receive an Officers' Certificate setting forth an adjustment of the Conversion Price, the Trustee may assume without inquiry that the Conversion Price has not been adjusted and that the last Conversion Price of which it has knowledge remains in effect.

8.4 Notice of Certain Transactions

In the event that there is a dissolution or liquidation of the Issuer, the Issuer shall mail to Holders and file with the Trustee a notice stating the proposed effective date. The Issuer shall mail such notice at least ten (10) days before such proposed effective date. Failure to mail such notice or any defect therein shall not affect the validity of any transaction referred to in this section 8.4.

8.5 Effect of Recapitalization, Reclassification, Consolidation, Merger or Sale.

If any of the following events occurs (each, a “**Business Combination**”):

- (a) any recapitalization, reclassification or change of the Common Shares, other than changes resulting from a subdivision or a combination;
- (b) a consolidation, amalgamation, merger, arrangement or combination involving the Issuer;
- (c) a sale, conveyance or lease to another corporation of all or substantially all of the property and assets of the Issuer, other than one or more of the Issuer’s Subsidiaries; or
- (d) any statutory share exchanges,

in each case as a result of which holders of Common Shares are entitled to receive shares, other securities, other property or assets (including cash or any combination thereof) with respect to or in exchange for Common Shares, the Issuer or the successor or purchasing corporation, as the case may be, shall execute with the Trustee a Supplemental Indenture (which shall comply with applicable Laws as in force at the date of execution of such Supplemental Indenture) providing that the Holders of the Debentures then Outstanding will be entitled thereafter to convert such Debentures into the kind and amount of shares, other securities or other property or assets (including cash or any combination thereof) which they would have owned or been entitled to receive upon such Business Combination had such Debentures been converted into Common Shares immediately prior to such Business Combination. Notwithstanding the foregoing, if Holders would otherwise be entitled to receive, upon conversion of the Debentures, any property (including cash) or securities that would not constitute “prescribed securities” for the purpose of clause 212(1)(b)(vii)(E) of the *Income Tax Act* (Canada) as it applied on December 31, 2007 (referred to herein as “**Ineligible Consideration**”), such Holders shall not be entitled to receive such Ineligible Consideration, but rather will be entitled to receive “prescribed securities” for the purpose of clause 212(1)(b)(vii)(E) of the *Income Tax Act* (Canada) as it applied on December 31, 2007 having a fair market value equal to the fair market value of such Ineligible Consideration. However, the Issuer shall have the right (at the sole option of the Issuer) to satisfy its obligation to deliver such “prescribed securities” by delivering either such Ineligible Consideration or other consideration (“other consideration”) consisting of “prescribed securities” of the Issuer for the purpose of clause 212(1)(b)(vii)(E) of the *Income Tax Act*

(Canada) as it applied on December 31, 2007, provided that such other consideration (i) has a market value on the date of delivery (as conclusively determined by the Board of Directors based on a VWAP formula analogous to the formula for determining Current Market Price) equal to the market value on such date of such Ineligible Consideration, (ii) is Freely Tradable, fully paid and non-assessable and free of any Lien or adverse claim, and (iii) is listed for trading on a Recognized Stock Exchange.

In the event holders of Common Shares have the opportunity to elect the form of consideration to be received in such Business Combination, the Debentures will be convertible into the weighted average of the kind and amount of consideration received by the holders of the Common Shares that affirmatively make such an election. This provision is subject to the notwithstanding clause in the preceding paragraph. The Issuer may not become a party to any such transaction unless its terms are consistent with this section 8.5. Such Supplemental Indenture shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 8. If, in the case of any such Business Combination, the shares, other securities, other property and assets receivable thereupon by a holder of Common Shares includes shares, other securities, other property or assets of a corporation other than the successor or purchasing corporation, as the case may be, in such Business Combination, then such Supplemental Indenture shall also be executed by such other corporation and shall contain such additional provisions to protect the interests of the Holders of the Debentures as the Board of Directors shall reasonably consider necessary by reason of the foregoing, including to the extent practicable the provisions providing for the repurchase rights set forth in Article 4 hereof. Notwithstanding anything contained in this section, and for the avoidance of doubt, this section shall not affect the right of a Holder to convert its Debentures into Common Shares prior to the effective date of the Business Combination in accordance with the terms of this Indenture and the Debentures.

8.6 Voluntary Decrease to Conversion Price

Subject to approval of the TSX, the Issuer may, from time to time, decrease the Conversion Price, to the extent permitted by Law by any amount for any period of time if (i) the period of time is at least twenty (20) days in duration, (ii) its Board of Directors has made a determination that this decrease would be in the Issuer's best interests, and (iii) the Issuer provides fifteen (15) days' prior written notice of any decrease in the Conversion Price to the Trustee and Holders. The Issuer may also make such a decrease to the Conversion Price as the Board of Directors determines would avoid or diminish Canadian federal income tax to holders of Common Shares, and is not otherwise prejudicial to Holders or Beneficial Holders, in connection with a dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for Canadian federal income tax purposes.

8.7 Protection of Trustee

The Trustee shall not at any time be under any duty or responsibility to any Holder 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. The Trustee and shall not be accountable with respect to the validity or value (or the kind or amount) of any Common Shares or of any shares or other securities or other property which may at any time be issued or delivered upon the conversion of any Debenture; and the Trustee, except to the extent that there has been a failure by the Trustee or its employees or agents (mandataries) to act honestly and in good faith or where the Trustee or its employees or agents (mandataries) have acted negligently or in wilful disregard of their obligations hereunder or shall not have complied with Article 14, shall not be responsible for any failure by the Issuer to make any cash payment or to issue, transfer or deliver Common Shares or share certificates upon the surrender of any Debenture for the purpose of conversion, or to comply with any of the covenants contained in this Article 8.

ARTICLE 9 NEGATIVE COVENANTS OF THE ISSUER

9.1 No Continuance

Unless otherwise permitted by this Indenture or permitted by an Extraordinary Resolution which has been obtained prior to such act or acts, the Issuer covenants that it will cause Ashton and SDCI not to continue into any jurisdiction outside Canada (i.e., other than the federal laws of Canada or the laws of any province or territory thereof).

9.2 No Change to SDCI's Business

Unless otherwise permitted by this Indenture or permitted by an Extraordinary Resolution which has been obtained prior to such act or acts, the Issuer covenants that it will cause SDCI not to carry on any business other than the Project and any reasonably related businesses.

9.3 Arm's Length

Unless otherwise permitted by this Indenture or permitted by an Extraordinary Resolution which has been obtained prior to such act or acts, the Issuer covenants that it will not, and will cause Ashton and SDCI not to, enter into any agreement or transaction with any "related parties" (as such term is defined in Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions*) other than on arm's length terms, except for any agreements or transactions that are between or involve any of the Issuer and its wholly-owned direct or indirect Subsidiaries or that are between or involve wholly-owned direct and indirect Subsidiaries of the Issuer.

ARTICLE 10 COVENANTS OF THE ISSUER

10.1 Payment of Principal, Premium and Interest

The Issuer covenants and agrees with the Trustee and for the benefit of the Holders that it will duly and punctually pay the principal of (and premium, if any), the Additional Amounts, if any, and interest on the Debentures in accordance with their terms and this Indenture.

10.2 Corporate Existence; Books of Account

The Issuer covenants and agrees with the Trustee for the benefit of each Holder that it will,:

- (a) and will cause each of SDCI and FCDC to, at all times maintain its corporate existence (except to the extent relating to transactions between and among SDCI and FCDC); and
- (b) and will cause each of its Subsidiaries to, keep or cause to be kept proper books of account in accordance with Canadian GAAP.

10.3 Compliance Certificate

The Issuer shall deliver to the Trustee within ninety (90) days after the end of each Fiscal Year of the Issuer (and at any other reasonable time upon demand by the Trustee) beginning with the Fiscal Year ended April 30, 2014 (to be delivered to the Trustee concurrently with the issuance of the Debentures on July 8, 2014), an Officer's Certificate stating that the Issuer has complied with all requirements of the Issuer contained in this Indenture and stating whether or not a Default or Event of Default has occurred and is continuing. If a Default or Event of Default shall have occurred and is continuing, the certificate shall describe the nature and particulars of the Default or Event of Default and its current status and steps taken or proposed to be taken to eliminate such circumstances and remedy such Default or Event of Default, as the case may be.

10.4 Notice of Default

The Issuer will promptly notify the Trustee upon becoming aware of the occurrence of a Default or Event of Default.

10.5 Securities Laws

The Issuer covenants and agrees with the Trustee for the benefit of the Holders that:

- (a) it will take all reasonable steps and actions and do all such acts and things as may be required to: (i) as long as it meets the applicable minimum distribution requirements, if any, of such institutions, maintain the listing and posting for trading of the Common Shares on a Recognized Stock

Exchange and, similarly, if and as of the time the Debentures may commence trading on the TSX, to maintain the listing and posting for trading of the Debentures on the TSX; (ii) maintain its status as a reporting issuer or equivalent in good standing or equivalent and not in default under the Applicable Securities Legislation in the Provinces of Canada in which the Issuer is currently a reporting issuer or equivalent; and (iii) ensure that the Common Shares to be issued on conversion shall be issued as Freely Tradeable, fully paid and non-assessable Common Shares, and shall be free of any Lien or adverse claim; and

- (b) the Trustee shall have no obligation to verify information relating to the Issuer's compliance with this section 10.5 and may act and rely upon all information provided by the Issuer with respect to such compliance, without independent inquiry.

10.6 Reporting

- (a) The Issuer shall furnish to the Trustee copies of consolidated financial statements, whether annual or quarterly, of the Issuer and any report of the auditors thereon at the same time as such financial statements are filed with the securities regulatory authorities in the Provinces of Canada in which the Issuer is a "reporting issuer" (as such term is defined in such Applicable Securities Legislation) (provided that the filing on the SEDAR website at www.sedar.com of the Issuer's financial statements, whether annual or quarterly and any report of the auditors thereon in accordance with Applicable Securities Legislation shall satisfy the Issuer's obligation to furnish the Trustee with copies of same).
- (b) In the event the Issuer is no longer a "reporting issuer" under Applicable Securities Legislation, the Issuer shall continue to furnish to the Trustee (a) within ninety (90) days after the end of each Fiscal Year, copies of its annual financial statements and related management's discussion and analysis, and (b) within forty-five (45) days after the end of each of the first three fiscal quarters of each Fiscal Year, interim financial statements and related management's discussion and analysis, each prepared in accordance with Canadian GAAP.

10.7 Performance of Covenants by Trustee

If the Issuer fails to perform any of its covenants contained in this Indenture, the Trustee may itself perform any of such covenants capable of being performed by it, but will be under no obligation to do so. All sums expended or advanced by the Trustee for such purpose will be repayable as provided in section 10.8 of the Indenture. No such performance or advance by the Trustee shall relieve the Issuer of any Default hereunder or its continuing obligations hereunder.

10.8 Payment of Trustee's Remuneration

The Issuer will pay on demand the Trustee's reasonable remuneration for its services as Trustee hereunder (including reimbursement for disbursements which include legal services) and will repay to the Trustee on demand all moneys which shall have been paid by the Trustee out of its own funds in and about the execution of the trusts hereby created, from the date of expenditure until repayment, with interest thereon at the rate currently charged by the Trustee to its corporate clients. This section 10.8 shall survive the resignation or removal of the Trustee or the termination of this Agreement. Notwithstanding the foregoing, the Issuer need not pay or reimburse the Trustee for expenses, disbursements or advances if the Trustee incurred such expenses, disbursements or advances as a result of its bad faith or intentional or gross fault or negligence or wilful misconduct.

10.9 Obligations and Taxes

The Issuer will, and will cause Ashton and SDCI to, pay or discharge, or cause to be paid or discharged, before the same will become delinquent all taxes imposed upon it or upon its income or profits or in respect of its business or Property and file all tax returns in respect thereof, provided, however that it will not be required to pay or discharge or to cause to be paid or discharged any such amount so long as the validity or amount thereof is being contested in good faith by appropriate proceedings, to the extent such amount is not (despite being contested) otherwise subject to collection action under applicable tax law, and an appropriate financial reserve in accordance with GAAP.

10.10 Notice of Material Adverse Effect and Litigation

The Issuer will, and will cause Ashton and SDCI to, promptly notify the Trustee (i) of any Material Adverse Effect of which it becomes aware, using reasonable diligence, and (ii) on becoming aware of the occurrence of any litigation, dispute, arbitration or other proceeding the result of which, if determined adversely, (A) would be a judgment or award against the Issuer, Ashton or SDCI in excess of \$25,000,000, or (B) would result in a Material Adverse Effect, and from time to time provide the Trustee with all reasonable information requested by the Trustee concerning the status of any such proceeding.

10.11 Notice of Change of Name

The Issuer will provide the Trustee with 30 days' prior written notice of any change in its name or in the name of Ashton or SDCI.

10.12 Further Instruments and Acts

Upon request of the Trustee, the Issuer will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

ARTICLE 11 EVENTS OF DEFAULT AND REMEDIES

11.1 Events of Default and Enforcement

- (a) If and when any one or more of the following events (herein called an “**Event of Default**”) shall happen with respect to the Debentures, namely:
- (i) a default in payment of any principal amount or any purchase price, or Change of Control Repurchase Price with respect to the Debentures, when the same becomes due and payable;
 - (ii) a default in payment of interest (including, for greater certainty, any Additional Amount) on any Debentures when due and payable and the continuance of such default for three (3) Business Days;
 - (iii) a default in the observance of the covenant contained in subsection 10.5(a) and the continuance of such default for five (5) Business Days;
 - (iv) default in the delivery to any Holder when due of Common Shares and any cash payable upon conversion of the Debentures, which default continues for three (3) Business Days;
 - (v) a default by the Issuer in performing or observing any of the other covenants, agreements or obligations of the Issuer, as described herein, and the continuance of such default for thirty (30) days after written notice to the Issuer by the Trustee or by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Outstanding Debentures requiring the same to be remedied;
 - (vi) the failure to make a Change of Control Issuer Offer within the period and in the manner prescribed in subsection 4.2(a) upon the occurrence of a Change of Control;
 - (vii) a decree, judgement or order of a court of competent jurisdiction is entered adjudging the Issuer or any Material Subsidiary bankrupt or insolvent or approving as properly filed a petition seeking the reorganization, readjustment, arrangement, composition or similar relief in respect of the Issuer or any Material Subsidiary under the *Companies’ Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the *United States Bankruptcy Code* or the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against, or appointing a receiver of, any substantial part of the assets of the Issuer or any Material Subsidiary or ordering the winding up or liquidation of its affairs,

and any such decree or order continues unstayed and in effect for a period of sixty (60) days;

- (viii) the Issuer or any Material Subsidiary ceases or threatens to cease to carry on business generally or admits its inability or fails to pay its debts generally (other than those that are the subject of *bona fide* disputes) as they become due, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under the *Bankruptcy and Insolvency Act* (Canada) or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act* (Canada), the *United States Bankruptcy Code*, the *Winding-up and Restructuring Act* (Canada) or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition;
- (ix) proceedings are commenced for the dissolution, liquidation or voluntary winding up of the Issuer, unless such proceedings are being actively and diligently contested in good faith;
- (x) (A) if the Issuer or any Material Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount on any Specified Senior Indebtedness that is outstanding in an aggregate principal amount of the lesser of (1) the amount that would trigger a "cross-default" event of default under the Senior Loan Agreement, and (2) \$10 million (or, in each case, its equivalent in the relevant currency of payment) beyond any period of grace provided with respect thereto, or (B) if the Issuer or any Material Subsidiary is in default in the performance of or compliance with any term of any evidence of any Specified Senior Indebtedness in an aggregate outstanding principal amount of the lesser of (1) the amount that would trigger a "cross-default" event of default under the Senior Loan Agreement, and (2) \$10 million (or, in each case, its equivalent in the relevant currency of payment) or of any mortgage, hypothec, indenture or other agreement relating thereto or any other condition exists, and in each case as a consequence of such default or condition such Indebtedness has become or has been declared due and payable before its stated maturity or before its regularly schedule dates of payment, or (C) as a consequence of

the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Specified Senior Indebtedness to convert such Indebtedness into equity interests), the Issuer or any Material Subsidiary has become obligated to purchase or repay Indebtedness (including any Specified Senior Indebtedness) before its regular maturity or before its regularly scheduled dates of payment in an aggregate outstanding principal amount of the lesser of (1) the amount that would trigger a “cross-default” event of default under the Senior Loan Agreement, and (2) \$10 million (or, in each case, its equivalent in the relevant currency of payment); and

- (xi) an “Event of Default” (as such term is defined in the Purchase and Sale Agreement) has occurred and is continuing (unless waived), and any applicable grace period under the Purchase and Sale Agreement in relation thereto has expired;

then, and in each and every such case which has happened and is continuing (other than an Event of Default specified in clause (vii) or (viii) above), the Trustee may, in its discretion, and shall, upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Outstanding Debentures at such time (or, if there is a Global Debenture Outstanding, a written request of Holders and/or Participants having received instructions from the Beneficial Holders holding at least twenty-five percent (25%) in aggregate principal amount of the Outstanding Debentures), declare the principal of (and premium, if any) together with accrued interest on all such Debentures to be due and payable immediately, by a Notice in writing to the Issuer (and to the Trustee if given by the Holders), and upon any such declaration such principal amount and premium, if any, together with accrued and unpaid interest thereon, shall become immediately due and payable. If the Trustee fails to notify in writing the Issuer pursuant to the terms hereof, the Holders having provided the written request to the Trustee may do so. If an Event of Default specified in clause (vii) or (viii) occurs and is continuing, then the principal of (and premium, if any) together with accrued interest on all Outstanding Debentures shall become due and payable without any declaration or other act on the part of either the Trustee or any Holder.

11.2 Notice of Event of Default

The Trustee shall give to the Holders within five (5) Business Days after the Trustee becomes aware by way of written Notice of the occurrence of an Event of Default, Notice of every Event of Default so occurring and continuing at the time the Notice is given. When a Notice of the occurrence of an Event of Default is given by the Trustee pursuant to this section 11.2 and the Event of Default is thereafter cured, the Trustee shall give Notice that the Event of Default is no longer outstanding to all Holders to whom Notice of the occurrence of the Event of Default was given within five (5) Business Days after the Trustee becomes aware, by written Notice given by the Issuer to the Trustee, that the Event of Default has been cured and is no longer outstanding.

11.3 Waiver of Acceleration

At any time after a declaration of acceleration with respect to the Debentures has been made pursuant to this Article 11 and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided, the Holders of at least a majority in aggregate principal amount of Outstanding Debentures, by written Notice to the Issuer and the Trustee, may thereupon rescind and annul such declaration and its consequences:

- (a) if the Issuer has paid to or deposited with the Trustee a sum sufficient to pay:
 - (i) all overdue interest on all Debentures;
 - (ii) the principal of (and premium, if any) any of the Debentures which have become due otherwise than by such declaration of acceleration, and interest thereon at the rate or rates prescribed therefor in such Debentures; and
 - (iii) to the extent that payment of such interest is lawful and applicable, interest upon overdue instalments of interest at the rate or rates prescribed therefor in such Debentures;
- (b) all Events of Default with respect to the Debentures, other than the non-payment of the principal of (and premium, if any), and interest on, such Debentures which have become due solely by such declaration of acceleration, have been cured or waived in accordance with the provisions of this Indenture; and
- (c) the rescission would not conflict with any judgement or decree of a court of competent jurisdiction.

11.4 Waiver

- (a) The Holders of at least a majority in aggregate principal amount of the Outstanding Debentures may on behalf of the Holders of all Debentures waive any past default hereunder and its consequences, except a default:
 - (i) in the payment of the principal of (or premium, if any) or interest on any Debentures;
 - (ii) in respect of a covenant or provision hereof that under Article 18 cannot be modified or amended without an Extraordinary Resolution passed by the Holders; or
 - (iii) the uncured failure by the Issuer to deliver Common Shares when so required pursuant to this Indenture.
- (b) Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every

purpose of this Indenture. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

11.5 Other Remedies

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

11.6 Application of Money Collected

Any money collected by the Trustee pursuant to this Article 11 in respect of Debentures shall (subject to any claims having priority under applicable Law and subject to section 2.10 and Article 5) be applied in the following order, at the dates fixed by the Trustee and, in case of the distribution of such money on account of principal of (and premium, if any) or interest, upon presentation of Debentures and the notation thereon of the payment (if only partially paid) and upon surrender thereof (if fully paid):

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

11.7 Control by Holders

- (a) The Holders of at least a majority in aggregate principal amount of the Outstanding Debentures may:
 - (i) direct the time, method and place in the Province of Quebec for conducting any Proceeding for any remedy available to the Trustee or exercising any trust or power conferred on it with respect to the Debentures; and

- (ii) take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of Debentures under any provisions of this Indenture or under applicable Law.
- (b) The Trustee may refuse, however, to follow any direction that conflicts with applicable Law or this Indenture.

11.8 Limitation on Suits

No Holder of any Debenture will have any right to pursue any remedy (including any Proceeding authorized or permitted by this Indenture or pursuant to applicable Law, except for actions for payment of overdue principal, premium, if any, or interest or for the conversion of the Debentures pursuant to Article 6) with respect to this Indenture or the Debentures unless: (i) the Holder gives to the Trustee written notice of a continuing Event of Default; (ii) the Holders of at least twenty-five percent (25%) in aggregate principal amount of the then Outstanding Debentures make a request in writing to the Trustee to pursue the remedy; (iii) such Holder or Holders provide to the Trustee security and indemnity in form satisfactory to the Trustee against any loss, liability or expense; (iv) the Trustee does not comply with the request within thirty (30) days after receipt of such request and indemnity; and (v) during such thirty (30) day period, the Holders of at least a majority in aggregate principal amount of Outstanding Debentures do not give the Trustee a direction inconsistent with the request.

Holders may not use this Indenture or any Proceeding in connection therewith to prejudice the rights of another Holder or to obtain a preference or priority (prior claim) over another Holder.

11.9 Collection Suit by Trustee

If an Event of Default specified in clause (i), (ii), (iii), (iv) or (x) of subsection 11.1(a) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee against the Issuer for the whole amount of principal (and premium, if any) and interest remaining unpaid.

11.10 Trustee May File Proofs of Claim

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

11.11 Remedies Cumulative

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

Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein, except in respect of Events of Default which have been cured and are no longer outstanding. Every right and remedy given by this Article 11 or by Law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

11.12 Judgment Against the Issuer

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

11.13 Rights of Holders to Receive Payment and to Convert

Notwithstanding any other provision of this Indenture, the right of any Holder of a Debenture to receive payment of the principal amount, Change of Control Repurchase Price and interest (including, for greater certainty, any Additional Amount), if any, in respect of the Debentures held by such Holder, on or after the respective due dates expressed in the Debentures and this Indenture (whether upon repurchase or otherwise), and to convert such Debenture in accordance with Article 6, and to bring suit for the enforcement of any such payment on or after such respective due dates or for the right to convert in accordance with Article 6, is, subject to compliance with the provisions of section 11.8, absolute and unconditional and shall not be impaired or affected without the consent of the Holder.

ARTICLE 12 SATISFACTION AND DISCHARGE

12.1 Non-Presentation of Debentures

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

- (a) the Issuer shall thereafter be entitled to pay or deliver to the Trustee and direct the Trustee to set aside;
- (b) in respect of moneys or Common Shares in the hands of the Trustee which may or should be applied to the payment of the Debentures, the Issuer shall thereafter be entitled to direct the Trustee to set aside; or

- (c) if the redemption or repurchase was made pursuant to any Notice given by the Trustee, the Trustee may itself thereafter set aside,

the principal of, premium, if any, and interest on such Holder's Debentures, in trust to be paid to such Holder upon due presentation or surrender of such Debentures in accordance with the provisions of this Indenture; and thereupon the principal of, premium, if any, and interest payable on each Debenture in respect whereof such moneys and, if permitted hereunder, 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 to receive delivery and payment of the moneys or Common Shares, if applicable, so set aside by the Trustee upon due presentation and surrender thereof, subject to the provisions of section 2.15. For greater certainty, the provisions of Article 8 shall not prevent the application of moneys received by the Trustee pursuant to this section 12.1 to the payment of principal, premium, if any, and interest on such Holder's Debentures.

12.2

Discharge

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

ARTICLE 13 COMMON SHARE INTEREST PAYMENT ELECTION

- (a) Provided that no Event of Default has occurred and is continuing and that all necessary regulatory approvals have been obtained (including any required approval of the TSX or any other Recognized Stock Exchange), the Issuer shall have the right, subject to the proviso herein, 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 Trustee no later than the earlier of: (i) the date required by applicable Law or the rules of the TSX or any other Recognized Stock Exchange, and (ii) the day which is fifteen (15) Business Days prior to the Interest Payment Date to which the Common Share Interest Payment Election relates; provided that the right of the Issuer to make a Common Share Interest Payment Election in respect of any Interest Obligation shall not be exercised by the Issuer (A) more than seven (7) times prior to the Maturity Date, and (B) on any two (2) consecutive Interest Payment Dates. Such Common Share Interest Payment Election Notice delivered by the Issuer shall provide that all or a portion of the Interest Obligation may be paid by the

Issuer in Common Shares and, if only a portion of the Interest Obligation is to be paid in Common Shares, the Common Share Interest Payment Election shall state such portion to be paid in Common Shares and such portion to be paid in cash.

- (b) Upon receipt of a Common Share Interest Payment Election Notice, the Trustee shall, in accordance with this Article 13 and such Common Share Interest Payment Election Notice, deliver Common Share Bid Requests to the investment banks, brokers or dealers identified by the Issuer, in its absolute discretion, in the Common Share Interest Payment Election Notice. In connection with the Common Share Interest Payment Election, the Trustee shall have the power to: (i) accept delivery of the Common Shares from the Issuer and process the Common Shares in accordance with the Common Share Interest Payment Election Notice and this Article 13; (ii) accept bids with respect to, and facilitate sales of, such Common Shares, each as the Issuer shall direct in its absolute discretion, through the investment banks, brokers or dealers identified by the Issuer in the Common Share Interest Payment Election Notice; (iii) accept delivery of the proceeds with respect to such sales of Common Shares by the Issuer; (iv) invest the proceeds of such sales in accordance with the provisions of this Article 13; (v) deliver proceeds to Holders sufficient to satisfy the Issuer's Interest Obligations; and (vi) perform any other action necessarily incidental thereto as directed by the Issuer in its absolute discretion. Each Common Share Bid Request shall provide that the acceptance of any bid is conditional on the acceptance of sufficient bids to result in aggregate proceeds from such issuance and sale of Common Shares which, together with the cash payments by the Issuer, if any, equal the amount payable pursuant to the Interest Obligation on the Common Share Delivery Date.
- (c) The Common Share Interest Payment Election Notice shall provide confirmation from the Issuer 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 Issuer, by delivering written notice to the 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 and each related Common Share Bid Request, whereupon the Issuer shall be obligated to pay in cash the amount payable pursuant to 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 12 may be made to one or more Persons whose bids are solicited.
- (e) The amount of cash receivable by a Holder in respect of the Interest Obligation or the entitlement thereto or the timing of payment thereof will not be affected by whether or not the Issuer elects to satisfy the Interest Obligation pursuant to a Common Share Interest Payment Election.
- (f) Provided that the aggregate proceeds of all sales of Common Shares resulting from the acceptance of Common Share Bid Requests, together with the amount of any cash payment by the Issuer, on the Common Share Delivery Date, are equal

to the related Common Share Interest Payment Election Amount in connection with any bids so accepted, the Issuer and the applicable bidders shall, not later than the Common Share Delivery Date, enter into Common Share Purchase Agreements and shall comply with all Applicable Securities Legislation and the rules and regulations of the TSX or any other Recognized Stock Exchange. The Issuer 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 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 Issuer shall, on the Common Share Delivery Date, issue the Common Shares to be sold on such date, deliver an amount in cash equal to the value of any fractional Common Shares and deliver an Officer's 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 Trustee shall assist with the settlement of such sales to such purchasers against payment 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 to receive its portion of the Common Share Interest Payment Election Amount in cash will be to receive same from the Trustee out of the proceeds of such sales of Common Shares plus any amount received by the Trustee from the Issuer attributable to any fractional Common Shares in full satisfaction of the Interest Obligation and the Holder will have no further recourse to the Issuer in respect of the amount payable pursuant to the Interest Obligation.
- (h) The Trustee shall, on the Common Share Delivery Date, use the sale proceeds of the Common Shares (together with any cash received from the Issuer) to purchase, on the direction of the Issuer in writing, Authorized Investments which mature prior to the applicable Interest Payment Date and which the 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 Trustee shall hold such Common Share Proceeds Investment (but not income earned thereon) under its exclusive control in the Property Account for the benefit of the Holders. At least one (1) Business Day prior to the Interest Payment Date, the 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 Trustee shall pay the funds held in the Property Account to the Holders of record on the Interest Record Date of such Interest Payment Date (less any tax required to be withheld, 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 Issuer.

- (i) Neither the making of a Common Share Interest Payment Election nor the consummation of sales of Common Shares on a Common Share Delivery Date shall (i) result in the Holders not being entitled to receive on the applicable Interest Payment Date cash in an aggregate amount equal to the amount payable pursuant to the Interest Obligation on such date or (ii) entitle such Holders to receive any Common Shares in satisfaction of such Interest Obligation.
- (j) No fractional Common Shares will be issued in satisfaction of interest but in lieu thereof the Issuer will satisfy such fractional interest by a cash payment equal to the Current Market Price of such fractional interest (less any tax required to be withheld, if any).

ARTICLE 14 THE TRUSTEE

14.1 Duties of Trustee

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

14.2 Employ Agents

The Trustee may employ (at the expense of the Issuer) and act and rely on the opinion or advice of or information obtained from any Counsel, auditor, valuer, engineer, surveyor, appraiser or other expert, agents (mandataries) and other assistants, whether employed by the Trustee, the Issuer or otherwise and as it may reasonably require for the proper determination and discharge of its duties under this Indenture, and shall not be liable for acting or refusing to act in good faith on any such opinion or advice and shall not be responsible for any bad faith or intentional or gross fault on the part of any such Counsel, auditor, valuer, engineer, surveyor, appraiser or other expert, agent (mandatary) or other assistant, and may pay reasonable remuneration for all services performed for it with respect to this Indenture, and shall be entitled to receive reimbursement for all reasonable disbursements, costs, liabilities and expenses made or incurred by it with respect to this Indenture. All such disbursements, costs, liabilities and expenses in relation to this Indenture and all expenses incidental to the preparation, execution, creation and issuance of the Debentures, whether done or incurred at the request of the Trustee or the Issuer, shall bear interest at the posted annual rate of interest charged by the Trustee from time to time to its corporate

clients from the date which is thirty (30) days following receipt by the Issuer of an invoice from the Trustee with respect to such expenses until the date of reimbursement and shall (together with such interest) be paid by the Issuer immediately upon receipt of such invoice.

14.3 Reliance on Evidence of Compliance

In the exercise of its rights, duties and obligations under this Indenture, the Trustee may, if it is acting reasonably and in good faith, act and rely, as to the truth of the statements and the accuracy of the opinions expressed therein, upon statutory declarations, Opinions of Counsel, reports, directions, orders, certificates and Officer's Certificates required by the Trustee to be furnished to it in the exercise of its rights, duties and obligations under this Indenture, if the Trustee examines such statutory declarations, Opinions of Counsel, reports, directions, orders, certificates or Officer's Certificates and determines that they indicate compliance with the applicable requirements of this Indenture.

14.4 Provision of Evidence of Compliance to Trustee

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

- (a) the certification pursuant to section 2.5 and delivery of Debentures;
- (b) the satisfaction and discharge of this Indenture; or
- (c) the taking of any other action or step to be taken by the Trustee at the request, or on the application, of the Issuer.

14.5 Contents of Evidence of Compliance

Evidence of compliance required by section 14.4 shall consist of:

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

Each Officers' Certificate and Opinion of Counsel with respect to compliance with a condition or covenant provided for in this Indenture shall include:

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

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

14.6 Advice of Experts

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

14.7 Trustee May Deal in Debentures

In its personal capacity or any other capacity, the Trustee, and each Affiliate of the Trustee, may buy, sell, lend upon, become a pledgee of and deal in the Debentures and generally contract and enter into financial transactions with the Issuer and any Affiliate of the Issuer without being liable to account for any profits made thereby.

14.8 Conditions Precedent to Trustee's Obligation to Act

- (a) The Trustee shall not be bound to give any notice, or to do, observe or perform or see to the observance or performance by the Issuer of any of the obligations imposed under the Indenture or to supervise or interfere with any of the activities of the Issuer, or to do or take any act, action or Proceeding by virtue of the powers conferred on it by this Indenture,

unless and until it shall have been required to do so under the terms of this Indenture; nor shall the Trustee be required to take notice of any Default or Event of Default, other than in payment of any moneys required by this Indenture to be paid to the Trustee, unless and until notified in writing of such Default or Event of Default by the Issuer or by any Holder, which notice shall distinctly specify such Default or Event of Default, and in the absence of any such notice the Trustee may conclusively assume that no Default or Event of Default has occurred. Any such notice or requisition shall in no way limit any discretion given to the Trustee in this Indenture to determine whether or not to take action with respect to any Default or Event of Default or with respect to any such requisition.

- (b) The obligation of the Trustee to do any of the actions referred to in subsection 14.8(a), including to commence or to continue any Proceeding or any right of the Trustee or the Holders, shall be conditional upon the Holders furnishing, when required by notice in writing by the Trustee, sufficient funds to commence or continue such action and an indemnity satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges, expenses and liabilities which may result from such action and any loss and damage the Trustee may suffer by reason of such action.

14.9 Trustee Not Required to Give Security

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

14.10 Resignation or Removal of Trustee; Conflict of Interest

- (a) The Trustee represents and warrants to the Issuer that at the time of the execution and delivery of this Indenture no material conflict of interest exists with respect to the Trustee's role as trustee hereunder.
- (b) The Trustee may resign as trustee hereunder by giving not less than sixty (60) days' notice in writing to the Issuer or such shorter notice as the Issuer may accept as sufficient. The Trustee shall resign if a conflict of interest arises with respect to its role as trustee under this Indenture that is sufficient that a reasonable person would question the ability of the Trustee to continue to perform its obligations hereunder free from any suspicion of bias or lack of impartiality (a "**material conflict of interest**") which is not eliminated within ninety (90) days after the Trustee becomes aware of such conflict of interest. Immediately after the Trustee becomes aware that it has a material conflict of interest it shall provide the Issuer with written notice of the nature of that conflict. Upon any such resignation, the Trustee shall be discharged from all further duties and liabilities under this Indenture. None of the validity and enforceability of this Indenture or the Debentures shall be affected in any manner whatsoever by reason only of the existence of a material conflict of interest on the part of the Trustee (whether arising prior to or after the date

of this Indenture). If the Trustee does not comply with this section, any Holder or the Issuer may apply to the Superior Court of Quebec sitting in the judicial district of Montréal for an order that the Trustee be replaced as trustee under this Indenture.

- (c) In the event of the Trustee resigning or being removed by the Holders by Extraordinary Resolution or by the Issuer or being dissolved, becoming insolvent or bankrupt, going into liquidation or otherwise becoming incapable of acting as trustee under this Indenture, the Issuer shall immediately appoint a successor Trustee unless a successor Trustee has already been appointed by the Holders; failing such appointment by the Issuer, the retiring Trustee or any other Holder may apply to the Superior Court of Quebec sitting in the judicial district of Montréal, on such notice as such court may direct, for the appointment of a successor Trustee. The successor Trustee so appointed by the Issuer or by such court shall be subject to removal by the Holders by way of an Act of Holders. Any successor Trustee appointed under any provision of this section shall be a corporation authorized to carry on the business of a trust company in Canada. On any appointment of the successor Trustee, the successor Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named in this Indenture as Trustee. The expenses of all acts, documents and Proceedings required under this section will be paid by the Issuer in the same manner as if the amount thereof were fees payable to the Trustee under this Indenture.
- (d) Any successor Trustee shall, immediately upon appointment, become vested with all the properties, rights, powers and authority of its predecessor in the trusts under this Indenture, with like effect as if originally named as Trustee hereunder. Nevertheless, upon the written request of the successor Trustee or of the Issuer and upon payment of all outstanding fees and expenses, the Trustee ceasing to act shall execute and deliver a document assigning and transferring to such successor Trustee, all the rights, powers and authority of the Trustee so ceasing to act, and shall duly assign, transfer and deliver all property (including money) held by such Trustee to the successor Trustee in its place. Should any deed, conveyance or other document in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers and authority, then any and all such deeds, conveyances and other documents in writing shall, on the request of the successor Trustee, be made, executed, acknowledged and delivered by the Issuer.
- (e) Any corporation into which the Trustee is amalgamated or with which it is consolidated or to which all or substantially all of its corporate trust business is sold or is otherwise transferred or any corporation resulting from any consolidation or amalgamation to which the Trustee is a party shall be a successor Trustee under this Indenture, without the execution of any document or any further act; provided that such successor Trustee is a

corporation qualified to carry on the business of a trust company in Canada and shall not have a material conflict of interest in its role as a fiduciary under this Indenture.

14.11 Authority to Carry on Business; Resignation

The Trustee represents and warrants to the Issuer 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 Canada. If the Trustee ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the Debentures issued hereunder shall not be affected in any manner by reason only of such event but the Trustee shall, within ninety (90) days after ceasing to be authorized to carry on the business of a trust company in Canada, either become so authorized or resign in the manner and with the effect specified in section 14.10.

14.12 Protection of Trustee

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

- (a) the Trustee shall not be liable for or by reason of any statements of fact or recitals in this Indenture or in the Debentures (except as provided in subsection 2.5(c) and sections 14.11 and 14.13 which are being given by the Trustee in its personal capacity) or required to verify the same, but all such statements or recitals are and shall be deemed to be made by the Issuer;
- (b) the Trustee shall not be bound to give to any Person notice of the execution of this Indenture unless and until an Event of Default and a declaration of acceleration has occurred, and the Trustee has determined or become obliged to enforce the same;
- (c) the Trustee shall not incur any liability or be in any way responsible for the consequence of any breach on the part of the Issuer of any of the covenants contained in this Indenture or of any acts of the agents (mandataries) or servants of the Issuer;
- (d) the Issuer indemnifies and saves harmless the Trustee and its officers, directors and employees and agents (mandataries) from and against any and all liabilities, losses, costs, claims, actions, expenses (including legal fees and disbursements on a solicitor and client basis) or demands whatsoever which may be brought against the Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations under this Indenture, including those arising out of or related to actions taken or omitted to be taken by the Trustee contemplated by this Indenture, and including legal fees and disbursements on a full indemnity basis and costs and expenses incurred in connection with the enforcement of this indemnity, which the Trustee may suffer or incur,

whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of its duties as Trustee, save only in the event of the bad faith, negligence, wilful misconduct or fraud of the Trustee. It is understood and agreed that this indemnification shall survive the termination or discharge of this Indenture or the resignation or removal of the Trustee;

- (e) without limiting the generality of subsection 14.12(d), the Issuer will indemnify and hold harmless the Trustee and upon written request reimburse the Trustee for the amount of (i) any taxes levied or imposed and paid by the Trustee as a result of payments made under or with respect to the Debentures, (ii) any liability (including penalties and interest) arising therefrom or with respect thereto paid by the Trustee as a result of payments made under or with respect to the Debentures, (iii) any liability (including penalties and interest) arising from a Common Share Interest Payment Election, and (iv) any taxes levied or imposed and paid by the Trustee with respect to reimbursement under paragraphs (a) and (b) above, but excluding any taxes on the Trustee's net income arising from fees for acting as the trustee hereunder or in respect of the Trustee's capital;
- (f) the Trustee shall not be liable by reason of the statements or implications of fact or law contained in or arising out of anything contained in this Indenture or in the Debentures or be required to verify the same, but all statements or implications shall be deemed to have been made by the Issuer only;
- (g) the Trustee may, in the exercise of all or any of the rights, powers and discretion vested in it under this Indenture, act by the responsible officers of the Trustee; the Trustee may delegate to any Person the performance of any of the authority and powers vested in it by this Indenture, and any delegation may be made upon such terms and conditions and subject to such regulations as the Trustee may think to be in the best interest of the Holders;
- (h) the Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any matter under this Indenture, unless the Trustee shall have received from the Issuer or a Holder written notice stating the matter in respect of which the Trustee should have notice or actual knowledge;
- (i) the Trustee shall not be bound to act in accordance with any direction or request of the Issuer until an executed copy of the document containing the direction or request has been delivered to the Trustee, and the Trustee shall be fully empowered to act and shall be fully protected from all liability in acting upon any document purporting to be a Debenture and believed by the Trustee to be genuine; and

- (j) the Trustee shall not be responsible for any error made or act done by it resulting from reliance upon the signature of any Person on behalf of the Issuer or of any Person on whose signature the Trustee may be called upon to act or refrain from acting under this Indenture.

14.13 Additional Representations and Warranties of Trustee

The Trustee represents and warrants to the Issuer that:

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

14.14 Third Party Interests

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

14.15 Trustee Not Bound to Act

The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole judgment, acting reasonably and in good faith, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Trustee, in its sole judgment, acting reasonably and in good faith, 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 ten (10) days' written notice to the Issuer provided: (i) that the Trustee's written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Trustee's satisfaction within such ten (10) day period, then such resignation shall not be effective.

14.16 Compliance with Privacy Laws

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, the "**Privacy Laws**") applies to obligations and activities under this Indenture. Despite any

other provision of this Indenture, neither the Issuer nor the Trustee shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Issuer shall, prior to transferring or causing to be transferred personal information to the Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with all applicable Privacy Laws. Specifically, the Trustee agrees: (a) to have a designated chief privacy officer; (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (c) to use personal information solely for the purposes of providing its services under or ancillary to this Indenture and not to use it for any other purpose except with the consent of or direction from the Issuer or the individual involved; (d) not to sell or otherwise improperly disclose personal information to any third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

14.17 Protection of Trustee

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

14.18 Force Majeure

Neither party shall be liable to the other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this section 14.18, provided that this section 14.18 shall not apply to excuse the Issuer from making timely payment to any Holder of any cash payments required to be made to such Holder hereunder.

**ARTICLE 15
MEETINGS OF HOLDERS**

15.1 Purposes for Which Meetings May be Called

A meeting of Holders may be called at any time and from time to time pursuant to this Article 15 to make, give or take any Act provided by this Indenture to be made, given or taken by Holders.

15.2 Call, Notice and Place of Meetings

- (a) The Trustee may at any time and from time to time and shall, on receipt of an Issuer Request or a requisition in writing made by the Holders of at least ten percent (10%) in aggregate principal amount of the Outstanding Debentures and upon being indemnified and funded to its reasonable satisfaction by the Issuer or upon being funded and indemnified to its reasonable satisfaction by the Holders making such requisition, as the case may be, against the costs which may be incurred in connection with the calling and holding of such meeting, call a meeting of Holders for any purpose specified in section 15.1, to be held at such time and at such place in the City of Montréal, Province of Quebec, as the Trustee shall determine. Notice of every meeting of Holders, setting forth the time and place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in section 17.2, not less than twenty-one (21) nor more than sixty (60) days prior to the date fixed for the meeting.
- (b) If at any time the Issuer, pursuant to a Board Resolution, or the Holders of at least ten percent (10%) in aggregate principal amount of the Outstanding Debentures shall have requested the Trustee to call a meeting of the Holders for any purpose specified in section 15.1, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication, or mailing, as the case may be, of the notice of such meeting within thirty (30) days after receipt of such request, funding and indemnity or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Issuer or the Holders in the amount above specified, as the case may be, may determine the time and the place in the City of Montréal, Province of Quebec, for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection 15.2(a).

15.3 Proxies

A Holder may be present and vote at any meeting of Holders, and may sign written resolutions and other instruments in writing in lieu of a meeting as contemplated in section 15.8, through an authorized representative. The Issuer with the approval of the Trustee may, from time to time, make and vary regulations as it shall think fit providing for and governing any or all the following matters for the purpose of enabling the Holders to vote at any such meeting by proxy:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any Person signing on behalf of a Holder;
- (b) the deposit of instruments appointing proxies at such place as the Trustee, the Issuer or the Holder convening the meeting, as the case may be, may in the notice convening the meeting, direct and the time and date, if before

the holding of the meeting or any adjournment or postponement 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 communication before the meeting to the Issuer or to the Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

15.4 Persons Entitled to Vote at Meetings

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

15.5 Quorum; Action

- (a) Persons entitled to vote twenty-five percent (25%) in aggregate principal amount of Outstanding Debentures shall constitute a quorum for a meeting of Holders. In the absence of a quorum within thirty (30) minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of Holders, be dissolved. In the absence of a quorum in any other case, the meeting may be adjourned for a period of not less than ten (10) days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, the Holders present or represented at such adjourned meeting shall constitute the quorum and the business for which the meeting was adjourned may be transacted. Notice of the reconvening of any adjourned meeting shall be given as provided in subsection 15.2(a), except that such notice need be given only once not less than five (5) days prior to the date on which the meeting is scheduled to be reconvened.
- (b) Except as limited by section 18.2, any resolution presented to a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted only by the affirmative vote of Holders of a majority in aggregate principal amount of the Debentures present or represented by proxy at such meeting or adjourned meeting; provided, however, that, except as limited by section 18.2, any resolution with respect to any Act that this Indenture expressly provides may be made, given or taken by the Holders of a specified percentage, which is less than a majority in aggregate principal amount of Outstanding Debentures may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid by the affirmative vote of the

Holders of such specified percentage in aggregate principal amount of Outstanding Debentures.

- (c) Any resolution passed or decision taken at any meeting of Holders duly held in accordance with this section 15.5 will be binding on all Holders, whether or not present or represented at the meeting.

15.6 Determination of Voting Rights; Chairman; Conduct and Adjournment of Meetings

- (a) Notwithstanding any other provisions of this Indenture, the Trustee or the Issuer, with the approval of the Trustee, may make and from time to time may vary such reasonable regulations as it may deem advisable for any meeting of Holders in regard to proof of the holding of Debentures and the appointment of proxies and in regard to the appointment and duties of scrutineers of votes, the submission and examination of proxies, certificates and other evidence of the right to vote at and attend the meeting, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted by any such regulations, the holding of Debentures shall be proved in the manner specified in section 1.12 and the appointment of any proxy shall be proved in the manner specified in section 1.12. Such regulations may provide that written instruments appointing proxies, which appear on their face to be valid, may be presumed valid and genuine without the proof specified in section 1.12 or other proof.
- (b) The Trustee shall, by an instrument in writing, appoint a chairman and secretary of the meeting, unless the meeting shall have been called by the Issuer or by Holders as provided in subsection 15.2(b), in which case the Issuer or the Holders calling the meeting, as the case may be, shall in like manner appoint a chairman and secretary.
- (c) At any meeting of Holders, each Holder of a Debenture or proxy shall be entitled to one vote for each one thousand Dollars (\$1,000) principal amount of Debentures held or represented by such Holder; provided, however, that no vote shall be cast or counted at any meeting in respect of any Debenture challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Debenture or proxy.
- (d) Any meeting of Holders duly called pursuant to subsection 15.2(b) at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority of the aggregate principal amount of Outstanding Debentures represented at the meeting and the meeting may be held as so adjourned without further notice.

15.7 Counting Votes and Recording Action of Meetings

The vote upon any resolution submitted to any meeting of Holders shall be by written ballots on which shall be inscribed the signatures of the Holders or of their representatives by proxy and the principal amounts and serial numbers of Outstanding Debentures held or represented by them. The chairman of the meeting shall appoint two scrutineers of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in triplicate of all votes cast at the meeting. The scrutineers may be employees or representatives of the Trustee or an Affiliate thereof. A record, at least in triplicate, of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the scrutineers of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in section 15.2 and, if applicable, section 15.5. Each copy shall be signed and verified by the affidavits of the chairman and secretary of the meeting and one such copy shall be delivered to the Issuer, and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

15.8 Instruments in Writing

All actions which may be taken and all powers which may be exercised by the Holders at a meeting held as hereinbefore in this Article 15 may also be taken and exercised (i) by the Holders of at least a majority in aggregate principal amount of Outstanding Debentures by an instrument in writing signed in one or more counterparts by such Holders or their duly appointed proxies or agents (mandataries) with respect to resolutions which are not Extraordinary Resolutions and (ii) by the Holders of not less than seventy-five percent (75%) in aggregate principal amount of Outstanding Debentures by an instrument in writing signed in one or more counterparts by such Holders or their duly appointed proxies or agents (mandataries) with respect to resolutions which are Extraordinary Resolutions and the expression "Extraordinary Resolution" when used in this Indenture shall include an instrument so signed.

15.9 Holdings by the Issuer Disregarded

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

ARTICLE 16
AMALGAMATION, CONSOLIDATION, CONVEYANCE, TRANSFER OR LEASE

16.1 Amalgamation and Consolidations of Issuer and Conveyances Permitted Subject to Certain Conditions

The Issuer shall not consolidate with or amalgamate into any other corporation or enter into any reorganization or arrangement or effect any conveyance, sale, transfer or lease of all or substantially all of its assets, unless in any such case:

- (a) the Issuer shall be the continuing corporation, or the successor corporation (or the Person that leases or that acquires by conveyance, sale or transfer all or substantially all of the Issuer's assets) (such corporation or Person being referred to as the "**Successor Issuer**") shall be organized and existing under the laws of Canada or of any province thereof and in the case of a Successor Issuer shall expressly assume the due and punctual payment of the principal of, the premium, if any, and interest on all Outstanding Debentures, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture to be performed by the Issuer by Supplemental Indenture satisfactory to the Trustee, executed and delivered to the Trustee by such corporation;
- (b) the Debentures will be valid and binding obligations of the Successor Issuer entitling the Holders thereof, as against the Successor Issuer, to all the rights of Holders under this Indenture;
- (c) the Issuer or such Successor Issuer as the case may be, shall not immediately thereafter be in Default under this Indenture or the Debentures and no event that, after notice or passage time, would become an Event of Default, shall have occurred and be continuing;
- (d) the Successor Issuer will be a reporting issuer or equivalent in good standing or equivalent under Applicable Securities Legislation in the jurisdictions in which such entity is a reporting issuer and shall have securities into which the Debentures may be converted which securities are (i) listed for trading on the TSX or another Recognized Stock Exchange, and (ii) are "prescribed securities" as defined in Regulation 6208 of the *Income Tax Act* (Canada);
- (e) if the Issuer will not be the resulting or Successor Issuer, in the case of a Successor Issuer, the succeeding entity must be a reporting issuer or equivalent in good standing or equivalent under Applicable Securities Legislation in the jurisdiction in which such entity is a reporting issuer, shall have securities into which the Debentures may be converted which securities are listed for trading on the TSX or another Recognized Stock Exchange and the Issuer shall have, at or prior to the effective date of such consolidation, merger or transfer, delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such

consolidation, merger or transfer complies with this section 16.1 and, if a Supplemental Indenture is required in connection with such transaction, such Supplemental Indenture complies with this Article 15, and that all conditions precedent herein provided for and relating to such transaction have been complied with; and

- (f) such transaction shall, in the opinion of the Trustee, acting reasonably (in reliance on the advice of Counsel), be on such terms as to substantially preserve and not materially impair any of the rights and powers of the Trustee or of the Holders hereunder.

16.2 Rights and Duties of Successor Issuer

- (a) In case of any such amalgamation, reorganization, arrangement, conveyance, sale, transfer or lease and upon any such assumption by the Successor Issuer, such Successor Issuer shall agree to be bound by the terms of this Indenture as principal obligor in place and in replacement of the Issuer, with the same effect as if it had been named herein as the Issuer. Such Successor Issuer thereupon may cause to be signed, and may issue either in its own name or in the name of the Issuer, any or all Debentures which theretofore shall not have been signed by the Issuer and delivered to the Trustee. All Debentures so issued shall in all respects have the same legal rank and benefit under this Indenture as Debentures theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Debentures have been issued at the date of the execution hereof.
- (b) In the case of any such amalgamation, reorganization, arrangement, conveyance, sale, transfer or lease, such changes in phraseology and form (but not in substance) may be made in Debentures thereafter to be issued as may be appropriate.

ARTICLE 17 NOTICES

17.1 Notice to Issuer

Any Notice to the Issuer shall be in writing and shall be valid and effective if personally delivered or sent by facsimile transmission (with receipt confirmed) or e-mail to the Issuer, at:

STORNOWAY DIAMOND CORPORATION

1111 St. Charles Street West
Suite 400, West Tower
Longueuil, Quebec J4K 5G4

Attention: Attention: Chief Financial Officer

Facsimile No.: (450) 674-2012

Email: zboldt@stornowaydiamonds.com

and such Notice shall be deemed to have been received by the Issuer, where given by delivery, on the day of delivery, where sent by facsimile transmission (with receipt confirmed) or e-mail, on the day of transmittal of such Notice if sent before 5:00 p.m. (Eastern Time) on a Business Day and on the next succeeding Business Day if not sent before 5:00 p.m. (Eastern Time) on a Business Day. The Issuer may from time to time notify the Trustee of a change in address or facsimile number or e-mail address by Notice given as provided in section 17.3.

17.2 Notice to Holders

- (a) Any Notice to Holders may be effectively given if personally delivered, couriered, sent by facsimile transmission (with receipt confirmed), or mailed, in each case at post office address appearing in the relevant register and such Notice shall be deemed to have been received by a Holder, where given by delivery, on the day of delivery, where sent by facsimile transmission (with receipt confirmed) on the day of transmittal of such Notice if sent before 5:00 p.m. (Eastern Time) on a Business Day, and, where mailed, on the fifth (5th) Business Day following the mailing date.
- (b) If the regular mail service is suspended or for any other reason it shall be impracticable to give Notice to Holders by mail, then such notification to Holders may be given by the publication of the Notice once in a daily newspaper with national circulation in Canada or in any other manner approved by the Trustee, and it shall constitute sufficient Notice to such Holders for every purpose hereunder. In any case where Notice to Holders is given by mail, neither the failure to mail such Notice nor any defect in any Notice so mailed to any particular Holder shall affect the sufficiency of such Notice with respect to other Holders.
- (c) Any Notice sent to the Holders as provided above shall be effective notwithstanding that any such Notice has accidentally or inadvertently not been delivered or mailed to one or more such Holders.

17.3 Notice to Trustee

Any Notice to the Trustee shall be in writing and shall be valid and effective if personally delivered, couriered or sent by facsimile transmission at:

Computershare Trust Company of Canada
1500 University, 7th Floor, Montreal, Quebec, H3A 3S8

Attention: General Manager, Corporate Trust
Facsimile No.: 514-982-7677

and such Notice shall be deemed to have been received by the Trustee, where given by delivery, on the day of delivery or where sent by facsimile transmission (with receipt confirmed), on the day of transmittal of such Notice if sent before 5:00 p.m. (Eastern Time) on a Business Day and on the next succeeding Business Day if not sent before 5:00 p.m. (Eastern Time) on a Business Day. The Trustee may from time to time notify the Issuer of a change in address or facsimile number by Notice given as provided in section 17.1.

ARTICLE 18 AMENDMENTS, SUPPLEMENTS AND WAIVERS

18.1 Without Consent of Holders

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

- (a) evidencing a Successor Issuer and the assumption by that Successor Issuer of the Issuer's obligations under this Indenture and the Debentures;
- (b) adding to the Issuer's covenants for the benefit of the Holders or surrendering any right or power conferred upon the Issuer;
- (c) securing the Issuer's obligations in respect of the Debentures;
- (d) evidencing and providing for the acceptance of the appointment of a successor trustee in accordance with Article 14;
- (e) complying with the requirements of the CBCA applicable to trust indentures;
- (f) curing any ambiguity, omission or inconsistency or correcting or supplementing any defective provision contained in this Indenture; or
- (g) making any other changes to the Indenture that do not adversely affect the interest of the Holders in any material respect.

18.2 With Consent of Holders

- (a) The Issuer and the Trustee may amend or supplement this Indenture or the Debentures with the written consent of the Holders of at least a majority in aggregate principal amount of the Debentures then Outstanding. However, without approval thereof by Extraordinary Resolution, an amendment, supplement or waiver may not:
 - (i) alter the manner of calculation or rate of accrual of interest on the Debentures or change the time of payment;
 - (ii) make the Debentures payable in securities other than that stated in this Indenture or in the Debentures;

- (iii) change the Maturity Date of the Debentures;
- (iv) reduce the principal amount or Change of Control Repurchase Price with respect to the Debentures;
- (v) make any change that adversely affects the rights of Holders to require the Issuer to purchase or repurchase the Debentures at the option of Holders;
- (vi) impair the right to institute suit for the enforcement of any payment with respect to the Debentures or with respect to conversion of the Debentures;
- (vii) change the currency of payment of principal of, or interest on, the Debenture or repurchase or redemption thereof;
- (viii) except as otherwise permitted or contemplated by the provisions of this Indenture concerning specified reclassification or corporate reorganizations, or otherwise pursuant to Article 8, change the Conversion Price or otherwise detrimentally affect the conversion rights of the Holders; or
- (ix) change the provisions in this Indenture that relate to modifying or amending the Indenture.

Notwithstanding the foregoing provisions of this subsection 18.2(a), 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 or the priority of the Senior Creditors.

- (b) After an amendment, supplement or waiver under this section 18.2 becomes effective, the Issuer shall promptly mail to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

18.3 Execution of Supplemental Indentures

In executing, or accepting any supplemental indenture permitted by this Article 18 (a “**Supplemental Indenture**”) or the modifications thereby of the rights, obligations or provisions created by this Indenture, the Trustee shall be entitled to receive, and subject to section 14.1, shall be fully protected in acting and relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture, is not inconsistent herewith, is a valid and binding obligation of the Issuer, enforceable in accordance with its terms, subject to enforceability being limited by bankruptcy, insolvency or other laws affecting the enforcement of creditor’s rights generally

and equitable remedies including the remedies of specific performance and injunction being granted only in the discretion of a court of competent jurisdiction and, in connection with a Supplemental Indenture executed pursuant to this section 18.3, that the Trustee is authorized to execute and deliver such Supplemental Indenture without the consent of the Holders and, in connection with a Supplemental Indenture executed pursuant to section 18.2, that the requisite consents of the Holders have been validly obtained in accordance with section 18.2 hereof. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture that adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

18.4 Effect of Supplemental Indentures

Upon the execution of any Supplemental Indenture under this Article 18, this Indenture shall be modified in accordance therewith, and such Supplemental Indenture shall form a part of this Indenture for all purposes, unless otherwise so specified; and every Holder theretofore or thereafter certified and delivered under this Indenture shall be bound by the Supplemental Indenture.

18.5 Reference in Debentures to Supplemental Indentures

Debentures certified and delivered after the execution of any Supplemental Indenture pursuant to this Article 18 may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Issuer shall so determine, new Debentures so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such Supplemental Indenture may be prepared and executed by the Issuer and certified and delivered by the Trustee in exchange for Outstanding Debentures upon surrender for cancellation of such Outstanding Debentures.

18.6 Prior Approval of any Recognized Stock Exchange

Notwithstanding anything to the contrary in this Indenture, no supplement or amendment to the terms of the Debentures or to this Indenture may be made without the prior consent of any Recognized Stock Exchange on which the Common Shares are then listed, if such consent is required by the rules and requirements of any such Recognized Stock Exchange.

ARTICLE 19 MISCELLANEOUS PROVISIONS

19.1 Counterparts

This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of which shall together constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear a date as of the date hereof.

[The remainder of this page was left intentionally blank]

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

**STORNOWAY DIAMOND
CORPORATION**

By: *(signed) Zara Boldt*

Name: Zara Boldt

Title: Vice President, Finance and
Chief Financial Officer

**COMPUTERSHARE TRUST COMPANY
OF CANADA**

By: *(signed) Benjamin van de Werve*

Name: Benjamin van de Werve

Title: Corporate Trust Officer

By: *(signed) Alessandra Pansera*

Name : Alessandra Pansera

Title : Corporate Trust Officer

SCHEDULE 2.2

FORM OF DEBENTURE

[STORNOWAY DIAMOND CORPORATION LOGO]

No. *SAMPLE* ONLY

CUSIP 86222QAA1

STORNOWAY DIAMOND CORPORATION

(A corporation continued under the federal laws of Canada)

6.25% Convertible Unsecured Debenture Due July 8, 2021

Date of Initial Issue: July 8, 2014

Maturity Date: July 8, 2021

Registered Holder: <*>

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE NOVEMBER 9, 2014.

[For the purposes of a Global Debenture only:

“UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF CDS CLEARING AND DEPOSITORY SERVICES INC. (“CDS”) TO STORNOWAY DIAMOND CORPORATION (THE “ISSUER”) 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 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.”]

STORNOWAY DIAMOND CORPORATION (the “**Issuer**”), for value received, hereby acknowledges itself indebted and promises to pay to the order of the registered holder on July 8, 2021 (the “**Maturity Date**”), or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture hereinafter mentioned, the principal sum of:

[insert amount]

in U.S. Dollars, on presentation and surrender of this Debenture at the principal office of the

Trustee (defined below) in the manner specified in the Indenture (defined below), in the City of Montréal, Province of Québec, and to pay interest on the principal amount hereof at the rate of 6.25% *per annum* from the Issue Date or from the last Interest Payment Date on which interest shall have been paid or made available for payment on the Debentures then Outstanding, whichever shall be later, at the option of the Issuer, in equal semi-annual instalments in arrears on the last day of June and December in each year (each such date an “**Interest Payment Date**”), commencing on December 31, 2014, with overdue interest, if any, at the same rate after as well as before maturity and after as well as before maturity, default and judgment. The interest due on the first Interest Payment Date will include interest from and including the Issue Date up to, but excluding the first Interest Payment Date and shall be an amount equal to \$30.14 for each \$1,000 principal amount of Debentures. In addition, the interest due on the last Interest Payment Date (assuming such last Interest Payment Date occurs on the Maturity Date) will include interest from and including December 31, 2020 up to but excluding the Maturity Date and shall be an amount equal to \$32.36 for each \$1,000 principal amount of Debentures.

As interest on this Debenture becomes due, the Issuer (subject to early repurchase or conversion pursuant to the terms of the Indenture (as defined below)) shall (a) deliver to the office of the Trustee at the Corporate Trust Office, a certified cheque for such payment, or (b) make an electronic funds transfer to an account designated by the Trustee for such payment, in each case to enable the Trustee to forward such payment to the Holders. The Issuer may elect on certain non-consecutive Interest Payment Dates to satisfy its obligation to pay all or part of the interest due on this Debenture by delivering Common Shares to the Trustee, for sale, in accordance with the Indenture, in which event Holders will be entitled to receive a cash payment equal to the interest payable from and out of the proceeds of the sale of such Common Shares.

This Debenture is one of the 6.25% Convertible Unsecured Debentures due July 8, 2021 (the “**Debentures**”) in the aggregate principal amount of up to US\$81,257,000 in U.S. Dollars created and issued under a Trust Indenture (the “**Indenture**”) dated as of July 8, 2014 made between the Issuer and Computershare Trust Company of Canada, as trustee (the “**Trustee**”). Reference is hereby made to the Indenture for a description of the rights of the Holders of the Debentures, the Issuer and the Trustee and of the terms and conditions upon which the Debentures are issued and held, all to the same effect as if the provisions of the Indenture were herein set forth, to all of which provisions the Holder of this Debenture, by acceptance hereof, agrees. **To the extent that the terms and conditions stated in this Debenture conflict with the terms and conditions of the Indenture, the latter shall prevail.** All capitalized terms used herein have the meaning ascribed thereto in the Indenture unless otherwise indicated.

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

This Debenture and all other Debentures certified and issued under the Indenture rank *pari passu* with one another, in accordance to their tenor without discrimination, preference or priority. The Debentures shall be equal in right of payment with all other present and future subordinated Indebtedness of the Issuer (except such Indebtedness that is specifically subordinated to the Debentures). The Indenture contains restrictions on the Issuer’s ability to incur Indebtedness or

incur Liens.

Each US\$1,000 principal amount of Debentures is convertible at any time prior to 5:00 p.m. (Eastern Time) on the earlier of:

- (i) the Business Day immediately preceding the Redemption Date, and
- (ii) the Maturity Date (the “**Permitted Conversion Period**”).

Each Holder shall have the right at any time during the Permitted Conversion Period at its option to convert each \$1,000 principal amount of its Debentures into Common Shares at the Conversion Price in effect at such time.

No fractional Common Shares will be delivered to the Holders upon conversion, but in lieu thereof, if such a fraction shall become owing, the Issuer will make an equivalent cash payment. The accrued and unpaid interest on any Debentures so converted shall be paid in cash.

Upon the giving of notice by the Trustee of the occurrence of an Event of Default in accordance with the Indenture and a declaration by the Trustee that the Debentures are due, the Debentures will become immediately due and payable, subject to the provisions for subordination.

Upon the occurrence of a Change of Control, the Issuer will be required, not more than thirty (30) days after the Effective Date, to make an offer to, at the Holder’s election (i) repurchase for cash all or any portion of the Debentures then Outstanding at the Change of Control Repurchase Price, or (ii) convert the Debentures of such Holder at the Change of Control Conversion Price, by notice to the Holders thereof and the Trustee. The repurchase price payable to Holders shall be equal to one hundred percent (100%) of the principal amount thereof, and for Holders electing conversion, the Change of Control Conversion Price is as set out in the Indenture, in either case plus accrued and unpaid interest thereon.

At any time following July 8, 2017, and from time to time thereafter to and including the Maturity Date, the Issuer may at its option redeem all or any part of the Debentures on not less than thirty (30) and not more than sixty (60) days’ prior notice to the Holders for cash at a redemption price equal to one hundred percent (100%) of the principal amount of the Debentures to be redeemed, plus accrued and unpaid interest thereon, if any, up to but excluding the Redemption Date; provided that such redemption shall only be permitted if the VWAP per Common Share for the twenty (20) consecutive Trading Days ending on the Trading Day prior to the date the Redemption Notice given by the Issuer to the Trustee and the Holders, is not less than one hundred and thirty-five percent (135%) of the applicable Conversion Price.

Any payments made by or on behalf of the Issuer under or with respect to the Debentures will be made free and clear of and without withholding or deduction for or on account of any Canadian Taxes, unless the Issuer or any other payor is required to withhold or deduct Canadian Taxes by applicable Law or by the interpretation or administration thereof by the Relevant Taxing Authority. If the Issuer or any other payor of any amount under or in respect to the Debentures (including any amount paid in respect of proceeds of disposition of the Debentures to a Holder) is so required to withhold or deduct any amount for or on account of Canadian Taxes from any

payment made under or with respect to the Debentures, the Trustee will make such withholding or deduction and will remit the full amount withheld or deducted to the Relevant Taxing Authority as and when required by applicable Law, and the Issuer will pay to the Trustee, or in respect to any amount paid by any payor other than the Issuer of any amount under or in respect to the Debentures (including any amount paid in respect of proceeds of disposition of the Debentures to a Holder), will pay to each Holder such Additional Amounts as may be necessary so that the net amount received by each Holder and Beneficial Holder (including Additional Amounts) after such withholding or deduction will not be less than the amount such Holder or Beneficial Holder would have received if such Canadian Taxes had not been withheld or deducted; provided, however, that no Additional Amounts will be payable with respect to any Canadian Taxes that are not Indemnified Taxes.

The Indenture contains provisions for the holding of meetings of Holders and rendering certain resolutions passed at such meetings by, or by instruments in writing signed by, the Holders of the majority in aggregate principal amount of the Debentures Outstanding binding upon all Holders, subject to the provisions of the Indenture.

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

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

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

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

IN WITNESS WHEREOF the Issuer has caused this Debenture to be signed by its authorized signing officers.

DATED as of the 8 day of July, 2014.

**STORNOWAY DIAMOND
CORPORATION**

Per: _____

Per: _____

TRUSTEE'S CERTIFICATE

This Debenture is one of the 6.25% Convertible Unsecured Debentures due July 8, 2021 referred to in the within-mentioned Indenture.

**Computershare Trust Company of Canada,
as Trustee**

Per: _____
Authorized Signing Officer

Date of Certification: _____

SCHEDULE “A”

[For the purposes of a Global Debenture only:]

TO THE GLOBAL DEBENTURE No. <*>

6.25% Convertible Unsecured Debentures due July 8, 2021

CUSIP: 86222QAA1

Principal Amount: US\$81,257,000

Authorization:

COMPUTERSHARE TRUST COMPANY OF CANADA, TRUSTEE

Per: _____
Authorized Signing Officer

The following grid reflects the principal amount outstanding on the attached 6.25% Convertible Unsecured Debentures due July 8, 2021 (the “**Debentures**”) and shall be adjusted at such time as the Debentures are converted or repurchased in accordance with the terms thereof. In no event shall the outstanding principal amount hereunder exceed US\$81,257,000.

<u>Date</u>	<u>Amount of Increase</u>	<u>Amount of Decrease</u>	<u>New Principal Amount</u>	<u>Maturity Date</u>	<u>Authorization</u>

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto [●], whose address and social insurance number, if applicable, are set forth below, this Debenture (or \$_____ principal amount hereof*) of **STORNOWAY DIAMOND CORPORATION** (the “**Issuer**”) standing in the name(s) of the undersigned in the register maintained by the registrar appointed by the Issuer with respect to such Debenture and does hereby irrevocably authorize and direct the Trustee to transfer such Debenture in such register, with full power of substitution in the premises.

Dated: _____

Address of Transferee: _____

(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: _____

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

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

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

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

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

The registered Holder of this Debenture is responsible for the payment of any documentary,

stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.

Signature of guarantor:

Authorized Officer

Signature of transferring registered Holder

Name of Institution

SCHEDULE 4.9

FORM OF REDEMPTION NOTICE

STORNOWAY DIAMOND CORPORATION

CUSIP 86222QAA1

6.25% CONVERTIBLE UNSECURED DEBENTURES

DUE July 8, 2021

REDEMPTION NOTICE

To: Holders of 6.25% Convertible Unsecured Debentures due July 8, 2021 (the “**Debentures**”) of **STORNOWAY DIAMOND CORPORATION** (the “**Issuer**”)

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

Notice is hereby given pursuant to section 4.9 of the Indenture dated as of July 8, 2014 (the “**Indenture**”) made between the Issuer and Computershare Trust Company of Canada, as trustee (the “**Trustee**”), that US\$<*> principal amount of Debentures Outstanding will be redeemed as of <*> (the “**Redemption Date**”), upon payment of a redemption amount equal to the principal amount being equal to the aggregate of (i) US\$1,000 for each US\$1,000 principal amount of Debentures and (ii) all accrued and unpaid interest thereon to but excluding the Redemption Date (collectively, the “**Redemption Amount**”).

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

Computershare Trust Company of Canada
1500 University, 7th Floor, Montreal, Quebec, H3A 3S8

Attention: General Manager, Corporate Trust
Facsimile No.: 514-982-7677

The interest upon the principal amount of Debentures presented for redemption shall cease to be payable from and after the Redemption Date, unless payment of the Redemption Amount shall not be made on presentation for surrender of such Debentures at the above-mentioned corporate trust office on or after the Redemption Date.

Holders are reminded that they have the right to convert their Debentures pursuant to Article 6 of the Indenture by duly completing the Conversion Notice and delivering same at the place of business of the Trustee indicated above prior to the close of business on the seventh (7th)

Business Day immediately preceding the Redemption Date.

SCHEDULE 6.1(b)

FORM OF CONVERSION NOTICE

TO: COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE

Computershare Trust Company of Canada
1500 University, 7th Floor, Montreal, Quebec, H3A 3S8

Attention: General Manager, Corporate Trust

Facsimile No.: 514-982-7677

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

Notice is hereby given pursuant to section 6.1 of the Indenture dated as of July 8, 2014 (the “**Indenture**”) made between the Issuer and Computershare Trust Company of Canada, as trustee (the “**Trustee**”) that the undersigned registered holder of 6.25% Convertible Unsecured Debentures due July 8, 2021 bearing Certificate No. <*> irrevocably elects to convert \$_____ principal amount of such Debentures to Common Shares on the date of conversion specified below, in accordance with the terms of the Indenture referred to in such Debenture and tenders herewith the Debenture, and directs that the Common Shares of the Issuer issuable and deliverable upon such conversion be issued and delivered to the Person indicated below. (If Common Shares are to be issued in the name of a Person other than the Holder, all requisite transfer taxes must be tendered by the undersigned.)

Dated: _____

(Signature of Registered Holder)

Date of conversion: _____(which date shall fall within a Permitted Conversion Period).

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

Principal amount to be converted US\$_____ (must be US\$1,000 or integral multiples thereof)

(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: _____

Note:

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

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

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

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

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