UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): July 12, 2022

Tilray Brands, Inc.

(Exact name of Registrant as Specified in Its Charter)

Delaware	**001-38594**	**82-4310622**
(State or Other Jurisdiction of Incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**
265 Talbot Street West, Leamington, Ontario, Canada		**N8H 4H3**
(Address of Principal Executive Offices)		**(Zip Code)**

Registrant's Telephone Number, Including Area Code: (844) 845-7291
n/a
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class 2 Common Stock, $0.0001 par value per share	**TLRY**	**The Nasdaq Global Select Market**

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Introductory Note

As previously disclosed in the Current Reports on Form 8-K filed by Tilray Brands, Inc. (the "Company" or "Tilray") with the Securities and Exchange Commission (the "SEC") on April 12, 2022 (the "Prior April Report"), and on June 14, 2022 (together with the Prior April Report, the "Prior Reports"), the Company entered into an assignment and assumption agreement on April 11, 2022, which was amended and restated on June 14, 2022 (as so amended and restated, the "Assignment Agreement"), pursuant to which, among other things, Tilray agreed to acquire from HT Investments MA LLC ("HTI") all of the outstanding principal and accrued and unpaid interest under a secured convertible note (as amended and restated pursuant to the terms thereof, the "HEXO Note") issued by HEXO Corp. ("HEXO"). In addition, as previously disclosed in the Prior Reports, in connection with the Assignment Agreement, on April 11, 2022, each of Tilray, HEXO and HTI entered into a transaction agreement, as amended on June 14, 2022 (as so amended, the "Transaction Agreement"), setting forth the terms and conditions for the amendment and restatement of the HEXO Note and certain other covenants and representations of the parties. The transactions contemplated by the Assignment Agreement and the Transaction Agreement (collectively, the "Transaction") were completed on July 12, 2022 (the "Closing Date").

Pursuant to the terms of the Assignment Agreement, Tilray acquired the HEXO Note for a total purchase price equal to $154,940,400, representing the outstanding principal balance under the HEXO Note as of the Closing Date (after giving effect to various optional redemption payments and a partial conversion elected by HTI under the terms of the HEXO Note that occurred since the original issuance thereof), less a purchase price discount equal to 10.8% of such outstanding principal balance. The purchase price was satisfied by Tilray to HTI in the form of a newly-issued $50 million convertible promissory note (the "Tilray Convertible Note") and the balance in 33,314,412 shares of Tilray's Class 2 common stock, par value $0.0001 (the "Common Stock"). The portion of the purchase price that was paid in shares of Common Stock (the "Consideration Shares") is subject to a post-closing adjustment, such that if the purchase price (less any amounts satisfied or to be satisfied by the Tilray Convertible Note) divided by the daily volume weighted average price (the "VWAP") of Common Stock for the 44-trading day period following the Closing Date is greater than the number of Consideration Shares issued to HTI at the closing, then Tilray is required to pay to HTI, in cash or additional shares, at Tilray's option (subject to certain conditions and limitations), an amount equal to such difference multiplied by the VWAP.

The direct offering and sale to HTI of (a) the Tilray Convertible Note and (b) the aggregate number shares of Common Stock issuable (i) upon conversion or repayment of the Tilray Convertible Note and (ii) as Consideration Shares pursuant to the terms of the Assignment Agreement was registered pursuant to the Company's registration statement on Form S-3 (File No. 333-233703), including the prospectus contained therein, as well as a prospectus supplement filed by Tilray with the SEC in connection with the offering.

Item 1.01 Entry into a Material Definitive Agreement

Tilray Convertible Note

Pursuant to the terms of the Assignment Agreement, on the Closing Date, as consideration for the HEXO Note, Tilray issued to HTI the Tilray Convertible Note. The Tilray Convertible Note accrues interest on the unpaid principal balance at a rate of 4.0% per annum, matures on September 1, 2023, unless earlier converted or repurchased, and is convertible into shares of Common Stock at the option of the holder thereof in accordance with the terms set forth and more particularly described below. Interest is payable quarterly in cash or, if unpaid and accrued upon conversion or maturity, in cash or shares of Common Stock, at the Company's option.

The Tilray Convertible Note is a general unsecured obligation of the Company and:

- ranks equally in right of payment with all of Tilray's future unsecured indebtedness;
- is senior in right of payment to any of Tilray's future indebtedness that is expressly subordinated to the Tilray Convertible Note;
- is effectively junior in right of payment to any of Tilray's secured indebtedness to the extent of the value of the assets securing such indebtedness; and
- is structurally junior to all indebtedness and other liabilities (including trade payables) of Tilray's current or future subsidiaries.

The holder of the Tilray Convertible Note may convert the note, in whole or in part, at any time prior to 5:00 p.m. on the second trading day immediately preceding the maturity date, into shares of Common Stock at a conversion price equal to 125% of the closing sale price as of the Closing Date, as adjusted in accordance with the terms of the Tilray Convertible Note, in amount not to exceed 20,000,000 shares of Common Stock in the aggregate (the "Conversion Cap"). In no event will the holder of the Tilray Convertible Note be allowed to effect a conversion of the note if such conversion, along with all other shares of Common Stock beneficially owned by the holder and its affiliates, would exceed 9.99% of the outstanding shares of Common Stock (the "Beneficial Ownership Limitation," and together with the Conversion Cap, the "Share Issuance Limitations"). In the event that the Company is prohibited from issuing any shares of Common Stock under the Tilray Convertible Note as a result of the Conversion Cap, the Company will pay cash in lieu of any shares that would otherwise be deliverable in excess of the Conversion Cap.

The conversion price or rate of the Tilray Convertible Note is subject to adjustment upon the occurrence of certain events, as specified in Section 9(d) of the Tilray Convertible Note, including:

- the issuance of shares of Common Stock as a dividend on the Common Stock;
- in the event of any stock split, reverse stock split, recapitalization, reorganization or similar transaction; and
- the distribution or dividend to all holders of Common Stock of (i) shares of Tilray capital stock, other than Common Stock, (ii) cash dividends or distributions paid from the Company's retained earnings or (iii) subscription rights or warrants entitling such holders for a period not exceeding 60 days to subscribe for or purchase shares of Common Stock at a price per share less than the arithmetic average trading price of the Common Stock for the 10 consecutive trading day period ending on and including the trading day immediately preceding the announcement of such distribution.

The Company is not permitted to redeem or repay the Tilray Convertible Note prior to the maturity date without the prior written consent of the holder. At maturity, subject to the satisfaction of certain equity conditions (described below and more particularly in the Tilray Convertible Note), the Company may redeem the Tilray Convertible Note in whole or in part (i) in cash or (ii) in shares of Common Stock at a redemption price per share equal the daily VWAP of the Common Stock on the trading day immediately preceding the maturity date. The Company is required to deliver to the holder of the Tilray Convertible Note a notice on the 60th calendar day prior to the maturity date setting forth whether the Company will pay all or any portion of the redemption amount in cash or shares of Common Stock, and what portion, if any, of such redemption amount will be paid in shares of Common Stock and what portion will be paid in cash.

The Company's right to make payment in shares of Common Stock is dependent upon its satisfaction of certain customary equity conditions. Among other things, these equity conditions include Tilray's continued listing on The Nasdaq Global Market or another permitted exchange and Tilray stock maintaining certain minimum average prices and trading volumes during the applicable measurement period.

In addition to the payment of the redemption amount at maturity, the Company obligated to make an additional payment with respect to the Tilray Convertible Note (the "Maturity Top-Up Payment"), if, after 20 trading days following the maturity date (the "Maturity Top-Up Date"), the number of shares (the "Maturity Top-Up Measurement Amount") equal to (a) the quotient of (i) the redemption amount (less any amounts satisfied in cash) divided by (ii) the per-share price (the "Maturity Top-Up Price") equal to the arithmetic average of the VWAP of the Common Stock for the 20 consecutive trading day period ending on and including the trading day immediately preceding such Maturity Top-Up Date is greater than (b) the number of shares of Common Stock issued as repayment for the outstanding obligations under the Tilray Convertible Note at the maturity date (the "Maturity Shares," and the difference between (A) the Maturity Top-Up Measurement Amount and (B) the Maturity Shares being the "Maturity Top-Up Difference").

The Maturity Top-Up Payment is payable in cash or, at the Company's option, subject to the satisfaction of certain equity conditions and subject to the Share Issuance Limitations, in shares of Common Stock. The Company is required to deliver to the holder of the Tilray Convertible Note a notice after the close of business on the trading day immediately prior to the Maturity Top-Up Date setting forth whether the Company will pay all or any portion of the applicable Maturity Top-Up Payment in cash or shares of Common Stock, and what portion, if any, of such Maturity Top-Up Payment will be paid in shares of Common Stock and what portion will be paid in cash.

If the Company elects to pay all or any portion of the Maturity Top-Up Payment in cash, on the applicable Maturity Top-Up Date, the Company must pay to the holder of the Tilray Convertible Note an amount equal to the product of (i) the Maturity Top-Up Difference and (ii) the Maturity Top-Up Price.

If the Company elects to pay all or any portion of the Maturity Top-Up Payment in shares of Common Stock, on the applicable Maturity Top-Up Date, the Company must deliver to the holder of the Tilray Convertible Note a number of shares of Common Stock (the "Maturity Top-Up Shares") equal to the Maturity Top-Up Difference, subject to the Share Issuance Limitations.

The Tilray Convertible Note contains standard and customary events of default including but not limited to: (i) failure to provide shares of Common Stock upon conversion of the Tilray Convertible Note; (ii) failure to make payments when due under the Tilray Convertible Note; and (iii) bankruptcy or insolvency of the Company. If an event of default on the Tilray Convertible Note occurs, the face value of the Tilray Convertible Note, plus any accrued and unpaid interest and late payments, may become immediately due and payable.

Pursuant to the terms of the Tilray Convertible Note, the Company is prohibited from entering into specified transactions involving a change of control, unless the successor entity assumes in writing all of the Company's obligations under the Tilray Convertible Note under a written agreement. In the event of a transaction involving a change of control at any time prior to the maturity date, the holder of the Tilray Convertible Note will have the right to require us to immediately redeem and repay all or any portion of its Tilray Convertible Note in cash at a price equal to 105% of the then-outstanding principal amount of the Tilray Convertible Note, plus any accrued and unpaid interest and late payments.

HEXO Note

Immediately prior to the closing of the Transaction, on July 12, 2022, the HEXO Note was amended and restated to reflect, among other things, a maturity date of May 1, 2026, and an initial conversion price of CAN$0.40 per common share, no par value, of HEXO (collectively, the "HEXO Common Shares"). The HEXO Note bears interest at a rate of 5.0% per annum, calculated daily, which is payable to Tilray on a semi-annual basis. Interest payments made under the HEXO Note will be made in the form of cash until July 12, 2023. Thereafter, in the event that, on any given interest payment date, HEXO is not in compliance with its minimum liquidity covenant of CAD$70 million, HEXO has the right to add to the then-outstanding principal balance of the note the amount of such interest then due and payable as of such interest payment date.

Subject to certain limitations and adjustments as more particularly described therein, the HEXO Note is convertible into HEXO Common Shares at Tilray's option at any time prior to 5:00 p.m. (Toronto time) on the second scheduled trading day prior to the maturity date, at a conversion price per HEXO Common Share equal to (a) $1,000 divided by (b) the number of HEXO Common Shares equal to (i) $1,000 divided by (ii) the US dollar equivalent of CAD$0.40, as determined the day before execution, per $1,000 outstanding principal amount under the HEXO Note (including all capitalized interest thereon).

Pursuant to the terms of a registration rights agreement entered into between the parties on April 11, 2022, HEXO also provided Tilray with customary registration rights in respect of the HEXO Common Shares into which the HEXO Note is convertible. In addition, under the terms of the HEXO Note, Tilray received "top-up" and preemptive rights enabling it to maintain its percentage ownership in HEXO (on an "as-converted" basis) in the event that HEXO issues equity or debt securities following the Closing Date.

Provided no default or event of default is then-continuing under the HEXO Note, HEXO is entitled to a right of first refusal to repurchase all or any portion of the HEXO Note that Tilray otherwise proposes to transfer or otherwise dispose of to a non-affiliated third party.

The HEXO Note is also subject to the terms of an indenture dated May 27, 2021 (the "Indenture"), between HEXO and TMI Trust Company, as the successor to GLAS Trust Company LLC, in its capacity as trustee thereunder.

Pursuant to the Transaction Agreement, on the Closing Date, Tilray and HEXO entered into various commercial transaction agreements, including (i) an advisory services agreement regarding Tilray's provision of advisory services to HEXO in exchange for an $18 million annual advisory fee payable to Tilray; (ii) a co-manufacturing agreement providing for third-party manufacturing services between the parties and setting forth the terms of Tilray's international bulk supply to HEXO; and (iii) a procurement and cost savings agreement for shared savings related to specified optimization activities, procurement, and other similar cost savings realized by the parties as a result of the foregoing commercial arrangements.

In addition, as previously disclosed in the Prior Reports, for so long as any amounts remain outstanding under the HEXO Note or HEXO is a "reporting issuer" within the meaning of the Canadian securities laws, Tilray is entitled, under the terms of the Transaction Agreement, to appoint two of HEXO's board members and one observer in respect of all meetings, actions and activities of the HEXO board of directors. Denise Faltischek, the Company's Chief Strategy Officer and Head of International, and Roger Savell, the Company's Chief Administrative Officer, were designated as Tilray's initial appointees, and effective as of the Closing Date, have been appointed serve as directors on HEXO's board of directors.

The foregoing summary descriptions of the Transaction Agreement, the Assignment Agreement, the Tilray Convertible Note, and the HEXO Note do not purport to be complete and are qualified in their entirety by reference to the Transaction Agreement, the Assignment Agreement, the Tilray Convertible Note, the HEXO Note, and the Indenture, copies of which are filed as Exhibits 10.1 through Exhibit 10.7 hereto and incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The terms and conditions of the Tilray Convertible Note described in Item 1.01 of this Current Report on Form 8-K are incorporated by reference in this Item 2.03.

Item 3.03 Material Modifications to Rights of Security Holders.

Pursuant to the terms of the Tilray Convertible Note, the Company is subject to certain restrictions on its ability to, without the prior written consent of HTI, declare or pay any dividend or make any other payments or distributions on account of any capital stock of the Company. The information disclosed under Item 1.01 of this Current Report on Form 8-K regarding such restrictions is also responsive to this Item 3.03 and hereby incorporated by reference into this Item 3.03.

Item 8.01 Other Events.

The description contained under the Introductory Note of this Current Report on Form 8-K is incorporated by reference into this Item 8.01.

On July 12, 2022, the Company issued a press release announcing the closing of the Transaction. A copy of this press release is attached hereto as Exhibit 99.1 and incorporated herein by reference.

Immediately prior to the closing of the Transaction on July 12, 2022, the Company, HTI, and HEXO entered into an amending agreement to the Assignment Agreement, which, among other things, modifies the scope of certain representations made by HTI under the Assignment Agreement. A copy of the amending agreement is attached hereto as Exhibit 10.4 and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
10.1	Transaction Agreement, dated as of April 11, 2022, by and among the Company, HTI and HEXO (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on April 12, 2022)†
10.2	Amending Agreement to Transaction Agreement, dated as of June 14, 2022, by and among the Company, HTI and HEXO (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on June 14, 2022)
10.3	Amended and Restated Assignment and Assumption Agreement, dated as of June 14, 2022, by and among the Company, HTI and HEXO (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on June 14, 2022)
10.4	Amending Agreement to Amended and Restated Assignment and Assumption Agreement dated as of July 12, 2022, by and among the Company, HTI and HEXO
10.5	Convertible Promissory Note due September 1, 2023, dated July 12, 2022, issued and owing by the Company to HTI
10.6	Amended and Restated Senior Secured Convertible Note due 2026, dated July 12, 2022, issued and owing by HEXO to the Company
10.7	Indenture dated as of May 27, 2021, by and between HEXO Corp. as issuer, and GLAS Trust Company LLC, as trustee
99.1	Press Release of Tilray Brands, Inc. dated July 12, 2022
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

† Schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Tilray Brands, Inc.

Date: July 12, 2022

By: /s/ Mitchell Gendel

Mitchell Gendel
Global General Counsel

Exhibit 10.4

AMENDING AGREEMENT TO AMENDED AND RESTATED ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT is made as of July 12, 2022

AMONG:

TILRAY BRANDS, INC., a corporation existing under the laws of the State of Delaware;

("**Tilray**")

- and -

HEXO CORP., a company existing under the laws of the Province of Ontario;

("**HEXO**");

- and -

HT INVESTMENTS MA LLC, a limited liability corporation existing under the laws of the State of Delaware

("**HTI**" and collectively with Tilray and HEXO, the "**Parties**").

All capitalized terms used in this amending agreement (this "**Agreement**") but not defined herein shall have the meaning attributed to such terms in the Transaction Agreement.

RECITALS:

A. On April 11, 2022, Tilray, HEXO and HTI (collectively, the "**Parties**") entered into a transaction agreement (the "**Transaction Agreement**"), pursuant to which, among other things, HEXO and HTI agreed to amend the terms of certain senior secured convertible notes of HEXO due May 1, 2023 (as amended, the "**Amended and Restated Note**");

B. On April 11, 2022, the Parties entered into an assignment and assumption agreement (the "**Assignment and Assumption Agreement**"), pursuant to which Tilray agreed to assume from HTI, and HTI agreed to assign, transfer and sell to Tilray all of its rights, title and interest under, the Amended and Restated Note; and

C. On June 14, 2022, the Parties entered into an amending agreement to the Transaction Agreement (the "**Transaction Agreement Amendment**") and an amended and restated Assignment and Assumption Agreement (the "**Amended and Restated Assignment and Assumption Agreement**"); and

D. The Parties wish to enter into this Agreement to amend certain provisions of the Amended and Restated Assignment and Assumption Agreement as contemplated herein.

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby confirm, acknowledge and agree as follows:

1. Section 3(f) of the Amended and Restated Assignment and Assumption Agreement is hereby deleted in its entirety and replaced with the following:

   "To the actual knowledge of the Seller, no filing with, or authorization, approval, consent, notice, license, order, registration, qualification, decree or other action of, any court, governmental authority or agency or any other Person is necessary to be filed, obtained, recorded, notified, or otherwise applied for by the Seller in connection with (i) the assignment, transfer and sale by the Seller of the Amended and Restated Note and the Security Documents, (ii) the authorization, execution, delivery and performance by the Seller of this Agreement or (iii) the consummation by the Seller of the transactions contemplated hereby, except such as have been, or at the Closing Date will have been, obtained and are in full force and effect as of the Closing Date."

2. Section 3(g) of the Amended and Restated assignment and Assumption Agreement is hereby deleted in its entirety and replaced with the following:

   "The Seller has good and marketable title to the Amended and Restated Note, free and clear of any Encumbrance, restriction on transferability, and the Seller has the full power and lawful authority and the right to assign, transfer and sell the Amended and Restated Note to the Purchaser and the consummation of the transactions contemplated by this Agreement shall not cause the Amended and Restated Note to be subject to any Encumbrance. The transfer and assignment of the Security Documents to the Purchaser has been duly authorized by the Seller and the Seller has no actual knowledge of any restriction or prohibition on the transferability or assignability of the Security Documents to the Purchaser in accordance herewith and therewith."

3. The parties hereto acknowledge that HTI has advised each of Tilray and HEXO that no internal or external legal counsel of HTI has (i) conducted any lien searches in connection with the transfer of the Security Documents contemplated by the Amended and Restated Assignment and Assumption Agreement, or (ii) reviewed any of the documents prepared by representatives of Tilray or HEXO to effect the transfer of the Security Documents contemplated by the Amended and Restated Assignment and Assumption Agreement to the extent such review would relate to the effectiveness of such transfer of the Security Documents or whether such transfer is permitted under applicable law, rules or regulations related thereto.

4. The Amended and Restated Assignment and Assumption Agreement, as amended pursuant to Sections 1 and 2 of this Agreement, shall replace the Amended and Restated Assignment and Assumption Agreement attached as Schedule B to the Transaction Agreement Amendment in its entirety.

5. Except for the amendments contemplated in this Agreement, no other amendments to the Assignment and Assumption Agreement or the Transaction Agreement will be made by the Parties pursuant to this Agreement, and the Assignment and Assumption Agreement and the Transaction Agreement shall otherwise remain outstanding on identical terms and conditions.

6. This Agreement may be executed in any number of counterparts (including counterparts by facsimile) and all such counterparts taken together shall be deemed to constitute one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed facsimile or similar executed electronic copy of this Agreement, and such facsimile or similar executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

7. This Agreement will be governed by and interpreted and enforced in accordance with the laws of the State of Delaware and the federal laws of the United States of America applicable therein. Each Party irrevocably attorns and submits to the exclusive jurisdiction of the Delaware courts situated in Wilmington, Delaware and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.

8. This Agreement becomes effective only when executed by each of the Parties. After that time, it will be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

[*Signature page follows*]

IN WITNESS WHEREOF Tilray, HEXO and HTI have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

TILRAY BRANDS, INC.

By: /s/ Carl Merton
Authorized Signing Officer

HEXO CORP.

By: /s/ Joelle Maurais
Authorized Signing Officer

HT INVESTMENTS MA LLC
By: High Trail Capital LP, its investment manager

By: /s/ Eric Helenek
Authorized Signing Officer

Exhibit 10.5

CONVERTIBLE PROMISSORY NOTE

$50,000,000 Issue Date: July 12, 2022

FOR VALUE RECEIVED, **TILRAY BRANDS, INC.**, a Delaware corporation (the "***Company***" or "***Tilray***"), promises to pay **HT INVESTMENTS MA LLC**, a Delaware limited liability company (the "***Holder***"), or its permitted registered assigns, the principal (the "***Principal***") sum of $**50,000,000**, or such lesser amount as shall then equal the outstanding principal amount hereof, together with simple interest from the date of this Convertible Promissory Note (this "***Note***") on the unpaid principal balance at a rate equal to four percent (4%) per annum (the "***Interest***"), in each case, as provided in and subject to the other provisions of this Note, including the earlier conversion of all or any portion of this Note. Accrued and unpaid Interest on the Note shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month and shall be paid in cash on the second Business Day of each of December, March, June and September following the date hereof (each, an "***Interest Date***") (unless otherwise converted into Common Stock prior to such Interest Date in accordance with the other provisions of this Note). All unpaid principal, together with the unpaid and accrued interest payable hereunder, if not converted by the provisions of Section 9, shall be due and payable on September 1, 2023 (the "***Maturity Date***"). This Note is issued pursuant to that certain amended and restated assignment and assumption agreement dated as of June 14, 2022 (the "***Amendment Date***"), as may be further amended from time to time (the "***Assignment and Assumption Agreement***"). Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Assignment and Assumption Agreement.

The following is a statement of the rights of the Holder and the conditions to which this Note is subject, and to which the Holder hereof, by the acceptance of this Note, agrees:

1. **Definitions**. As used in this Note, the following capitalized terms have the following meanings:

(a) "***Affiliate***" means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person, it being understood for purposes of this definition that "control" of a Person means the power directly or indirectly either to vote 10% or more of the stock having ordinary voting power for the election of directors of such Person or direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

(b) "***Attribution Parties***" means, collectively, the following Persons and entities: (i) any investment vehicle, including, any funds, feeder funds or managed accounts, currently, or from time to time after the date hereof, directly or indirectly managed or advised by the Holder's investment manager or any of its Affiliates or principals, (ii) any direct or indirect Affiliates of the Holder or any of the foregoing, (iii) any Person acting or who could be deemed to be acting as a Group together with the Holder or any of the foregoing and (iv) any other Persons whose beneficial ownership of the Common Stock would or could be aggregated with the Holder's and the other Attribution Parties for purposes of Section 13(d) of the Exchange Act. For clarity, the purpose of the foregoing is to subject collectively the Holder and all other Attribution Parties to the Maximum Percentage.

(c) "***Board of Directors***" means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

(d) "***Capital Stock***" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity, but shall not include any debt securities convertible into or exchangeable for any securities otherwise constituting Capital Stock pursuant to this definition.

(e) "***Close of Business***" means 5:00 p.m., New York City time.

(f) "***Commission***" means the U.S. Securities and Exchange Commission.

(g) "***Common Stock Equivalents***" means this Note and any options, restricted stock units or other security or obligation that is by its terms, directly or indirectly, convertible into, exchangeable or exercisable for shares of Common Stock, and any option, warrant or other right to subscribe for, purchase or acquire shares of Common Stock or any security convertible into shares of Common Stock (disregarding any restrictions or limitations on the exercise of such rights).

(h) "***Conversion Price***" means the quotient of (i) one thousand dollars ($1,000) divided by (ii) the Conversion Rate in effect at such time.

(i) "***Conversion Rate***" initially means the number of shares of Common Stock equal to the quotient of (i) one thousand dollars ($1,000) divided by (ii) the product of (x) one-hundred and twenty-five percent (125%) *multiplied by* (y) the Last Reported Sale Price on the date hereof; *provided*, *however*, that the Conversion Rate is subject to adjustment pursuant to Section 9(d); *provided*, *further*, that whenever this Note refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

(j) "***Conversion Shares***" means all shares of Common Stock that are required to be or may be issued upon conversion of outstanding Obligations under this Note.

(k) "***CSA***" means the Canadian Securities Administrators.

(l) "***Equity Conditions***" means, with respect to a given date of determination: (i) all shares of Common Stock to be issued in connection with the event requiring this determination (each, a "***Required Minimum Securities Amount***") may be freely resold without restriction pursuant to applicable United States federal, or state securities laws; (ii) on each day during the period beginning thirty calendar days prior to the applicable date of determination and ending on and including the applicable date of determination, the Common Stock is listed or designated for quotation (as applicable) on NASDAQ and shall not have been suspended from trading on NASDAQ (other than suspensions of not more than two (2) days and occurring prior to the applicable date of determination due to business announcements by the Company) nor shall delisting or suspension by NASDAQ have been threatened (with a reasonable prospect of delisting occurring after giving effect to all applicable notice, appeal, compliance and hearing periods) or reasonably likely to occur or pending as evidenced, in each case, after giving effect to all applicable notice, appeal, compliance and hearing periods, (A) in writing by NASDAQ or (B) by the Company falling below the minimum listing maintenance requirements of NASDAQ on which the Common Stock is then listed or designated for quotation (as applicable); (iii) any shares of Common Stock to be issued in connection with the event requiring determination may be issued in full without violating the rules or regulations of NASDAQ; (iv) the Holder shall not be in possession of any material, non-public information provided to it by the Company, any of its Subsidiaries or any of its affiliates, employees, officers, representatives, agents or the like; (v) on the applicable date of determination (A) the applicable Required Minimum Securities Amount of shares of Common Stock are available under the certificate of incorporation of the Company and reserved by the Company to be issued, in each case, as required pursuant to this Note, and (B) the VWAP of the Common Stock on NASDAQ on the immediately preceding Trading Day shall be equal to or greater than $2.00; (vi) no Event of Default then exists (or with the passage of time would otherwise reasonably be expected to occur), (vii) no Volume Failure then exists and (viii) the shares of Common Stock issuable pursuant the event requiring the satisfaction of the Equity Conditions are duly authorized and, upon issuance, will be listed and eligible for trading without restriction on NASDAQ.

(m) "***Equity Conditions Failure***" means, with respect to the applicable date of determination, the Equity Conditions have not been satisfied (or waived in writing by the Holder).

(n) "***Ex-Dividend Date***" means, with respect to an issuance, dividend or distribution on the shares of Common Stock, the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the shares of Common Stock under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

(o) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(p) "***Fundamental Change***" means any of the following events prior to the Maturity Date: (i) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Company, its wholly-owned Subsidiaries and the employee benefit plans of the Company and its wholly-owned Subsidiaries, has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of Common Stock representing more than 50% of the voting power of the Common Stock, (ii) the consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a share split or consolidation) as a result of which the Common Stock would be converted into, or exchanged for, shares, stock, other securities, other property or assets; (B) any share exchange, consolidation, amalgamation, arrangement or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or assets; or (C) any sale, lease, exchange or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any person other than one of the Company's wholly-owned Subsidiaries; *provided, however*, that a transaction described in clause (A) or (B) in which the holders of all classes of the Common Stock immediately prior to such transaction own, directly or indirectly, more than 50% of all classes of Common Stock of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction in substantially the same proportions (relative to each other) as such ownership immediately prior to such transaction shall not be a Fundamental Change pursuant to this (ii); (iii) the shareholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company; or (iv) the Common Stock (or other common shares underlying this Note) ceases to be listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market, The Nasdaq Global Market or the Toronto Stock Exchange (or any of their respective successors); provided, however, that a transaction or transactions described in clause (i) or clause (ii) above will not constitute a Fundamental Change, if at least 90% of the consideration received or to be received by the holders of Common Stock of the Company, excluding cash payments for fractional shares and cash payments made in respect of dissenters' statutory appraisal rights, in connection with such transaction or transactions consists of common shares that are listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market, The Nasdaq Global Market or the Toronto Stock Exchange (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions and as a result of such transaction or transactions this Note becomes convertible into such consideration, excluding cash payments for fractional shares and cash payments made in respect of dissenters' statutory appraisal rights. If any transaction in which the Common Stock are replaced by the common shares or other common equity of another entity occurs, references to the Company in this definition shall instead be references to such other entity.

(q) "***Group***" means a "group" as that term is used in Section 13(d) of the Exchange Act and as defined in Rule 13d-5 thereunder.

(r) "***Last Reported Sale Price***" of the shares of Common Stock (or other security for which a last reported sales price must be determined) on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, of more than one in either case, the average of the average bid and the average ask prices) on that date as reported on the Nasdaq or such other principal U.S. national or regional securities exchange on which the shares of Common Stock (or such other security) are traded (the "***Principal Market***"). If the shares of Common Stock (or such other security) are not listed for trading on the Nasdaq or another U.S. national or regional securities exchange on the relevant date, the "***Last Reported Sale Price***" of the shares of Common Stock (or other security for which a last reported sale price must be determined) on any date means the closing sale price (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) per Share (or such other security) on that date as reported in composite transactions for the Toronto Stock Exchange or the other principal Canadian securities exchange on which the shares of Common Stock (or such other security) are traded. If the shares of Common Stock (or such other security) are not listed for trading on a U.S. national or regional securities exchange or a Canadian securities exchange on the relevant date, the "***Last Reported Sale Price***" shall be the last quoted bid price per Share (or such other security) in the over-the-counter market on the relevant date as reported by The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices). If the shares of Common Stock (or such other security) are not so quoted, the "***Last Reported Sale Price***" shall be the average of the mid-point of the last bid and ask prices for the shares of Common Stock (or such other security) on the relevant date from at least three nationally recognized independent investment banking firms selected by the Company for this purpose. The "***Last Reported Sale Price***" will be determined without regard to after-hours trading or any other trading outside of regular trading session hours.

(s) "***Market Disruption Event***" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the shares of Common Stock are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the shares of Common Stock or in any options contracts or futures contracts relating to the shares of Common Stock.

(t) "***Maturity Top-Up Measuring Price***" means the quotient of (i) the sum of the VWAP of the Common Stock for each Trading Day during the twenty (20) Trading Day period (the "***Maturity Top-Up Measuring Period***") commencing on the Maturity Date and ending on, and including, the Trading Day immediately prior to the Maturity Top-Up Date (as defined below), divided by (ii) twenty (20). All such determinations to be appropriately adjusted for any stock splits, stock dividends, stock combinations, recapitalizations or other similar transactions during any such Maturity Top-Up Measuring Period.

(u) "***Obligations***" means all principal and accrued and unpaid interest due hereunder.

(v) "***Officer***" means, with respect to the Company, the President, the Chief Executive Officer, the Chief Financial Officer, the Chief Strategy Officer, the Chief Operating Officer, the General Counsel, the Secretary, any Executive or Senior Vice President or any Vice President (whether or not designated by a number or numbers or word or words added before or after the title "Vice President").

(w) "***Open of Business***" means 9:00 a.m., New York City time.

(x) "***Person***" means an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

(y) "***Redemption Date***" means the date on which this Note is redeemed pursuant to the provisions set out herein.

(z) "***Redemption Notice Date***" means the date on which a Redemption Notice is delivered as contemplated herein.

(aa) "***Redemption Price***" means the VWAP on the Trading Day immediately prior to the Maturity Date.

(bb) "***Securities Act***" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(cc) "***SEDAR***" means the Canadian System for Electronic Document Analysis and Retrieval.

(dd) "***Significant Subsidiary***" means, with respect to any Person, a Subsidiary of the Company that meets the definition of "significant subsidiary" in Article 1, Rule 1-02 of Regulation S-X under the Exchange Act.

(ee) "***Subsidiary***" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

(ff) "***Trading Day***" means, as applicable, (x) with respect to all price or trading volume determinations relating to the Common Stock, any day on which the Common Stock is traded on NASDAQ, or, if NASDAQ is not the principal trading market for the Common Stock, then on the principal securities exchange or securities market on which the Common Stock is then traded, provided that "Trading Day" shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00 p.m., New York time) unless such day is otherwise designated as a Trading Day in writing by the Holder, or (y) with respect to all determinations other than price determinations relating to the Common Stock, any day on which The New York Stock Exchange (or any successor thereto) is open for trading of securities.

(gg) "**Volume Failure**" means, with respect to a particular date of determination, the quotient of (x) the sum of the aggregate daily dollar trading volume (as reported on Bloomberg) of the Common Stock on each Trading Day during the twenty (20) Trading Day period ending and including such date of determination on the Principal Market, divided by (y) twenty (20), is less than $3,000,000.

(hh) "***VWAP***" means, for any security as of any date, the dollar volume-weighted average price for such security on NASDAQ (or, if NASDAQ is not the principal trading market for such security, then on the principal securities exchange or securities market on which such security is then traded), during the period beginning at 9:30 a.m., New York time, and ending at 4:00 p.m., New York time, as reported by Bloomberg, LP through its "VAP" function (set to 09:30 start time and 16:00 end time) or, if the foregoing does not apply, the dollar volume-weighted average price of such security in the over-the-counter market on the electronic bulletin board for such security during the period beginning at 9:30 a.m., New York time, and ending at 4:00 p.m., New York time, as reported by Bloomberg, LP, or, if no dollar volume-weighted average price is reported for such security by Bloomberg, LP for such hours, the average of the highest closing bid price and the lowest closing ask price of any of the market makers for such security as reported in The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices). If the VWAP cannot be calculated for such security on such date on any of the foregoing bases, the VWAP of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination, recapitalization or other similar transaction during such period.

2. **Payment; No Early Redemption or Prepayment; Fundamental Change**.

(a) Provided a Conversion Notice in respect of all of the Obligations has not been submitted and is then pending, on the 60th calendar day immediately before the Maturity Date, the Company will provide written notice to the Holder (the "***Redemption Notice***") of the Company's intention to redeem (a "***Redemption***") this Note by paying the Holder the outstanding Obligations under this Note as of the Maturity Date (the "***Redemption Amount***"), (A) if no unwaived Equity Conditions Failure exists as of the date of such Redemption Notice or at any time during the twenty (20) Trading Days immediately prior to, and including, the Maturity Date (an "***Equity Conditions Maturity Failure***"), subject to Section 2(d) below, in such aggregate number of shares of Common Stock (the "***Maturity Shares***") equal to the quotient of (i) such portion of the Redemption Amount being converted, *divided by* (ii) the Redemption Price, or, at the option of the Company, in whole, or in part, (B) in cash by wire transfer of immediate funds, in each case, subject to adjustment for any portion of the Obligations under this Note optionally converted by the Holder into Conversion Shares prior to the Maturity Date pursuant to Section 9(a) below. Any portion of the Redemption Amount that the Company elects to (or is required to, if an unwaived Equity Conditions Maturity Failure exists) pay in cash shall be paid on the Maturity Date. Subject to Section 2(d) below, the Company shall deliver the Maturity Shares to the Holder on or prior to the second (2nd) Trading Day after the Maturity Date. If an Equity Conditions Maturity Failure occurs after the date of the Redemption Notice, and prior to the Maturity Date, the Company shall deliver written notice to the Holder specifying that an Equity Conditions Maturity Failure has occurred (with reasonable detail of such Equity Conditions Maturity Failure) and if the Holder fails to waive such Equity Conditions Maturity Failure, the Redemption Amount shall be satisfied in full in cash on the Maturity Date. If the Company fails to deliver to the Holder a Redemption Notice on or prior to the 60th calendar day immediately before the Maturity Date, the Company shall be deemed to have delivered a Redemption Notice electing to pay the Holder the outstanding Obligations under this Note as of the Maturity Date in cash.

(b) Twenty (20) Trading Days after the Maturity Date (the "***Maturity Top-Up Date***"), if the quotient of (x) the Redemption Amount (less any amounts satisfied or to be satisfied in cash) divided by (y) the Maturity Top-Up Measuring Price is a number (the "***Maturity Top-Up Measurement Amount***") *greater than* the number of Maturity Shares issued at the Maturity Date pursuant to Section 2(a) of this Note (the difference of (A) the Maturity Top-Up Measurement Amount less (B) the number of Maturity Shares issued at the Maturity Date pursuant to Section 2(a) of this Note, the "***Maturity Top-Up Difference***"),

(i) if the Company has elected in the Redemption Notice to pay the consideration due to the Holder on the Maturity Top-Up Date in cash (or an unwaived Equity Conditions Failure exists at any time during the twenty (20) Trading Day period ending, and including, the Maturity Top-Up Date) (collectively, an "***Equity Conditions Top-Up Failure***"), on the Maturity Top-Up Date the Company shall pay to the Holder cash equal to the product of (I) the Maturity Top-Up Difference and (II) the Maturity Top-Up Measuring Price (the "***Maturity Top-Up Cash Amount***"); or

(ii) if the Company has elected in the Redemption Notice to pay such consideration due to the Holder in additional shares of Common Stock (the "***Maturity Top-Up Shares***") and no unwaived Equity Conditions Top-Up Failure then exists, the Company will issue to the Holder such number of Maturity Top-Up Shares equal to the Maturity Top-Up Difference (subject to reduction as provided in this paragraph); provided that (A) such aggregate number of Maturity Top-Up Shares to be issued shall be reduced, as necessary, such that the sum of (x) the Maturity Top-Up Shares in such issuance, (y) the Maturity Shares previously issued and (z) the shares of Common Stock previously issued to the Holder pursuant to the Optional Conversion Right, shall not result in the issuance of more than 20,000,000 Conversion Shares hereunder (subject to adjustment for any stock splits, stock dividends or similar transaction) (the "***Maximum Maturity Top-Up Shares***"), and (B) in lieu of the issuance of such Maturity Top-Up Shares in excess of the Maximum Maturity Top-Up Shares that are reduced due to the preceding provision (such aggregate number of Maturity Top-Up Shares subject to such reduction, the "***Reduced Maturity Top-Up Share Amount***") the Company shall also pay to the Holder on the Maturity Top-Up Date a cash amount (the "***Remaining Maturity Top-Up Cash Amount***") equal to the product of (1) such Reduced Maturity Top-Up Share Amount and (2) the Maturity Top-Up Measuring Price, and (C) notwithstanding the foregoing, if an Equity Conditions Top-Up Failure exists as of the Maturity Top-Up Date (that is not waived by the Holder), in lieu of issuing any Maturity Top-Up Shares, the Company shall pay the Holder on the Maturity Top-Up Date in cash the Maturity Top-Up Cash Amount.

(c) After the closing of business on the Trading Day immediately prior to the Maturity Top-Up Date, the Company shall deliver a written notice to the Holder (the "***Maturity Top-Up Equity Eligibility Certification Notice***"), certified by a duly authorized officer of the Company, certifying that (x) if in the Redemption Notice the Company has previously elected to pay such consideration due to the Holder in additional shares of Common Stock, (1) no Equity Conditions Top-Up Failure then exists (or no unwaived Equity Conditions Top-Up Failure exists, as applicable), (2) the aggregate number of Maturity Top-Up Shares to be issued on the Maturity Top-Up Date, and (3) the Remaining Maturity Top-Up Cash Amount to be paid to the Holder in cash on the Maturity Top-Up Date, if any, or (y) if in the Redemption Notice the Company has elected to pay such consideration due to the Holder in additional shares of Common Stock and an Equity Conditions Top-Up Failure exists (to the extent not waived by the Holder) or the Company has elected in the Redemption Notice to pay such consideration due to the Holder in cash, the aggregate Maturity Top-Up Cash Amount (in each case, including reasonable calculations and backup with respect thereto). For the avoidance of doubt, (x) if an unwaived Equity Conditions Top-Up Failure then exists, the Maturity Top-Up Equity Eligibility Certification Notice shall also state that, unless the Holder waives such Equity Conditions Top-Up Failure, no additional Maturity Top-Up Shares shall be issued and the Holder shall receive a cash amount equal to the Maturity Top-Up Cash Amount, and (y) the Holder may deliver a written waiver (which may be an e-mail) of such Equity Conditions Top-Up Failure at any time prior to 12:00 P.M., New York city time on such Maturity Top-Up Date (or, if later, at least twelve (12) hours after the Holder's receipt of the Maturity Top-Up Equity Eligibility Certification Notice). To the extent the Company is required (or has properly elected) to deliver Maturity Top-Up Shares to the Holder in accordance herewith, on or prior to the Maturity Top-Up Date, the Company shall cause its transfer agent, through the DTC Fast Automated Securities Transfer Program, to credit such aggregate number of Maturity Top-Up Shares to the Holder's (or its designee's) balance account with DTC through its Deposit/Withdrawal at Custodian system. If the Company fails to deliver to the Holder on the Trading Day immediately prior to the Maturity Top-Up Date a Maturity Top-Up Equity Eligibility Certification Notice the Company shall be deemed to have delivered a Maturity Top-Up Equity Eligibility Certification Notice certifying that no Equity Conditions Top-Up Failure exists.

(d) Notwithstanding the foregoing, if the Maturity Shares or Maturity Top-Up Shares required to be issued on any date of determination would result in the Holder together with the other Attribution Parties, collectively, beneficially owning in excess of 9.99% (the "***Maximum Percentage***") of the shares of Common Stock outstanding, as evidenced by a written notice by the Company to the Holder (such notice, a "***Blocker Notice***"), (A) the number of shares so issued by which the Holder's and the other Attribution Parties' aggregate beneficial ownership would exceed the Maximum Percentage (the "***Excess Shares***") shall be deemed null and void and shall be cancelled *ab initio*, (B) the Holder shall not have the power to vote or to transfer the Excess Shares, and (C) the Holder's right to receive such Excess Shares shall be held in abeyance for the benefit of the Holder until such time or times, if ever, but in no event later than the 60th calendar day (subject to an extension on a day-by-day basis for any calendar day on which the Company fails to satisfy any unwaived Equity Condition either occurring during such period or such extensions, as applicable) after (x) with respect to any Maturity Top-Up Shares, the Maturity Top-Up Date or (y) with respect to any Maturity Shares, the Maturity Date, as the Holder's right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage (as evidenced by a written notice to the Company by the Holder, each, a "***Blocker Release Notice***"). Upon the Company's receipt of a Blocker Release Notice, the Excess Shares shall be deemed to be owned by the Holder, regardless of the date of actual delivery of such Excess Shares. The Company shall deliver any Excess Shares subject to a Blocker Notice to the Holder (or its designee) no later than the second (2nd) Trading Day after the date of receipt of such Blocker Release Notice. If the Holder delivers a Blocker Notice to the Company, all conditions to the issuance of the Excess Shares, including the Equity Conditions, shall be deemed to have been satisfied on the Trading Day immediately prior to the (x) with respect to any Maturity Top-Up Shares, the Maturity Top-Up Date or (y) with respect to any Maturity Shares, the Maturity Date.

(e) All payments owing hereunder shall be in lawful money of the United States of America or Conversion Shares, as applicable, and delivered to the Holder at the address or bank account furnished to the Company for that purpose. All payments shall be applied first to (i) accrued and unpaid interest, and thereafter, to (ii) principal.

(f) The Company shall not be permitted to redeem or repay this Note prior to the Maturity Date without the prior written consent of the Holder.

3. **No Security Interest**. This Note shall be unsecured.

4. **[Reserved]**.

5. **Registered Form**. This Note and any note issued in exchange therefor or in substitution thereof will be in registered form.

6. **Covenants**.

(a) *Payment of Principal and Interest*. The Company covenants and agrees that it will cause to be paid the principal (including the Redemption Amount, if applicable) of, and accrued and unpaid interest on, this Note at the places, at the respective times and in the manner provided herein.

(b) *Existence*. Subject to Section 8 of this Note, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

(c) *Stay, Extension and Usury Laws.* The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or interest on this Note as contemplated herein, wherever enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Note; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Holder, but will suffer and permit the execution of every such power as though no such law had been enacted.

(d) *Conversion Shares*. The Company covenants that all shares of Common Stock issued upon conversion of this Note will be fully paid and non-assessable by the Company and free from all taxes, liens and charges with respect to the issue thereof. The Company covenants that, if any shares of Common Stock to be provided for the purpose of conversion of this Note require registration with or approval of any governmental authority under any federal or state law before such shares of Common Stock may be validly issued upon conversion, the Company will, to the extent then permitted by the rules and interpretations of the Commission, secure such registration or approval, as the case may be.

(e) *Listing*. The Company covenants that if at any time its shares of Common Stock shall be listed on any national securities exchange or automated quotation system, the Company will list and keep listed, so long as its shares of Common Stock shall be so listed on such exchange or automated quotation system, any shares of Common Stock issuable upon conversion of this Note.

(f) *Resale of Securities*. The Holder agrees that it will not re-sell or make the first trade in this Note or the Conversion Shares in Canada or through the facilities of the Toronto Stock Exchange. For the avoidance of doubt, the parties hereto acknowledge and agree that any sales of Conversion Shares in the United States or through the facilities of NASDAQ are not subject to any such restrictions.

7. **Events of Default**.

(a) *Events of Default*. Each of the following events shall be an "***Event of Default***" with respect to this Note:

(i) default in the payment of principal or accrued interest of this Note when due and payable on the Maturity Date, upon any redemption, upon any required repurchase, upon declaration of acceleration or otherwise;

(ii) failure by the Company to comply with its obligation to convert this Note in accordance with the terms hereof upon exercise of the Holder's conversion right and such failure continues for a period of three (3) Business Days;

(iii) failure by the Company to issue a Fundamental Change Company Notice in accordance with Section 11 of this Note when due;

(iv) failure by the Company to comply with its obligations under Section 8 of this Note;

(v) failure by the Company for 60 days after written notice from the Holder has been received by the Company to comply with any of its other agreements contained in the this Note;

(vi) default by the Company or any Subsidiaries of the Company with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of $15,000,000 (or its foreign currency equivalent) in the aggregate of the Company and/or any such Subsidiary, whether such indebtedness now exists or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable prior to its stated maturity date or (ii) constituting a failure to pay the principal or interest of any such indebtedness when due and payable, at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise;

(vii) a final judgment or judgments for the payment in excess of $15,000,000 (or its foreign currency equivalent) (excluding any amounts covered by insurance) in the aggregate rendered against the Company or any Subsidiary of the Company, which judgment is not discharged, bonded, paid, waived or stayed within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished;

(viii) the Company or any Significant Subsidiary shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to the Company or any such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or any such Significant Subsidiary or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(ix) an involuntary case or other proceeding shall be commenced against the Company or any Significant Subsidiary seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 30 consecutive days.

(b) *Acceleration; Rescission and Annulment*.

(i) If one or more Events of Default shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), then, and in each and every such case (other than an Event of Default specified in Section 7(a)(viii) or Section 7(a)(ix) with respect to the Company), unless the principal of this Note shall have already become due and payable, the Holder, by notice to the Company, may declare 100% of the principal of, and accrued and unpaid interest on, this Note to be due and payable immediately, and upon any such declaration the same shall become and shall automatically be immediately due and payable, anything contained in this Note to the contrary notwithstanding. If an Event of Default specified in Section 7(a)(viii) or Section 7(a)(ix) with respect to the Company occurs and is continuing, 100% of the principal of, and accrued and unpaid interest, if any, on, all Note shall become and shall automatically be immediately due and payable.

(ii) The immediately preceding paragraph, however, is subject to the conditions that if, at any time after the principal of this Note shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, and if (x) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (y) any and all existing Events of Default under this Note, other than the nonpayment of the principal of and accrued and unpaid interest, if any, on this Note that shall have become due solely by such acceleration, shall have been cured or waived, then and in every such case (except as provided in the immediately succeeding sentence) the Holder, by notice to the Company, may waive all Defaults or Events of Default with respect to this Note and rescind and annul such declaration and its consequences and 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 Note; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent Default or Event of Default, or shall impair any right consequent thereon.

(c) *Payment of Note on Default; Suit Therefor*.

(i) If an Event of Default shall have occurred and be continuing, the Company shall, upon demand of the Holder, pay to the Holder, the whole amount then due and payable on this Note for principal and interest, if any, with interest on any overdue principal and interest, if any, at the rate borne by this Note at such time. If the Company shall fail to pay such amounts forthwith upon such demand, the Holder may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company upon this Note, wherever situated.

(ii) In the event there shall be pending proceedings for the bankruptcy or for the reorganization of the Company on this Note under Title 11 of the United States Code, or any other applicable law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company, or in the event of any other judicial proceedings relative to the Company upon this Note, or to the creditors or property of the Company or such other obligor, the Holder, irrespective of whether the principal of this Note shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Holder shall have made any demand pursuant to the provisions of this Section 7(c), shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid interest, if any, in respect of this Note, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Holder allowed in such judicial proceedings relative to the Company on this Note, its creditors, or its property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property that the Holder may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

(d) *Proceedings by Holder*. The Holder shall have the right to institute suit for the enforcement of its right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Amount, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon conversion of, this Note, on or after the respective due dates expressed or provided for in this Note, or to institute suit for the enforcement of any such payment or delivery, as the case may be, and such right to receive such payment or delivery, as the case may be, on or after such respective dates shall not be impaired or affected without the consent of the Holder.

(e) *Remedies Cumulative and Continuing*. All powers and remedies given by this Section 6 to the Holder shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Holder, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Note, and no delay or omission of the Holder to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or Event of Default or any acquiescence therein; and, subject to the provisions of Section 6(d), every power and remedy given by this Section 6 or by law to the Holder may be exercised from time to time, and as often as shall be deemed expedient, by the Holder.

8. **Consolidation, Merger, Amalgamation, Sale, Conveyance and Lease**.

(a) *Company May Consolidate, Etc. on Certain Terms*. Subject to the provisions of Section 7(b), the Company shall not consolidate or amalgamate with, undertaking an arrangement with, or merge with or into, or sell, convey, transfer or lease all or substantially all of its properties and assets to another Person, unless:

(i) the resulting, surviving or transferee Person (the "***Successor Company***"), if not the Company, shall expressly assume all of the obligations of the Company under this Note; and

(ii) immediately after giving effect to such transaction, no Event of Default has occurred and is continuing under this Note.

(iii) For purposes of this Section 7(a), the sale, conveyance, transfer or lease of all or substantially all of the properties and assets of one or more Subsidiaries of the Company to another Person, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the sale, conveyance, transfer or lease of all or substantially all of the properties and assets of the Company to another Person.

(b) *Successor Corporation to Be Substituted*. In case of any such consolidation, merger, amalgamation, arrangement, sale, conveyance, transfer or lease and upon the assumption by the Successor Company (if not the Company), of the due and punctual payment of the principal of and accrued and unpaid interest on this Note, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of this Note and the due and punctual performance of all of the covenants and conditions of this Note to be performed by the Company, such Successor Company (if not the Company) shall succeed to and, except in the case of a lease of all or substantially all of the Company's properties and assets, shall be substituted for the Company, with the same effect as if it had been named herein as the party of the first part, and may thereafter exercise every right and power of the Company under this Note.

9. **Conversion**. This Note shall be convertible, prior to the Maturity Date, into shares of Common Stock on the terms and subject to the conditions set forth in this Section 9 or as contemplated in Section 2 of this Note.

(a) *Optional Conversion Right*. The Holder has the right (the "***Optional Conversion Right***"), from time to time, at any time on or prior to 5:00 p.m. (New York time) on the second (2nd) Trading Day immediately preceding the Maturity Date to convert all or any portion of unpaid principal and accrued and unpaid interest under this Note (such amount, the "***Conversion Amount***") into the number of Conversion Shares equal to the quotient of (i) the Conversion Amount *divided by* (ii) the Conversion Price; provided that such aggregate number of such Conversion Shares shall be reduced, as necessary, such that the aggregate number of shares of Common Stock issued to the Holder pursuant to the Optional Conversion Right shall not result in the issuance of more than 20,000,000 Conversion Shares (subject to adjustment for any stock splits, stock dividends or similar transaction) to the Holder under this Note without the prior written consent of the Company (the "***Maximum Conversion Shares***"), and in lieu of the issuance of such number of Conversion Shares in excess of the Maximum Conversion Shares (such aggregate reduced number of Conversion Shares, the "***Reduced Conversion Share Amount***") the Company shall pay to the Holder a cash amount equal to the product of (x) such Reduced Conversion Share Amount and (y) the VWAP of the Common Stock as of the applicable Conversion Date (as defined below).

(b) *Mechanics of Conversion*.

(i) To convert any Conversion Amount into Conversion Shares on any date (a "***Conversion Date***"), the Holder shall transmit by email or facsimile with confirmation of delivery (or otherwise deliver by method set forth in Section 11 of the Assignment and Assumption Agreement), for receipt on or prior to 11:59 p.m., New York Time, on such date, a copy of an executed notice of conversion in the form attached hereto as Exhibit A (the "***Conversion Notice***") to the Company. On or before the second (2nd) Business Day following the date of receipt of a Conversion Notice, the Company shall (A) provided that the Company's transfer agent is participating in the Depository Trust Company's ("***DTC***") Fast Automated Securities Transfer Program, credit such aggregate number of shares of Common Stock to which the Holder shall be entitled to the Holder's or its designee's balance account with DTC through its Deposit Withdrawal Agent Commission system or (B) if the transfer agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled which certificates shall not bear any restrictive legends. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of this Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock upon the transmission of a Conversion Notice.

(ii) No fractional shares shall be issued upon conversion of this Note. Upon the conversion of all of the Obligations outstanding under this Note, in lieu of issuing any fractional shares to the Holder, the number of shares issued to the Holder shall be rounded to the nearest whole share. Upon full conversion or redemption of this Note, the Company shall be forever released from all its obligations and liabilities under this Note.

(c) *Limitations on Conversions*. Notwithstanding anything to the contrary contained herein, the Company shall not effect the conversion of any portion of this Note, and the Holder shall not have the right to convert any portion of this Note, pursuant to the terms and conditions of this Note and any such conversion shall be null and void and treated as if never made, to the extent that after giving effect to such conversion, the Holder together with the other Attribution Parties collectively would beneficially own in excess of the Maximum Percentage of the number of shares of Common Stock outstanding immediately after giving effect to such conversion. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by the Holder and the other Attribution Parties shall include the number of shares of Common Stock held by the Holder and all other Attribution Parties plus the number of shares of Common Stock issuable upon conversion of this Note with respect to which the determination of such sentence is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (x) conversion of the remaining, unconverted portion of this Note beneficially owned by the Holder or any of the other Attribution Parties and (y) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants) beneficially owned by the Holder or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 9(c). For purposes of this Section 9(c), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act.

(d) *Adjustments to the Conversion Rate.*

(i) *Events Requiring an Adjustment to the Conversion Rate*. The Conversion Rate will be adjusted from time to time as follows:

(1) *Stock Dividends, Splits and Combinations*. If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of Common Stock, or if the Company effects a stock split or a stock combination of the shares of Common Stock (in each case excluding an issuance solely pursuant to a Fundamental Change, as to which Section 11 will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such stock split or stock combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or the Open of Business on such effective date, as applicable;

OS_0 = the number of shares of Common Stock outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and

OS_1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

Any adjustment made under this Section 9(d)(i)(1) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately after the Open of Business on the effective date for such share split or stock combination, as applicable. If any dividend, distribution, stock split or stock combination of the type described in this Section 9(d)(i)(1) is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Rate that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(2) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of shares of Common Stock, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a stockholder rights plan, as to which the provisions set forth in Sections 9(d)(i)(3)(a) and 9(d)(v) will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of shares of Common Stock outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

Any increase made under this Section 9(d)(i)(2) shall be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the Open of Business on the Ex-Dividend Date for such issuance. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the Ex-Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this Section 9(d)(i)(2), in determining whether any rights, options or warrants entitle holders of shares of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors in good faith.

(3) *Spin-Offs and Other Distributed Property*.

(a) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the shares of Common Stock, excluding:

(v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Rate is required pursuant to Section 9(d)(i)(1) or Section 9(d)(i)(2);

(w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required pursuant to Section 9(d)(i)(4);

(x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in Section 9(d)(v);

(y) Spin-Offs for which an adjustment to the Conversion

Rate is required pursuant to Section 9(d)(i)(3)(b); and

(z) a distribution solely pursuant to a shares of Fundamental Change, as to which Section 11 will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Board of Directors in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

provided, *however*, that if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, the Holder will receive, for each $1,000 Principal of this Note held by the Holder on the record date for such distribution, at the same time and on the same terms as holders of shares of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that the Holder would have received if the Holder had owned, on such record date, a number of shares of Common Stock equal to the Conversion Rate in effect on such record date.

Any increase made under the portion of this this Section 9(d)(i)(3) above shall become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(b) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interest, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the shares of Common Stock (other than solely pursuant to a Fundamental Change, as to which Section 11 will apply), and such Capital Stock or equity interest is listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "***Spin-Off***"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the "***Spin-Off Valuation Period***") beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to shares of Common Stock in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per share of Common Stock in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per share of Common Stock for each Trading Day in the Spin-Off Valuation Period.

The adjustment to the Conversion Rate pursuant to this Section 9(d)(i)(3)(b) will be calculated as of the Close of Business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the Open of Business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If a Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, notwithstanding anything to the contrary in this Note, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Spin-Off Valuation Period.

To the extent any dividend or distribution of the type set forth in this Section 9(d)(i)(3)(b) is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(4) *Cash Dividends (Other than in the Ordinary Course) or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of shares of Common Stock, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per share of Common Stock on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per share of Common Stock in such dividend or distribution;

provided, *however*, that if D is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, the Holder will receive, for each $1,000 Principal of this Note held by the Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of shares of Common Stock, the amount of cash that the Holder would have received if the Holder had owned, on such record date, a number of shares of Common Stock equal to the Conversion Rate in effect on such record date.

Any increase pursuant to this Section 9(d)(i)(4) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution. To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(5) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the value (determined as of the Expiration Time (as defined below) by the Board of Directors in good faith) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Last Reported Sale Price per share of Common Stock on the Trading Day immediately after the last date (the "***Expiration Date***") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the time (the "***Expiration Time***") such tender or exchange offer expires;

CR_1 = the Conversion Rate in effect immediately after the Expiration Time;

AC = the aggregate value (determined as of the Expiration Time by the Board of Directors in good faith) of all cash and other consideration paid for shares of Common Stock purchased or exchanged in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately before the Expiration Time (including all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Day period (the "***Tender/Exchange Offer Valuation Period***") beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, *however*, that the Conversion Rate will in no event be adjusted down pursuant to this Section 9(d)(i)(5), except to the extent provided in the immediately following paragraph. The adjustment to the Conversion Rate pursuant to this Section 9(d)(i)(5) will be calculated as of the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If a Note is converted and the Conversion Date occurs on the Expiration Date or during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in this Note, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(ii) *No Adjustments in Certain Cases*.

(1) *Where the Holder Participates in the Transaction or Event Without Conversion*. Notwithstanding anything to the contrary in Section 9(d)(i), the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to Section 9(d)(i) (other than a stock split or combination of the type set forth in Section 9(d)(i)(1) or a tender or exchange offer of the type set forth in Section 9(d)(i)(5)) if the Holder participates, at the same time and on the same terms as holders of shares of Common Stock, and solely by virtue of being the Holder of this Note, in such transaction or event without having to convert this Note and as if the Holder held a number of shares of Common Stock equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate Principal (expressed in thousands) of this Note held by the Holder on such date.

(2) *Certain Events*. The Company will not adjust the Conversion Rate except as provided in this Section 9(d). Without limiting the foregoing, the Company will not adjust the Conversion Rate on account of:

(a) the sale of shares of Common Stock, even if the purchase price is less than the market price per share of the shares of Common Stock or less than the Conversion Price;

(b) the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;

(c) the issuance of any shares of Common Stock, restricted stock, or options or rights to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(d) the issuance of any shares of Common Stock pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding as of the date hereof (other than an adjustment pursuant to Section 9(d)(i)(3)(a) in connection with the separation of rights under the Company's stockholder rights plan existing, if any, as of the date hereof);

(e) solely a change in the par value of the shares of Common Stock; or

(f) accrued and unpaid interest, if any, on this Note.

(iii) *Adjustments Not Yet Effective.* Notwithstanding anything to the contrary in this Note, if:

(1) this Note is to be converted into Conversion Shares, in whole or in part, in accordance herewith (the date of any shares are to be issued pursuant to such conversion, in the aggregate, each a "***Delivery Date***");

(2) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to Section 9(d)(i) has occurred on or before an applicable Delivery Date for such conversion, but an adjustment to the Conversion Rate for such event has not yet become effective as of such Delivery Date; and

(3) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Delivery Date. In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(iv) *Conversion Rate Adjustments where the Converting Holder Participates in the Relevant Transaction or Event.* Notwithstanding anything to the contrary in this Note, if:

(1) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to Section 9(d)(i);

(2) a Note is to be converted into Conversion Shares, in whole or in part, in accordance herewith; and

(3) an applicable Conversion Date for such conversion occurs on or after such Ex-Dividend Date and on or before the related record date

then (x) such Conversion Rate adjustment will not be given effect for such conversion; (y) the shares of Common Stock issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution; and (z) there will be added, to the consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such shares of Common Stock had such shares been entitled to participate in such dividend or distribution.

(v) *Stockholder Rights Plans*. If any shares of Common Stock are to be issued upon conversion of any Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise payable under this Note upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the shares of Common Stock at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to Section 9(d)(i)(3)(a) on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the shares of Common Stock, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(vi) *Limitation on Effecting Transactions Resulting in Adjustments*. The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted (x) pursuant to this Section 9(d) without the prior consent of the Holder, which the Holder may grant or withhold in its sole discretion or (y) to an amount that would result in the Conversion Price per share of Common Stock being less than the par value per share of Common Stock.

(vii) *Equitable Adjustments to Prices*. Whenever any provision of this Note requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate an adjustment to the Conversion Rate), the Company will make proportionate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to Section 9(d)(i) that becomes effective, or any event requiring such an adjustment to the Conversion Rate where the Ex-Dividend Date or effective date, as applicable, of such event occurs, at any time during such period.

(viii) *Calculation of Number of Outstanding Shares of Common Stock*. For purposes of this Section 9(d), the number of shares of Common Stock outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock; and (ii) exclude shares of Common Stock held in the Company's treasury (unless the Company pays any dividend or makes any distribution on shares of Common Stock held in its treasury).

(ix) *Calculations*. All calculations with respect to the Conversion Rate and adjustments thereto will be made to the nearest 1/10,000th of a share of Common Stock (with 5/100,000ths rounded upward).

(x) *Notice of Conversion Rate Adjustments*. Upon the effectiveness of any adjustment to the Conversion Rate pursuant to Section 9(d)(i), the Company will promptly send notice to the Holder containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

10. **Rights upon Other Corporate Events; Distributions of Assets.**

(a) *Other Corporate Events*. In addition to and not in substitution for any other rights hereunder, prior to the consummation of any Fundamental Change pursuant to which holders of shares of Common Stock are entitled to receive securities or other assets in exchange for shares of Common Stock (a "***Corporate Event***"), the Company shall make appropriate provision to ensure that the Holder will thereafter have the right to receive upon a conversion of this Note, in lieu of the shares of Common Stock otherwise receivable upon such conversion, such securities or other assets received by the holders of shares of Common Stock in connection with the consummation of such Corporate Event in such amounts as the Holder would have been entitled to receive had this Note initially been issued with conversion rights for the form of such consideration (as opposed to shares of Common Stock) at a conversion rate for such consideration commensurate with the Conversion Rate. Provision made pursuant to the preceding sentence shall be in a form and substance satisfactory to the Holder. The provisions of this Section 10(a) shall apply similarly and equally to successive Corporate Events and shall be applied without regard to any limitations on the conversion or redemption of this Note.

(b) *Distribution of Assets*. In addition to any adjustments pursuant to Section 9(d) above, if the Company shall declare or make any dividend or other distributions of its assets (or rights to acquire its assets) to any or all holders of shares of Common Stock, by way of return of capital or otherwise (including without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (the "***Distributions***"), then the Holder will be entitled to such Distributions as if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Note (without taking into account any limitations or restrictions on the convertibility of this Note) immediately prior to the date on which a record is taken for such Distribution or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for such Distributions (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Distribution to the extent of the Maximum Percentage (and shall not be entitled to beneficial ownership of such shares of Common Stock as a result of such Distribution (and beneficial ownership) to the extent of any such excess) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time or times, if ever, as its right thereto would not result in the Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times the Holder shall be granted such Distribution (and any Distributions declared or made on such initial Distribution or on any subsequent Distribution held similarly in abeyance) to the same extent as if there had been no such limitation).

11. **Offer to Repurchase Note Upon a Fundamental Change**.

(a) If a Fundamental Change occurs at any time prior to the Maturity Date, the Company will be required to offer to repurchase for cash the Note on the date (the "***Fundamental Change Repurchase Date***") specified by the Company that is not less than 20 Business Days or more than 35 Business Days following the date of the related Fundamental Change Company Notice (or such other date as the Company and the Holder shall mutually agree in writing) at a repurchase price equal to 105% of the then outstanding principal amount thereof, plus accrued and unpaid interest thereon to, but excluding, the Fundamental Change Repurchase Date (the "***Fundamental Change Repurchase Price***").

(b) On or before the 20th Business Day after the occurrence of the effective date of a Fundamental Change, but not prior to the public announcement of such Fundamental Change, the Company shall provide to the Holder a written notice (the "***Fundamental Change Company Notice***") of the occurrence of the effective date of the Fundamental Change and of the resulting repurchase right. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the effective date of the Fundamental Change;

(iii) the last date on which a Holder may exercise the repurchase right pursuant to this Section 11;

(iv) the Fundamental Change Repurchase Price;

(v) the Fundamental Change Repurchase Date; and

(vi) the procedures the Holder must follow to require the Company to repurchase this Note.

(c) No failure of the Company to give the foregoing notices (which failure, for the avoidance of doubt, shall result in an Event of Default under Section 7(a)(iii)) and no defect therein shall limit the Holder's repurchase rights or affect the validity of the proceedings for the repurchase of this Note pursuant to this Section 11.

(d) To exercise the Fundamental Change repurchase right under this Section 11, the Holder shall deliver to the Company a duly completed notice (the "***Fundamental Change Repurchase Notice***") in the form attached hereto as Exhibit B. The Fundamental Change Repurchase Notice shall state the portion of the principal amount of this Note to be repurchased, which must be $1,000 or an integral multiple thereof.

(e) Notwithstanding anything herein to the contrary, the Holder shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Company specifying (i) the principal amount of this Note with respect to which such notice of withdrawal is being submitted, which must be in principal amounts of $1,000 or an integral multiple thereof, and (ii) the principal amount, if any, of this Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of $1,000 or an integral multiple of $1,000.

12. **Reservation of Authorized Shares**. So long as the Note remains outstanding, the Company shall at all times reserve at least 100% of the number of shares of Common Stock as shall from time to time be necessary to effect the conversion of all of the Note to the extent then outstanding (assuming such Note remain outstanding until the Maturity Date) at the Conversion Price then in effect (the "***Required Reserve Amount***").

13. **Remedies, Characterizations, Other Obligations, Breaches and Injunctive Relief**. The remedies provided in this Note shall be cumulative and in addition to all other remedies available under this Note and any of the other Transaction Documents at law or in equity (including a decree of specific performance and/or other injunctive relief). No failure on the part of the Holder to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the Holder of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. In addition, the exercise of any right or remedy of the Holder at law or equity or under this Note or any of the documents shall not be deemed to be an election of Holder's rights or remedies under such documents or at law or equity. The Company covenants to the Holder that there shall be no characterization concerning this instrument other than as expressly provided herein. Amounts set forth or provided for herein with respect to payments, conversion and the like (and the computation thereof) shall be the amounts to be received by the Holder and shall not, except as expressly provided herein, be subject to any other obligation of the Company (or the performance thereof). The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Holder and that the remedy at law for any such breach may be inadequate. The Company therefore agrees that, in the event of any such breach or threatened breach, the Holder shall be entitled, in addition to all other available remedies, to specific performance and/or temporary, preliminary and permanent injunctive or other equitable relief from any court of competent jurisdiction in any such case without the necessity of proving actual damages and without posting a bond or other security.

14. **Noncircumvention**. The Company hereby covenants and agrees that the Company will not, by amendment of its certificate of incorporation, bylaws or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Note, and will at all times in good faith carry out all of the provisions of this Note. Without limiting the generality of the foregoing or any other provision of this Note or the other Transaction Documents, the Company (a) shall not increase the par value of any shares of Common Stock receivable upon conversion of this Note above the Conversion Price then in effect, and (b) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the conversion of this Note.

15. **Payment of Collection, Enforcement and Other Costs**. If (a) this Note is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding or the Holder otherwise takes action to collect amounts due under this Note or to enforce the provisions of this Note or (b) there occurs any bankruptcy, reorganization, receivership of the Company or other proceedings affecting Company creditors' rights and involving a claim under this Note, then the Company shall pay the reasonable costs incurred by the Holder for such collection, enforcement or action or in connection with such bankruptcy, reorganization, receivership or other proceeding, including, without limitation, reasonable attorneys' fees and disbursements. The Company expressly acknowledges and agrees that no amounts due under this Note shall be affected, or limited, by the fact that the purchase price paid for this Note was less than the original principal amount hereof.

16. **Judgment Currency**.

(a) If for the purpose of obtaining or enforcing judgment against the Company in any court in any jurisdiction it becomes necessary to convert into any other currency (such other currency being hereinafter in this Section 16 referred to as the "***Judgment Currency***") an amount due in U.S. dollars under this Note, the conversion shall be made at the Exchange Rate prevailing on the Trading Day immediately preceding:

(i) the date actual payment of the amount due, in the case of any proceeding in the courts of New York or in the courts of any other jurisdiction that will give effect to such conversion being made on such date: or

(ii) the date on which the foreign court determines, in the case of any proceeding in the courts of any other jurisdiction (the date as of which such conversion is made pursuant to this Section 16(a)(ii) being hereinafter referred to as the "***Judgment Conversion Date***").

(b) If in the case of any proceeding in the court of any jurisdiction referred to in Section 16(a)(ii) above, there is a change in the Exchange Rate prevailing between the Judgment Conversion Date and the date of actual payment of the amount due, the applicable party shall pay such adjusted amount as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the Exchange Rate prevailing on the date of payment, will produce the amount of US dollars which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the Exchange Rate prevailing on the Judgment Conversion Date.

(c) Any amount due from the Company under this provision shall be due as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of this Note.

17. **Severability**. If any provision of this Note is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Note so long as this Note as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

18. **Maximum Payments**. Nothing contained herein shall be deemed to establish or require the payment of a rate of interest or other charges in excess of the maximum permitted by applicable law. In the event that the rate of interest required to be paid or other charges hereunder exceed the maximum permitted by such law, any payments in excess of such maximum shall be credited against amounts owed by the Company to the Holder and thus refunded to the Company.

19. **Reissuance of this Note**.

(a) *Transfer*. If this Note is to be transferred, the Holder shall surrender this Note to the Company with such other documents as the Company may reasonably require, whereupon the Company will forthwith issue and deliver upon the order of the Holder a new Note (in accordance with Section 19(d)), registered as the Holder may request, representing the outstanding Principal being transferred by the Holder and, if less than the entire outstanding Principal is being transferred, a new Note (in accordance with Section 19(d)) to the Holder representing the outstanding Principal not being transferred. The Holder and any assignee, by acceptance of this Note, acknowledge and agree that, by reason of the provisions of Section 19 following conversion or redemption of any portion of this Note, the outstanding Principal represented by this Note may be less than the Principal stated on the face of this Note. Notwithstanding the foregoing, unless an Event of Default has occurred and is continuing, the Holder may not split, assign and/or transfer this Note (other than to an affiliate of the Holder) without the prior consent of the Company; provided, that, for the avoidance of doubt, the Holder shall have no restrictions herein on the transfer of any Conversion Shares issued or issuable upon conversion of this Note.

(b) *Lost, Stolen or Mutilated Note*. Upon receipt by the Company of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Note (as to which a written certification and the indemnification contemplated below shall suffice as such evidence), and, in the case of loss, theft or destruction, of any indemnification undertaking by the Holder to the Company in customary and reasonable form and, in the case of mutilation, upon surrender and cancellation of this Note, the Company shall execute and deliver to the Holder a new Note (in accordance with Section 19(d)) representing the outstanding Principal.

(c) *Note Exchangeable for Different Denominations*. Subject to the last sentence of Section 19(a) above, this Note is exchangeable, upon the surrender hereof by the Holder at the principal office of the Company, for a new Note or Notes (in accordance with Section 19(d)) and in principal amounts of at least $1,000) representing in the aggregate the outstanding Principal of this Note, and each such new Note will represent such portion of such outstanding Principal as is designated by the Holder at the time of such surrender.

(d) *Issuance of New Notes*. Whenever the Company is required to issue a new Note pursuant to the terms of this Note, such new Note (i) shall be of like tenor with this Note, (ii) shall represent, as indicated on the face of such new Note, the Principal remaining outstanding (or in the case of a new Note being issued pursuant to Section 19(a) or Section 19(c), the Principal designated by the Holder which, when added to the principal represented by the other new Notes issued in connection with such issuance, does not exceed the Principal remaining outstanding under this Note immediately prior to such issuance of new Notes), (iii) shall have an issuance date, as indicated on the face of such new Note, which is the same as the Issue Date of this Note, (iv) shall have the same rights and conditions as this Note, and (v) shall represent accrued and unpaid Interest on the Principal and Interest of this Note, from the date hereof.

20. **Construction; Headings**. This Note shall be deemed to be jointly drafted by the Company and the initial Holder and shall not be construed against any such Person as the drafter hereof. The headings of this Note are for convenience of reference and shall not form part of, or affect the interpretation of, this Note. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Note instead of just the provision in which they are found. Unless expressly indicated otherwise, all section references are to sections of this Note.

21. **Failure or Indulgence not Waiver**. No failure or delay on the part of the Holder in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party. Notwithstanding the foregoing, nothing contained in this Section 21 shall permit any waiver of any provision of Section 2(d) or 9(c).

22. **Amending the Terms of this Note**. Except for Section 2(d) or 9(c), which may not be amended, modified or waived by the parties hereto, the prior joint written consent of the Company and the Holder shall be required for any change, waiver or amendment to this Note.

23. **Notices; Currency; Payments**.

(a) Notices. Whenever notice is required to be given under this Note, unless otherwise provided herein, such notice shall be given in accordance with Section 12 of the Assignment and Assumption Agreement. The Company shall provide the Holder with prompt written notice of all actions taken pursuant to this Note, including in reasonable detail a description of such action and the reason therefore. Without limiting the generality of the foregoing, the Company will give written notice to the Holder (i) immediately upon any adjustment of the Conversion Price, setting forth in reasonable detail, and certifying, the calculation of such adjustment and (ii) at least fifteen (15) days prior to the date on which the Company closes its books or takes a record (A) with respect to any dividend or distribution upon the Common Stock, (B) with respect to any grant, issuances, or sales of any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property to holders of shares of Common Stock or (C) for determining rights to vote with respect to any Fundamental Change, dissolution or liquidation, provided in each case that such information shall be made known to the public prior to or in conjunction with such notice being provided to the Holder.

(b) Currency. All dollar amounts referred to in this Note are in United States Dollars ("***U.S. Dollars***"), and all amounts owing under this Note shall be paid in U.S. Dollars. All amounts denominated in other currencies (if any) shall be converted into the U.S. Dollar equivalent amount in accordance with the Exchange Rate on the date of calculation. "***Exchange Rate***" means, in relation to any amount of currency to be converted into U.S. Dollars pursuant to this Note, the U.S. Dollar exchange rate as published in the Wall Street Journal on the relevant date of calculation (it being understood and agreed that where an amount is calculated with reference to, or over, a period of time, the date of calculation shall be the final date of such period of time).

(c) Payments. Whenever any payment of cash is to be made by the Company to any Person pursuant to this Note, unless otherwise expressly set forth herein, such payment shall be made in lawful money of the United States of America by a certified check drawn on the account of the Company and sent via overnight courier service to such Person at such address as previously provided to the Company in writing, provided that the Holder may elect to receive a payment of cash via wire transfer of immediately available funds by providing the Company with prior written notice setting out such request and the Holder's wire transfer instructions.

24. **Cancellation**. After all Principal, accrued Interest and other amounts at any time owed on this Note have been paid in full, this Note shall automatically be deemed canceled, shall be surrendered to the Company for cancellation and shall not be reissued.

25. **Waiver of Notice**. To the extent permitted by law, the Company hereby irrevocably waives demand, notice, presentment, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

26. **Successors and Assigns**. Subject to the restrictions on transfer described herein, the rights and obligations of the Company and the Holder of this Note shall be binding upon and benefit the permitted successors, assigns, heirs, administrators and transferees of the parties. This Note and any Conversion Shares issued or issuable upon conversion of this Note shall not be offered, sold, assigned or transferred by the Holder without the prior written consent of the Company.

27. **Treatment of Note**. To the extent permitted by generally accepted accounting principles, the Company will treat, account and report this Note as debt and not equity for accounting purposes and with respect to any returns filed with federal, state or local tax authorities.

28. **No Rights as Stockholder**. This Note, as such, shall not entitle the Holder to any voting rights or other rights as a stockholder of the Company. In the absence of conversion of this Note into Common Stock, no provisions of this Note, and no enumeration of the rights or privileges of the Holder, shall cause the Holder to be a stockholder of the Company for any purpose.

29. **Expenses; Waivers**. If action is instituted to collect this Note, the Company promises to pay all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred in connection with such action. The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument.

30. **Note Solely Corporate Obligations**. No recourse for the payment of the principal of or accrued and unpaid interest on this Note, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company in this Note, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, shareholder, employee, agent, Officer or director or Subsidiary, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company, or any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the issue of this Note.

31. **Disclosure**. Upon delivery by the Company to the Holder (or receipt by the Company from the Holder) of written notice in accordance with the terms of this Note, unless the Company has in good faith determined that the matters relating to such notice do not constitute material, non-public information relating to the Company or any of its Subsidiaries, the Company shall on or prior to 9:00 am, New York City time on the Business Day immediately following such notice delivery date, publicly disclose such material, non-public information on a Current Report on Form 8-K or otherwise. In the event that the Company believes that a notice contains material, non-public information relating to the Company or any of its Subsidiaries, the Company so shall indicate to the Holder explicitly in writing in such notice (or immediately upon receipt of notice from the Holder, as applicable), and in the absence of any such written indication in such notice (or notification from the Company immediately upon receipt of notice from the Holder), the Holder shall be entitled to presume that information contained in the notice does not constitute material, non-public information relating to the Company or any of its Subsidiaries.

32. **Absence of Disclosure Restrictions**. The Company acknowledges and agrees that the Holder is not a fiduciary or agent of the Company and that the Holder shall have no duty or obligation to maintain the confidentiality of any information provided by the Company.

33. **Miscellaneous**. The terms and provisions of Section 15 (*Governing Law; Submission to Jurisdiction; Waiver of Jury Trial*), Section 16 (*Miscellaneous*), Section 17 (*Counterparts; Electronic Signatures*), Section 18 (*Rules of Construction*), Section 19 (*Payment Set Aside; Currency; Fractional Share*), and Section 21 (*Entire Agreement*) of the Assignment and Assumption Agreement shall be deemed to apply, *mutatis mutandis,* to this Note.

34. **Trust Indenture Act**. The Holder acknowledges that this Note is being issued without an indenture pursuant to an exemption to the Trust Indenture Act of 1939, as amended (the "***TIA***"), and as a result, the Holder will not be afforded the benefits and protections of the TIA, including the appointment of a suitable independent and qualified trustee

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IN WITNESS WHEREOF, the Company has caused this Convertible Promissory Note to be issued as of the date first set forth above.

TILRAY BRANDS, INC.

By: /s/ Mitchell Gendel
Name: Mitchell Gendel
Title: Global General Counsel

[Signature Page to Convertible Promissory Note]

ACKNOWLEDGED AND AGREED:

HT INVESTMENTS MA LLC

By: /s/ Eric Helenek
Name: Eric Helenek
Title: Authorized Signatory

[Signature Page to Convertible Promissory Note]

HT Investments MA LLC
221 River Street, 9th Floor,
Hoboken, NJ 07030

Tilray Brands, Inc.
655 Madison Avenue, Suite 1900
New York, NY, 10065,
United States

Date: _____

CONVERSION NOTICE

The above-captioned Holder hereby gives notice to Tilray Brands, Inc., a Delaware corporation (the "**Company**"), pursuant to that certain Convertible Promissory Note made by the Company in favor of the Holder on [♦], 2022 (the "**Note**"), that the Holder elects to redeem all or a portion of this Note in Conversion Shares as set forth below.

CONVERSION INFORMATION

A. Conversion Date: _____, 202_
B. Conversion Amount: _____
C. Conversion Price: _____
D. Conversion Shares: _____ (B divided by C)
E. Remaining Outstanding Balance of Note: _____ *

*Subject to adjustments for corrections, defaults, interest and other adjustments permitted by the Transaction Documents (as defined in the Assignment and Assumption Agreement), the terms of which shall control in the event of any dispute between the terms of this Conversion Notice and such Transaction Documents.

Please transfer the Conversion Shares, if applicable, electronically (via DWAC) to the following account:

Broker: _____ Address: _____
DTC#: _____ _____
Account #: _____ _____
Account Name: _____

Sincerely,

Holder:

HT INVESTMENTS MA LLC

By: _____
Name:
Title:

HT Investments MA LLC
221 River Street, 9th Floor,
Hoboken, NJ 07030

Tilray Brands, Inc.
655 Madison Avenue, Suite 1900
New York, NY, 10065,
United States

Date: _____

FUNDAMENTAL CHANGE REPURCHASE NOTICE

The above-captioned Holder hereby acknowledges receipt of a notice from Tilray Brands, Inc., a Delaware corporation (the "**Company**"), pursuant to that certain Convertible Promissory Note made by the Company in favor of the Holder on [♦], 2022 (the "**Note**"), as to the occurrence of a Fundamental Change with respect to the Company and specifying its offer to repurchase the Note, and hereby accepts such offer and requests and instructs the Company to pay to the above-captioned Holder in accordance with Section 10 of the Note (1) the entire outstanding principal amount of this Note, or the portion thereof (that is $1,000 principal amount or an integral multiple thereof) below designated, and (2) accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Note.

Sincerely,

Holder:

HT INVESTMENTS MA LLC

By: _____
Name:
Title:

Principal amount to be repaid (if less than all): _____

Exhibit 10.6

HEXO CORP.

Amended and Restated Senior Secured Convertible Note due 2026

Certificate No.A-2

HEXO Corp., an Ontario, Canada corporation (the "**Company**"), for value received, promises to pay to HT Investments MA LLC (the "**Initial Holder**"), or its permitted registered assigns, the principal sum of **One Hundred and Seventy-Three Million, Seven Hundred Thousand** dollars ($**173,700,000)** (such principal sum, collectively with all Capitalized Interest and direct and indirect costs incurred by the Holder in connection with the acquisition of this Note) (the "**Principal Amount**" or the "**Maturity Principal Amount**") on May 1, 2026, and to pay any outstanding interest thereon, as provided in this Note, in each case as provided in and subject to the other provisions of this Note, including the earlier redemption or conversion of this Note.

This Note was originally issued pursuant to that certain Indenture, dated as of May 27, 2021 (the "**Indenture**"), between the Company and GLAS Trust Company LLC, as trustee, as supplemented and modified by an action of the Board of Directors (as defined below) on May 27, 2021 (the "**Board Resolution**"). The terms of this Note include those stated in the Indenture, as supplemented and modified by the Board Resolution. For the avoidance of doubt, any provisions herein that replace or amend any provision of the Indenture shall only apply to the extent of this Note, and any other provisions of the Indenture shall remain in full force and effect with respect to this Note and otherwise.

Additional provisions of this Note are set forth in the following pages to this Note entitled "HEXO Corp. – Senior Secured Convertible Note due 2026", which form a part of this Note.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, HEXO Corp. has caused this instrument to be duly executed as of the date set forth below.

HEXO CORP.

Date: July 12, 2022

By: /s/ Mark Attanasio

Name:Mark Attanasio
Title: Executive Chairman

HEXO CORP.

Date: July 12, 2022

By: /s/ Joelle Maurais

Name:Joelle Maurais
Title: General Counsel

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TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Dated as of July 12, 2022

This is one of the Securities of the series designated therein referred to in the within mentioned indenture.

TMI TRUST COMPANY, AS TRUSTEE

Dated: July 12, 2022

By: /s/ Debra A. Schachel
Name: Debra A. Schachel
Title: Vice President

HEXO CORP.

Senior Secured Convertible Note due 2026

This Note (this "**Note**" and, collectively with any Note issued in exchange therefor or in substitution thereof, the "**Notes**") is issued by HEXO Corp., an Ontario, Canada corporation (the "**Company**"), and designated as its "Senior Secured Convertible Notes due 2026."

This Note is subject to the terms of the Indenture. Pursuant to the Board Resolution and Section 3.1 of the Indenture, notwithstanding anything to the contrary in this Note or the Indenture, to the extent that any provisions of this Note conflicts with any provisions of the Indenture, the provisions of this Note will control to the extent of such conflict.

Section 1. DEFINITIONS.

Capitalized terms used but not defined herein shall have the meanings set forth in the Indenture to the extent defined therein.

"**Acceptance Notice**" has the meaning set forth in **Section 16**.

"**Adjusted EBITDA**" means, for any fiscal quarter, the Adjusted EBITDA of the Company, calculated as: (i) total net income (loss); (ii) plus (minus) income taxes (recovery); (iii) plus (minus) finance expense (income); (iv) plus depreciation; (v) plus amortization; (vi) plus (minus) investment (gains) losses, including revaluation of financial instruments, share of loss from investment in joint ventures, adjustments on warrants and other financial derivatives, unrealized loss on investments, and foreign exchange gains and losses; (vii) plus (minus) fair value adjustments on inventory and biological assets; (viii) plus inventory write-downs and provisions; (ix) plus (minus) non-recurring transaction and restructuring costs; (x) plus impairments to any and all long-lived assets; (xi) plus all stock-based compensation; and (xii) plus any management or advisory fee paid by the Company to the Holder or any Affiliate thereof during the applicable quarter.

"**Affiliate**" has the meaning set forth in Rule 144 under the Securities Act.

"**ATM Program**" means any at-the-market distribution program within the meaning of Part 9 of National Instrument 44-102—*Shelf Distributions* (and the equivalent or corresponding concept under U.S. securities laws) that the Company may implement from time to time by way one or more agreements with sales agents with respect thereto and under one or more prospectus supplements filed under one or more base shelf prospectuses.

"**ATM Shares**" means and all Common Shares issued from time to time by the Company pursuant to an ATM Program.

"**Authorized Denomination**" means, with respect to the Notes, a Principal Amount thereof equal to $1,000 or any integral multiple of $1,000 in excess thereof, or, if such Principal Amount then-outstanding is less than $1,000, then such outstanding Principal Amount.

"**Average DDT Volume**" has the meaning set forth in **Section 8(F)(i)**.

"**Bankruptcy Law**" means Title 11, United States Code, the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any similar U.S. federal or state, Canadian federal or provincial or non-U.S. or non-Canadian law for the relief of debtors.

"**Board of Directors**" means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

"**Board Resolution**" has the meaning set forth in the cover page of this Note.

"**Business Combination Event**" has the meaning set forth in **Section 10**.

"**Business Day**" means any day other than a Saturday, a Sunday or any day on which commercial banks in The City of New York or in Toronto, Ontario are authorized or required by law or executive order to close or be closed; *provided*, *however*, for clarification, commercial banks in The City of New York or in Toronto, Ontario shall not be deemed to be authorized or required by law or executive order to close or be closed due to "stay at home", "shelter-in-place", "non-essential employee" or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York or Toronto, Ontario are open for use by customers on such day.

"**Canadian Securities Laws**" means securities laws and the applicable rules and regulations under such laws, together with applicable published national, multilateral and local policy statements, instruments, notices and blanket orders of the CSA in each of the provinces and territories of Canada.

"**Capital Lease**" means, with respect to any Person, any leasing or similar arrangement conveying the right to use any property, whether real or personal property, or a combination thereof, by that Person as lessee that, in conformity with IFRS, is required to be accounted for as a capital lease on the balance sheet of such Person.

"**Capital Lease Obligation**" means, at the time any determination is to be made, the amount of the liability in respect of a Capital Lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with IFRS, and the stated maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

"**Capital Stock**" of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, but excluding any debt securities convertible into such equity.

"**Capitalized Interest**" has the meaning set forth in Section 4.

"**Cash**" means all cash and liquid funds.

"**Cash Equivalents"** means, as of any date of determination, any of the following: (A) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government or the Government of Canada, or (ii) issued by any agency of the United States or Canada the obligations of which are backed by the full faith and credit of the United States or Canada, respectively, in each case maturing within one (1) year after such date; (B) marketable direct obligations issued by any state of the United States of America or Province of Canada or any political subdivision of any such state or Province or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor's Corporation or at least P-1 from Moody's Investors Service; (C) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from Standard & Poor's Corporation or at least P-1 from Moody's Investors Service; (D) certificates of deposit or bankers' acceptances maturing within one (1) year after such date and issued or accepted by any commercial bank organized under the laws of the United States of America or Canada or any State, Province or Territory thereof or the District of Columbia that (i) is at least "adequately capitalized" (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than $5,000,000,000; and (E) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (A) and (B) above, (ii) has net assets of not less than $5,000,000,000, and (iii) has the highest rating obtainable from either Standard & Poor's Corporation or Moody's Investors Service.

"**Change of Control**" means: (a) any event as a result of or following which any person or entity or group thereof "acting jointly or in concert" within the meaning of Canadian Securities Laws, other than the Holder or any Affiliates thereof, whether independently or acting jointly or in concert, and other than any Person(s) acting jointly or in concert with the Holder or any Affiliate thereof, acquires beneficial ownership or control or direction over an aggregate of more than fifty percent (50%) of the then outstanding votes attached to the shares of the Company, other than pursuant to any exercise of rights of the Holders provided for in Section 8; or (b) the sale or transfer of all or substantially all of the consolidated assets of the Company.

"**Close of Business**" means 5:00 p.m., Toronto time.

"**Collateral**" has the meaning set forth in the Security Agreement.

"**Collateral Agent**" means, at any given time, the Holder (or such other Person appointed by the Holder, in such Person's capacity as collateral agent for the Trustee, the Holder and each Other Holder, together with any successor thereto in such capacity.

"**Commission**" means the U.S. Securities and Exchange Commission.

"**Common Share Equivalents**" means this Note and any options, restricted stock units or other security or obligation that is by its terms, directly or indirectly, convertible into, exchangeable or exercisable for Common Shares, and any option, warrant or other right to subscribe for, purchase or acquire Common Shares or any security convertible into Common Shares (disregarding any restrictions or limitations on the exercise of such rights).

"**Common Shares**" means the common shares of the Company without nominal or par value, subject to any adjustment in accordance with the provisions of **Section 8(J)**.

"**Common Shares Change Event**" has the meaning set forth in **Section 8(J)(i)**.

"**Contingent Obligation**" means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (A) any Indebtedness or other obligations of another Person, including any such obligation directly or indirectly guaranteed, endorsed, co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable; (B) any obligations with respect to undrawn letters of credit, corporate credit cards or merchant services issued for the account of that Person; and (C) all obligations arising under any interest rate, currency or commodity swap agreement, interest rate cap agreement, interest rate collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term "Contingent Obligation" shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement

"**Conversion Consideration**" has the meaning set forth in **Section 8(D)(i)**.

"**Conversion Consideration Interest Shares**" has the meaning set forth in **Section 8(D)(i)(2)**.

"**Conversion Consideration Interest Shares Notice**" has the meaning set forth in **Section 8(D)(ii)**.

"**Conversion Consideration Shortfall Payment**" has the meaning set forth in **Section 8(D)**.

"**Conversion Consideration Shortfall Payment Date**" has the meaning set forth in **Section 8(D)**.

"**Conversion Date**" means, with respect to a Note, the first Business Day on which the requirements set forth in **Section 8(C)(i)** to convert such Note are satisfied.

"**Conversion Price**" means, as of any time, an amount equal to (A) one thousand dollars ($1,000) divided by (B) the Conversion Rate in effect at such time.

"**Conversion Rate**" initially means the number of Common Shares equal to US1,000 divided by the USD equivalent of CAD$0.40 as determined the day before execution per $1,000 Principal Amount of Notes; *provided*, *however*, that the Conversion Rate is subject to adjustment pursuant to **Section 8**; *provided*, *further*, that whenever this Note refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date. For the avoidance of doubt, conversion calculations are to be calculated by the Holder and not the Trustee. The Company shall be the initial conversion agent and not the Trustee.

"**Conversion Settlement Date**" has the meaning set forth in **Section 8(D)(v)**.

"**Copyright License"** means any written agreement granting any right to use any Copyright or Copyright registration, now owned or hereafter acquired by the Company or in which the Company now holds or hereafter acquires any interest.

"Copyrights" means all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, Canada, any State, Province or Territory thereof or of any other country.

"**Covering Price**" has the meaning set forth in **Section 8(D)(vi)(1)**.

"**CSA**" means, collectively, the securities commission or other securities regulatory authorities in each of the provinces and territories of Canada.

"**Currency Due**" has the meaning set forth in **Section 17**.

"**Daily VWAP**" means, for any VWAP Trading Day, the per share volume-weighted average price of the Common Shares on the Nasdaq Capital Market as displayed under the heading "Bloomberg VWAP" on Bloomberg page "HEXO US <EQUITY> VAP" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume-weighted average price is unavailable, the market value of one share of Common Shares on such VWAP Trading Day, determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

"**Default**" means any Event of Default and any event that is (or, after notice, passage of time or both, would be) an Event of Default.

"**Default Interest**" has the meaning set forth in **Section 4(A)**.

"**Defaulted Amount**" has the meaning set forth in **Section 4(A)**.

"**Defaulted Shares**" has the meaning set forth in **Section 8(D)(vi)**.

"**Designated ELOC**" means that certain equity line of credit program providing for the issuance by the Company from time to time of Common Shares pursuant to an equity purchase agreement between the Company and 2692106 Ontario Inc. in a form satisfactory to the Holder.

"**Designated ELOC Common Shares**" means any and all Common Shares issued from time to time by the Company under the Designated ELOC.

"**Disclosure Letter**" means the disclosure letter delivered to the Purchaser concurrently with the execution of this Agreement.

"**Disqualified Stock**" means, with respect to any Person, any Capital Stock that by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder) or upon the happening of any event:

(A) matures or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise;

(B) is convertible or exchangeable for Indebtedness or Disqualified Stock (excluding Capital Stock convertible or exchangeable solely at the option of the Company or a Subsidiary of the Company; provided that any such conversion or exchange will be deemed an incurrence of Indebtedness or Disqualified Stock, as applicable); or

(C) is redeemable at the option of the holder thereof, in whole or in part,

in the case of each of clauses (A), (B) and (C), at any point prior to the one hundred eighty-first (181st) day after the Maturity Date.

"**Distributed Securities**" means any securities distributed or issued pursuant to a Distribution.

"**Distribution**" means any distribution or issuance by the Company of: (i) equity securities in the capital of the Company, (ii) rights, options or warrants to purchase equity securities in the capital of the Company, (iii) securities of any type that are, or may become, convertible or exchangeable into or exercisable for equity securities in the capital of the Company, (iv) debt securities of the Company; *provided that*, "Distribution" shall not include Excluded Issuances.

"**DTC**" means The Depository Trust Company.

"**Eligible Exchange**" means any of The New York Stock Exchange, The NYSE American, The Nasdaq Capital Market, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors).

"**Equipment**" means all "**equipment**" as defined in the UCC or the PPSA, as the case may be, with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

"**Equity Conditions**" will be deemed to be satisfied as of any date if all of the following conditions are satisfied as of such date and on each of the twenty (20) previous Trading Days: (A) the shares issuable upon conversion of this Note are Freely Tradable; (B) the Holder is not in possession of any material non-public information provided by or on behalf of the Company; (C) the Company is in compliance with **Section 8(E)(i)** and such shares will satisfy **Section 8(E)(ii)**; (D) no public announcement of a pending, proposed or intended Fundamental Change has occurred that has not been abandoned, terminated or consummated; (E) the Daily VWAP per Common Share on The Nasdaq Capital Market is not less than three hundred and fifty percent (350%) of the Conversion Price (subject to proportionate adjustments for events of the type set forth in **Section 8(G)(i)(1)**); (F) the daily dollar trading volume (as reported on Bloomberg) of the Common Shares on The Nasdaq Capital Market is not less than ten million dollars ($10,000,000); and (G) no Default or Event of Default will have occurred or be continuing.

"**Equity Interests**" shall mean, with respect to any Person, any and all shares, interests, participations or other equivalents, including preferred stock or membership interests (however designated, whether voting or non-voting), of equity of such Person, including, if such Person is a partnership, partnership interests (whether general or limited) and including, without limitation, any "equity security" (as that term is defined under Rule 405 promulgated under the Securities Act), and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, such partnership.

"**Equity Rights**" shall mean, with respect to any Person, any then-outstanding subscriptions, options, warrants, commitments, preemptive rights, convertible debt, or other equity-linked securities or agreements of any kind for the issuance or sale, of any additional Equity Interests of any class, or partnership or other ownership interests of any type in, such Person.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

"**Event of Default**" has the meaning set forth in **Section 11(A).**

"**Event of Default Acceleration Amount**" means, with respect to the delivery of a notice pursuant to **Section 11(B)(ii)** declaring this Note to be due and payable immediately on account of an Event of Default, a cash amount equal to the greater of: (A) one hundred fifteen percent (115%) of the then outstanding Principal Amount of this Note plus accrued and unpaid interest, if any; and (B) one hundred fifteen percent (115%) of the product of (i) the Conversion Rate in effect as of the Trading Day immediately preceding the date such notice is so delivered, (ii) the total then outstanding Principal Amount (expressed in thousands) of this Note plus accrued and unpaid interest, if any, and (iii) the greater of (x) the highest Daily VWAP per Common Share occurring during the thirty (30) consecutive VWAP Trading Days ending on, and including, the VWAP Trading Day immediately before the date such notice is so delivered and (y) the highest Daily VWAP per Common Share occurring during the thirty (30) consecutive VWAP Trading Days ending on, and including, the VWAP Trading Day immediately before the date the applicable Event of Default occurred. For the avoidance of doubt, any Event of Default Acceleration Amount will be calculated by the Holder and not the Trustee.

"**Event of Default Additional Shares**" means, with respect to the conversion of this Note (or any portion of this Note), an amount equal to the excess, if any, of (A) the Event of Default Conversion Rate applicable to such conversion over (B) the Conversion Rate that would otherwise apply to such conversion without giving effect to **Section 8(I)**. For the avoidance of doubt, the Event of Default Additional Shares cannot be a negative number.

"**Event of Default Conversion Period**" means, with respect to an Event of Default, the period beginning on, and including, the date such Event of Default occurs.

"Event of Default Conversion Price" means, with respect to the conversion of this Note (or any portion of this Note), the lesser of: (A) the Conversion Price that would be in effect immediately after the Close of Business on the Conversion Date for such conversion, without giving effect to Section 8(I); and (B) seventy five percent (75%) of the lowest Daily VWAP per Common Share during the ten (10) consecutive VWAP Trading Days ending on, and including, such Conversion Date (or, if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day).

"**Event of Default Conversion Rate**" means, with respect to the conversion of this Note (or any portion of this Note), an amount (rounded to the nearest 1/10,000th of a Common Share (with 5/100,000ths rounded upward)) equal to (A) one thousand dollars ($1,000) *divided by* (B) the Event of Default Conversion Price applicable to such conversion.

"**Event of Default Notice**" has the meaning set forth in **Section 11(C)**.

"**Ex-Dividend Date**" means, with respect to an issuance, dividend or distribution on the Common Shares, the first date on which Common Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Shares under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Excluded Issuances**" means (i) the distribution or issuance by the Company of equity securities of the Company upon exercise, conversion, exchange or vesting of options, restricted stock units or other convertible securities pursuant to equity-based compensation plans that have been previously-approved by the Company's shareholders, in accordance with the terms of such plans, and (ii) the distribution or issuance by the Company of Designated ELOC Common Shares and/or ATM Shares.

"**Expiration Date**" has the meaning set forth in **Section 8(G)(i)(5)**.

"**Expiration Time**" has the meaning set forth in **Section 8(G)(i)(5)**.

"**Floor Price**" means any price which the TSX has indicated in writing that the Market Stock Payment Price may not be lower than.

"**Forced Conversion**" means the conversion of this Note pursuant to **Section 8(F)**.

"**Forced Conversion Additional Payment**" has the meaning set forth in **Section 5(D)**.

"**Forced Conversion Additional Payment Date**" has the meaning set forth in **Section 5(D)**.

"**Forced Conversion Notice**" has the meaning set forth in **Section 8(F)**.

"**Forced Conversion Qualification Period**" has the meaning set forth in **Section 8(F)**.

"**Freely Tradable**" means, with respect to any Common Shares issued or issuable under this Note (whether upon conversion of this Note or otherwise), that (A) such shares would be eligible to be offered, sold or otherwise transferred by the Holder pursuant to Rule 144, without any requirements as to volume, manner of sale, availability of current public information (whether or not then satisfied) or notice under the Securities Act and without any requirement for registration under any state securities or "blue sky" laws; or (B) such shares are (or, when issued, will be) (i) represented by book-entries at DTC and identified therein by an "unrestricted" CUSIP number; (ii) not represented by any certificate that bears a legend referring to transfer restrictions under the Securities Act, Canadian Securities Laws or other securities laws; and (iii) listed and admitted for trading, without suspension or material limitation on trading, on an Eligible Exchange and the TSX; and (C) no delisting or suspension by such Eligible Exchange or the TSX has been threatened (with a reasonable prospect of delisting occurring after giving effect to all applicable notice, appeal, compliance and hearing periods) or reasonably likely to occur or pending as evidenced by (x) a writing by such Eligible Exchange or the TSX or (y) the Company falling below the minimum listing maintenance requirements of such Eligible Exchange or the TSX.

"**Fundamental Change**" means any of the following events:

(A) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than (x) the Company or its Wholly Owned Subsidiaries, (y) the employee benefit plans of the Company or its Wholly Owned Subsidiaries, or (z) the Holder or any of its Affiliates (including any "group" including the Holder or any of its Affiliates), files any report with the Commission or the CSA indicating that such person or group has become the direct or indirect "beneficial owner" (as defined below) of shares of the Company's common equity representing more than fifty percent (50%) of the voting power of all of the Company's then-outstanding common equity;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person (other than solely to one or more of the Company's Wholly Owned Subsidiaries); or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Shares are exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property (other than a subdivision or combination, or solely a change in par value, of the Common Shares); *provided*, *however*, that any merger, consolidation, share exchange or combination of the Company pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company's stockholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) the Common Shares cease to be listed on any Eligible Exchange or the TSX.

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)(i)** or **(ii)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso); (y) if any transaction or event described in **clause (B)(i)** or **(ii)** above (without regard to the proviso in **clause (B)**) occurs, after which the Company remains in existence but has no remaining assets or liabilities, the subsequent approval by the Company's stockholders of any plan or proposal for the liquidation or dissolution of the Company shall not constitute a separate Fundamental Change; and (z) whether a Person is a "**beneficial owner**" and whether shares are "**beneficially owned**" will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Change Redemption Date**" means the date designated by the Holder for redemption of this Note in connection with a Fundamental Change, as provided in **Section 7(F)**.

"**Fundamental Change Base Repurchase Price**" means, with respect to this Note (or any portion of this Note to be repurchased) upon a Repurchase Upon Fundamental Change, a cash amount equal to the greater of: (A) one hundred five percent (105%) of the then outstanding Principal Amount of such Note (or portion thereof) to be so repurchased, plus any accrued and unpaid interest on this Note; and (B) one hundred five percent (105%) of the product of (i) the Conversion Rate in effect as of the Trading Day immediately preceding the effective date of such Fundamental Change, (ii) the Principal Amount of this Note to be repurchased upon a Repurchase Upon Fundamental Change divided by $1,000, and (iii) the Fundamental Change Stock Price for such Fundamental Change. For the avoidance of doubt, any Fundamental Change Base Repurchase Price calculations are to be calculated by the Holder and not the Trustee.

"**Fundamental Change Notice**" has the meaning set forth in **Section 7(C)**.

"**Fundamental Change Repurchase Date**" means the date as of which this Note must be repurchased for cash in connection with a Fundamental Change, as provided in **Section 7(B)**.

"**Fundamental Change Repurchase Price**" means the cash price payable by the Company to repurchase this Note (or any portion of this Note) upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 7(D)**.

"**Fundamental Change Stock Price**" means, with respect to any Fundamental Change, the highest Daily VWAP per Common Share occurring during the thirty (30) consecutive VWAP Trading Days ending on, and including, the day immediately before the effective date of such Fundamental Change.

"**Holder**" means the person in whose name this Note is registered on the books of the Company, which initially is the Initial Holder.

"**IFRS**" means International Financial Reporting Standards as issued by the International Accounting Standards Board, as in effect from time to time.

The term "**including**" means "including without limitation," unless the context provides otherwise.

"**Indebtedness**" means, indebtedness of any kind, including, without duplication (A) all indebtedness for borrowed money or the deferred purchase price of property or services, including reimbursement and other obligations with respect to surety bonds and letters of credit, (B) all obligations evidenced by notes, bonds, debentures or similar instruments, (C) all Capital Lease Obligations, (D) all Contingent Obligations, and (E) Disqualified Stock.

"**Independent Investigator**" has the meaning set forth in **Section 9(Z)**.

"**Indenture**" means that certain Indenture, dated as of May 27, 2021, between the Company and the Trustee.

"**Initial Holder**" has the meaning set forth in the cover page of this Note.

"**Intellectual Property**" means all of the Company's Copyrights; Trademarks; Patents; Licenses; trade secrets and inventions; mask works; the Company's applications therefor and reissues, extensions, or renewals thereof; and the Company's goodwill associated with any of the foregoing, together with the Company's rights to sue for past, present and future infringement of Intellectual Property and the goodwill associated therewith.

"**Investment**" means any beneficial ownership (including stock, partnership or limited liability company interests) of or in any Person, or any loan, advance or capital contribution to any Person or the acquisition of all, or substantially all, of the assets of another Person or the purchase of any assets of another Person for greater than the fair market value of such assets to solely the extent of the amount in excess of the fair market value.

"**Issue Date**" means May 27, 2021.

"**Judgment Currency**" has the meaning set forth in **Section 17**.

"**Last Reported Sale Price**" of the Common Shares for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of Common Shares on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Shares are then listed. If the Common Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Common Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Common Share on such Trading Day from a nationally recognized independent investment banking firm selected by the Company.

"**License**" means any Copyright License, Patent License, Trademark License or other license of rights or interests.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, against any property, any conditional sale or other title retention agreement, and any lease in the nature of a security interest; provided, that for the avoidance of doubt, licenses, strain escrows and similar provisions in collaboration agreements, research and development agreements that do not create or purport to create a security interest, encumbrance, levy, lien or charge of any kind shall not be deemed to be Liens for purposes of this Note.

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Shares are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Shares or in any options contracts or futures contracts relating to the Common Shares.

"**Market Stock Payment Price**" means, with respect to any Forced Conversion Date or Fundamental Change Redemption Date, as applicable, an amount equal to eighty eight percent (88.0%) of the lesser of (i) the average of the Daily VWAPs during the five (5) VWAP Trading Day period ending on the VWAP Trading Day immediately prior to such Forced Conversion Date or Fundamental Change Redemption Date, as applicable, and (ii) the average of the Daily VWAPs during the fifteen (15) VWAP Trading Day period ending on the VWAP Trading Day immediately prior to such Forced Conversion Date or Fundamental Change Redemption Date, as applicable.

"**Maturity Date**" means May 1, 2026.

"**Maturity Principal Amount**" has the meaning set forth in the cover page of this Note.

"**Minimum Volume**" has the meaning set forth in **Section 8(F)(i)**.

"**Open of Business**" means 9:00 a.m., Toronto time.

The term "**or**" is not exclusive, unless the context expressly provides otherwise.

"**Other Holder**" means any person in whose name any Other Note is registered on the books of the Company.

"**Other Notes**" means any Notes that are of the same class of this Note and that are represented by one or more certificates other than the certificate representing this Note.

"**Ownership Percentage**" means, at any time, the direct and/or indirect ownership interest of the Holder and its Affiliates in the Company, expressed as a percentage, calculated in accordance with the following formula:

(A + B) / C

For purposes of the foregoing formula, the following definitions shall apply:

A is the aggregate number of Common Shares owned and/or controlled at the relevant time by the Holder and its Affiliates;

B is the aggregate number of Common Share Equivalents (on an as-converted to Common Share basis) owned and/or controlled at the relevant time by the Holder and its Affiliates, which, for greater certainty, includes the equivalent of any Common Shares issuable under this Note (whether upon conversion of this Note or otherwise) and any Common Shares issuable upon conversion of any outstanding convertible debt of the Company held by the Holder and its Affiliates at the relevant time, converted at a price as dictated by the debt, provided that if a conversion price is not stipulated, it is converted at the last closing price of the Common Shares on the TSX (or such other stock exchange on which the Company's Common Shares trade at the relevant time); and

C is the aggregate number of issued and outstanding Common Shares and Common Share Equivalents (on an as-converted to Common Share basis) at such time.

"**Patent License**" means any written agreement granting any right with respect to any invention covered by a Patent that is in existence or a Patent application that is pending, in which agreement the Company now holds or hereafter acquires any interest.

"**Patents**" means all letters patent of, or rights corresponding thereto, in the United States, Canada or in any other country, all registrations and recordings thereof, and all applications for letters patent of, or rights corresponding thereto, in the United States, Canada or any other country.

"**Permitted Asset Dispositions**" means the proposed asset sales and intended use of proceeds from such asset sales as are described in Section 1 of the Disclosure Letter.

"**Permitted Indebtedness**" means: (A) Indebtedness evidenced by (i) this Note or (ii) the Other Notes provided that: (1) such Indebtedness under the Other Notes does not exceed $50,000,000, (2) such Other Notes are issued on or prior to the date which is six months following the date hereof and (3) such Other Notes are issued to the Holder or any Affiliate of the Holder; (B) Indebtedness actually disclosed pursuant to the Transaction Agreement as of the date of the Transaction Agreement, including, for greater certainty, the unsecured convertible debentures of the Company issued and outstanding as of the date of the Transaction Agreement; (C) Indebtedness outstanding at any time secured by a Lien described in clause (G) of the defined term "Permitted Liens," provided such Indebtedness does not exceed the cost of the Equipment and related expenses financed with such Indebtedness or in the form of purchase money Indebtedness (whether in the form of a loan or a lease) used solely to acquire equipment used in the ordinary course of business and secured only by such equipment and sale and insurance proceeds in respect thereof; provided that the total amount of Permitted Indebtedness described in this clause (C) may not exceed one million dollars ($1,000,000) in the aggregate; (D) Indebtedness to trade creditors or in respect of performance bonds, surety bonds, appeal bonds, completion guarantees or like instruments incurred in the ordinary course of business; (E) Indebtedness of the Company or a Subsidiary to another Wholly Owned Subsidiary or the Company or Indebtedness pursuant to a Permitted Investment; (F) Subordinated Indebtedness of the Company; (G) reimbursement obligations in connection with letters of credit or similar instruments that are secured by Cash or Cash Equivalents and issued on behalf of the Company or a Subsidiary and actually or deemed to be disclosed pursuant to the Transaction Agreement as of the date of the Transaction Agreement or in an aggregate amount not to exceed one hundred thousand dollars ($100,000) at any time outstanding; (H) Contingent Obligations that are guarantees of Indebtedness described in clauses (A) through (K); (I) Indebtedness in respect of credit cards, credit card processing services, debit cards, stored value cards, purchase cards (including so-called "procurement cards" or "P-cards"), in each case, incurred in the ordinary course of business and to the extent such Indebtedness does not exceed one million dollars ($1,000,000) in the aggregate at any time outstanding; (J) so long as there exists no Event of Default both immediately before and immediately after giving effect to any such transaction, Indebtedness existing or arising under any hedge agreement that is obtained by the Company to provide protection against fluctuations in currency exchange rates, provided, however, that such obligations are (or were) entered into by the Company or an Affiliate in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person and not for purposes of speculation; (K) extensions, refinancings and renewals of any items of Permitted Indebtedness (other than any Indebtedness repaid with the proceeds of this Note), provided that the principal amount is not increased or the terms modified to impose materially more burdensome terms upon the Company or its Subsidiaries, as the case may be, and such extended, refinanced or renewed Permitted Indebtedness is not secured, and provided further, that if the lender of any such proposed extension, refinancing or renewal of Permitted Indebtedness incurred hereunder is different from the lender of the Permitted Indebtedness to be so extended, refinanced or renewed then, in addition to the foregoing proviso, such Permitted Indebtedness shall also not have a final maturity date, amortization payment, sinking fund, mandatory redemption or other repurchase obligation earlier than one hundred eighty-one (181) days following the Maturity Date.

"**Permitted Intellectual Property Licenses**" means Intellectual Property (A) licenses in existence at the Issue Date, including those listed on the Schedules to the Security Agreement, and (B) non-perpetual licenses granted in the ordinary course of business on arm's length terms consisting of the licensing of technology, the development of technology or the providing of technical support which may include licenses with unlimited renewal options solely to the extent such options require mutual consent for renewal or are subject to financial or other conditions as to the ability of licensee to perform under the license; provided such license was not entered into during an Event of Default or continuance of a Default.

"**Permitted Investment**" means: (A) Investments actually disclosed pursuant to the Transaction Agreement, as in effect as of the Issue Date, including, for greater certainty, the Company's Investments in Truss Limited Partnership, Truss CBD USA LLC, Keystone Isolation Technologies Inc., Keystone Isolation Technologies USA LLC and Belleville Complex Inc.; (B) (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof or Canada or any Province or Territory thereof maturing within one year from the date of acquisition thereof, (ii) commercial paper maturing no more than one year from the date of creation thereof and currently having a rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service, (iii) certificates of deposit issued by any bank headquartered in the United States or any Canadian Schedule 1 chartered bank with assets of at least $5,000,000,000 maturing no more than one year from the date of investment therein, and (iv) money market accounts; (C) Investments accepted in connection with Permitted Transfers; (D) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of the Company's business; (E) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers in the ordinary course of business and consistent with past practice, provided that this clause (E) shall not apply to Investments of the Company in any Subsidiary; (F) Investments consisting of (i) loans not involving the net transfer on a substantially contemporaneous basis of cash proceeds to employees, officers or directors relating to the purchase of capital stock of the Company pursuant to employee stock purchase plans or other similar agreements approved by the Company's Board of Directors and (ii) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, provided that the aggregate of all such loans outstanding may not exceed $250,000 at any time; (G) Investments in Wholly Owned Subsidiaries; (H) Permitted Intellectual Property Licenses; (I) acquisitions by the Company or any of its Wholly Owned Subsidiaries of all, or substantially all, of the assets of another Person or equity interests in another Person where the Company would hold a majority of the equity interests in such Person following the acquisition, including, for greater certainty, potential acquisitions actually or deemed to be disclosed pursuant to the Transaction Agreement, provided that no such acquisition where there is cash consideration which, together with the cash consideration for all previous Permitted Investments pursuant to this clause (I), exceeds $20,000,000 will be a "Permitted Investment" unless the Company has obtained the prior written consent of the Initial Holder (for so long as it or one or more of its Affiliates is the Holder) for the acquisition, and provided further that no such acquisition will be a "Permitted Investment" if, after giving effect to such acquisition, any Default or Event of Default would exist hereunder; (J) Investments in any Person which is a Permitted Investment under clauses (A) or (I) which is a joint venture with an arm's length third party, where the failure to complete the Investment would result in the Company breaching or otherwise being in default under the terms of any shareholder, limited partnership, joint venture or similar agreement with such third party in respect of such Permitted Investment, provided that no such Investment which, together with the amount for all previous Permitted Investments pursuant to this clause (J), exceeds $30,000,000 will be a "Permitted Investment" unless the Company has obtained the prior written consent of the Initial Holder (for so long as it or one or more of its Affiliates is the Holder) for the acquisition, and provided further that no such Investment will be a "Permitted Investment" if, after giving effect to such Investment, any Default or Event of Default would exist hereunder; (L) Investments consisting of deposit accounts in which the Collateral Agent has received a deposit account control agreement in accordance with the Security Agreement; and (M) additional Investments that do not exceed one hundred thousand dollars ($100,000) in the aggregate in any twelve (12) month period.

"**Permitted Liens**" means any and all of the following: (A) Liens in favor of Holder or the Collateral Agent; (B) Liens actually or deemed to be disclosed pursuant to the Transaction Agreement, as in effect as of the Issue Date; (C) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings; provided, that the Company maintains adequate reserves therefor in accordance with IFRS; (D) Liens securing claims or demands of materialmen, artisans, mechanics, carriers, warehousemen, landlords and other like Persons arising in the ordinary course of business, either not delinquent for a period of more than 30 days or being contested in good faith by appropriate proceedings; provided, that the Company maintains adequate reserves therefor in accordance with IFRS; (E) Liens arising from judgments, decrees or attachments in circumstances which do not constitute a Default or an Event of Default hereunder; (F) the following deposits, to the extent made in the ordinary course of business: deposits under workers' compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations (other than Liens arising under ERISA or environmental Liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds; (G) Liens on Equipment or software or other intellectual property constituting purchase money Liens and Liens in connection with Capital Leases securing Indebtedness permitted in clause (C) of "Permitted Indebtedness"; (H) leasehold interests in leases or subleases and licenses granted in the ordinary course of the Company's business and not interfering in any material respect with the business of the licensor; (I) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties that are promptly paid on or before the date they become due; (J) Liens on insurance proceeds securing the payment of financed insurance premiums that are promptly paid on or before the date they become due (provided that such Liens extend only to such insurance proceeds and not to any other property or assets); (K) statutory and common law rights of set-off and other similar rights as to deposits of cash and securities in favor of banks, other depository institutions and brokerage firms; (L) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business so long as they do not materially impair the value or marketability of the related property; (M) Liens on Cash or Cash Equivalents securing obligations permitted under clause (D) and (G) of the definition of Permitted Indebtedness; (N) Liens or deposits to secure the performance of bids, tenders, expropriation proceedings, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature (other than for borrowed money) incurred in the ordinary course of business; (O) securities to public utilities or to any municipalities or governmental authorities or other public authority when required by the utility, municipality or governmental authorities or other public authority in connection with the supply of services or utilities to the Company or its Subsidiaries; (P) Liens or covenants restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put; provided that such Liens or covenants do not materially and adversely affect the use of the lands by the occupant or the purpose for which they may be held; (Q) Liens granted by the Company or any Subsidiary to a landlord to secure the payment of arrears of rent in respect of leased properties in the Province of Quebec leased from such landlord, provided that such Lien is limited to the assets located at or about such leased properties; (R) the reservations, limitations, provisos and conditions, if any, expressed in any original patents or grants of real or immoveable property; (S) title defects or irregularities which are of a minor nature and in the aggregate will not materially impair the use of the property for the purpose for which it is held; (T) applicable municipal and other governmental restrictions affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with and will not materially impair the use of the property for the purpose for which it is held; (U) Liens or escrow arrangements with respect to cash deposits lodged in connection with a Permitted Investment; (V) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by Liens of the type described in clauses (C) through (U) above (other than any Indebtedness repaid with the proceeds of this Note); provided, that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the Indebtedness being extended, renewed or refinanced (as may have been reduced by any payment thereon) does not increase.

"**Permitted Self-Insurance**" means, collectively: (a) a D&O liability insurance policy affording direct coverage of the directors and officers of the Company and its Subsidiaries (i.e. a side A policy); (b) a D&O liability insurance policy that reimburses the Company and its Subsidiaries for their indemnification obligations to their officers and directors (i.e. a side B policy); and (c) a D&O liability insurance policy affording coverage of the Company and its Subsidiaries for securities claims (i.e. a side C policy), as in effect as of the Issue Date, and subject to such adjustments in terms of premiums and capitalization as required or recommended from time to time by the Company's broker for such self-insurance arrangements.

"**Permitted Transfers**" means (A) dispositions of inventory sold, and Permitted Intellectual Property Licenses entered into, in each case, in the ordinary course of business, (B) dispositions of worn-out, obsolete or surplus property at fair market value in the ordinary course of business; (C) dispositions of accounts or payment intangibles (each as defined in the UCC or the PPSA, as the case may be) resulting from the compromise or settlement thereof in the ordinary course of business for less than the full amount thereof; (D) transfers consisting of Permitted Investments in Wholly-Owned Subsidiaries under clause (H) of Permitted Investments; and (E) other transfers of assets to any Person other than to a joint venture and which have a fair market value of not more than fifty thousand dollars ($50,000) in the aggregate in any fiscal year.

"**Person**" or "**person**" means any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**PPSA**" means the *Personal Property Security Act* (Ontario) as the same is, from time to time, in effect, or any other relevant personal property security statutes, rules and regulations in Canada or any Province or Territory thereof that apply in any particular circumstance.

"**Pre-Emptive Right**" has the meaning set forth in **Section 8(L)(i)**.

"**Principal Amount**" has the meaning set forth in the cover page of this Note; *provided*, *however*, that the Principal Amount of this Note will be subject to reduction pursuant to **Section 8(A) through (K), inclusive**.

"**Reference Property**" has the meaning set forth in **Section 8(J)(i)**.

"**Reference Property Unit**" has the meaning set forth in **Section 8(J)(i)**.

"**Repayment Price**" means an amount in cash equal to one hundred ten percent (110%) of the amount then being repaid or redeemed.

"**Repurchase Upon Fundamental Change**" means the repurchase of any Note by the Company pursuant to **Section 7**.

"**ROFR Notice**" has the meaning set forth in **Section 16**.

"**ROFR Notice Period**" has the meaning set forth in **Section 16**.

"**Scheduled Trading Day**" means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded. If the Common Shares are not so listed or traded, then "Scheduled Trading day" means a Business Day.

"**Securities Act**" means the U.S. Securities Act of 1933, as amended.

"**Security Agreement**" means, collectively, each Security Agreement, dated as of May 27, 2021, between the Company and/or its Wholly Owned Subsidiaries and the Collateral Agent.

"**Security Document**", subject to **Section 9(FF)** has the meaning set forth in the Security Agreement.

"**Significant Subsidiary**" means, with respect to any Person, any Subsidiary of such Person that constitutes a "significant subsidiary" (as defined in Rule 1-02(w) of Regulation S-X under the Exchange Act) of such Person.

"**Spin-Off**" has the meaning set forth in **Section 8(G)(i)(3)(b)**.

"**Spin-Off Valuation Period**" has the meaning set forth in **Section 8(G)(i)(3)(b)**.

"**Subordinated Indebtedness**" means Indebtedness subordinated to the Notes pursuant to a written agreement between the Holder and the applicable lender in amounts and on terms and conditions satisfactory to the Holder in its sole discretion.

"**Subsidiary**" means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

"**Successor Corporation**" has the meaning set forth in **Section 10(A)**.

"**Successor Person**" has the meaning set forth in **Section 8(J)(i)**.

"**Tender/Exchange Offer Valuation Period**" has the meaning set forth in **Section 8(G)(i)(5)**.

"**Top Up Distributed Securities**" means any securities distributed or issued pursuant to a Top-Up Distribution.

"**Top-Up Distribution**" means an Excluded Issuance, but excluding from the definition of Excluded Issuances, Common Shares issuable by way of dividend to all existing shareholders of the Company.

"**Top-Up Notice**" has the meaning set forth in Section 8(L)(ii).

"**Top-Up Right**" has the meaning set forth in Section 8(L)(i).

"**Top-Up Right Subscription Notice**" has the meaning set forth in Section 8(L)(iii).

"**Trademark License**" means any written agreement granting any right to use any Trademark or Trademark registration, now owned or hereafter acquired by the Company or in which the Company now holds or hereafter acquires any interest.

"**Trademarks**" means all trademarks (registered, common law or otherwise) and any applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or the Canadian Intellectual Property Office or in any similar office or agency of the United States, Canada, any State, Province or Territory thereof or any other country or any political subdivision thereof.

"**Trading Day**" means any day on which (A) trading in the Common Shares generally occurs on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded; and (B) there is no Market Disruption Event. If the Common Shares are not so listed or traded, then "Trading Day" means a Business Day.

"**Transaction Agreement**" means that certain Transaction Agreement, dated as of April 11, 2022, between the Company, Tilray Brands, Inc. and HT Investments MA LLC, as amended from time to time.

"**Transaction Documents**" has the meaning set forth in the Transaction Agreement.

"**Truss CBD USA**" means Truss CBD USA LLC, a Colorado limited liability company.

"**Trustee**" means TMI Trust Company, as the successor to GLAS Trust Company LLC, in its capacity as trustee under the Indenture.

"**TSX**" means the Toronto Stock Exchange.

"**UCC**" means the Uniform Commercial Code as the same is, from time to time, in effect in the State of New York.

"**Unrestricted Cash**" means, at any time in respect of the Company, cash denominated in CAD$ or $ at a bank and credited to a bank account in the name of the Company with an account bank satisfactory to the Holder, and to which the Company is the sole beneficiary thereof, provided that: (A) such cash is repayable on demand; (B) the repayment of such cash is not contingent on the prior discharge of any Indebtedness of any Person whatsoever or on the satisfaction of any other condition; (C) there is no Lien over such cash or account (other than a Lien in favour of the Holder); and (D) such cash is freely and immediately available to the Company.

"**VWAP Market Disruption Event**" means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Common Shares are then listed, or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Shares are then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Shares or in any options contracts or futures contracts relating to the Common Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

"**VWAP Trading Day**" means a day on which (A) there is no VWAP Market Disruption Event; provided that the Holder, by written notice to the Company, may waive any such VWAP Market Disruption Event; and (B) trading in the Common Shares generally occurs on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded. If the Common Shares are not so listed or traded, then "VWAP Trading Day" means a Business Day.

"**Wholly Owned Subsidiary**" of a Person means any Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 2. Persons Deemed Owners.

The Holder of this Note will be treated as the owner of this Note for all purposes.

Section 3. Registered Form.

This Note, and any Note issued in exchange therefor or in substitution thereof, will be in registered form, without coupons.

Section 4. Interest; Maturity Date Payment; Defaulted Amounts.

(A) *Interest*. Interest shall accrue on the Principal Amount from the date hereof, as well as on all overdue amounts outstanding in respect of interest, costs or other fees, expenses or amounts payable hereunder, at the fixed rate of five percent (5%) per annum, calculated daily and computed on the basis of the actual number of days elapsed in the relevant period divided by 360, and be payable by the Company to the Holder semi-annually on the last Business Day of each June and December (commencing December, 2022) (each, an "**Interest Payment Date**"), as well as on maturity, default and judgment. During the period commencing on the date hereof and ending one year thereafter, the Company shall pay such interest in cash. Thereafter, until the Maturity Date, in the event that the Company is not in compliance with Section 9(M) as of any Interest Payment Date, the Company shall be entitled to elect to add the amount of the interest to the Principal Amount on each such Interest Payment Date (the "**Capitalized Interest**"). Unless the Principal Amount and the Capitalized Interest have previously been converted pursuant to Section 8, on the Maturity Date, the Company shall pay the Capitalized Interest by way of Conversion Consideration in accordance with Section 8.

(B) *Maturity Date Payment*. On the Maturity Date, the Company will pay the Holder an amount in cash equal to the Repayment Price for all of then-outstanding Principal Amount of this Note plus any accrued and unpaid interest on this Note.

(C) *Defaulted Amounts*. If (i) the Company fails to pay any amount payable on this Note on or before the due date therefor as provided in this Note, then, regardless of whether such failure constitutes an Event of Default, or (ii) a Default or Event of Default occurs (such amount payable or the Principal Amount outstanding as of such failure to pay or Default or Event of Default, as applicable, a "**Defaulted Amount**") then in each case, to the extent lawful, interest ("**Default Interest**") will accrue on such Defaulted Amount at a rate per annum equal to eighteen percent (18.0%), from, and including, such due date or the date of such Default or Event of Default, as applicable, to, but excluding, the date such failure to pay or Default is cured and all outstanding Default Interest under this Note has been paid, as applicable. Default Interest hereunder will be payable in arrears on the earlier of (i) the first day of each calendar month and (ii) the date such failure to pay or Default is cured, and will be computed on the basis of a 360-day year comprised of twelve 30-day months. For the avoidance of doubt, any such calculations are to be calculated by the Holder and not the Trustee.

(D) *Payment to the Holder*. Any funds to be delivered for payment to the Holder or any other third party shall be delivered by 10:00 a.m., Toronto time, on the relevant Redemption Date or any other Payment Date.

(E) *Note Provisions Control*. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 4 will apply to the Note in lieu of Section 3.7 of the Indenture, and such Section 3.7 of the Indenture will be deemed to be replaced with this Section 4 to the extent of such conflict or inconsistency, *mutatis mutandis*, and any provisions of Section 3.7 of the Indenture not specifically addressed or amended by this Section 4 shall continue to apply and control.

Section 5. Redemption of this Note; Other Additional Payments.

(A) *Redemption Payments*. Except with the prior written consent of the Holder (in its sole discretion) or pursuant to paragraph (C) of this Section 5, the Company shall not be entitled to redeem all or any portion of this Note.

(B) *Forced Conversion Additional Payment*. In the event that a Forced Conversion occurs pursuant to **Section 8(F)** and the Daily VWAP per share of the Common Shares is less than three hundred fifty three percent (353%) of the Conversion Price for any five (5) VWAP Trading Days during the Forced Conversion Qualification Period, the Company shall, upon the Conversion Settlement Date for such conversion (the "**Forced Conversion Additional Payment Date**"), pay to the Holder an amount in cash equal to five percent (5%) of the Principal Amount outstanding immediately prior to such Forced Conversion (the "**Forced Conversion Additional Payment**"). For the avoidance of doubt, any calculation of the Forced Conversion Additional Payment is to be calculated by the Holder and not the Trustee.

(C) The Company shall ensure that, if at any time after the date hereof, the Company or any Subsidiary of the Company (a) sells or otherwise disposes of any assets in one or more transactions (other than as part of a Permitted Asset Disposition) or (b) receives any insurance proceeds, the Company will promptly deliver written notice to the Holder and, if requested by the Lender in its sole discretion, shall pay or cause to be paid to the Lender (i) an amount equal to the proceeds of such sale, net of reasonable out-of-pocket selling costs required to be paid by the Company to any third party in connection with such sale or other disposal or (ii) such insurance proceeds (as the case may be), to be applied in repayment of the outstanding balance of the Principal Amount.

(D) *Note Provisions Control*. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 5 will apply to the Note in lieu of Article 10 of the Indenture, and such Article 10 of the Indenture will be deemed to be replaced with this Section 5 to the extent of such conflicts or inconsistencies, *mutatis mutandis*, and any provisions of Article 10 of the Indenture not specifically addressed or amended by this Section 5 shall continue to apply and control.

Section 6. METHOD OF PAYMENT; WHEN PAYMENT DATE IS NOT A BUSINESS DAY.

(A) *Method of Payment*. The Company will pay all cash amounts due under this Note by wire transfer of immediately available funds to the account or accounts specified by the Holder by written notice at least one (1) Business Day in advance of the date such amount is due.

(B) *Delay of Payment when Payment Date is Not a Business Day*. If the due date for a payment on this Note as provided in this Note is not a Business Day, then, notwithstanding anything to the contrary in this Note, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay.

(C) *Canadian Interest Act*. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid hereunder or in connection herewith is to be calculated on the basis of a 360-day or 365-day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360 or 365, as applicable. The rates of interest under this Note are nominal rates, and not effective rates or yields. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Note.

(D) *Canadian Criminal Interest*. If any provision of this Note would oblige the Corporation to make any payment of interest or other amount payable to the Holder in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Holder of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by applicable law or so result in a receipt by the Holder of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), first by reducing the amount or rate of interest and thereafter by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid which would constitute interest for purposes of section 347 of the *Criminal Code* (Canada).

(E) *Note Provisions Control*. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 6 will apply to the Note in lieu of Sections 3.7, 3.8, 9.1 and 9.5 of the Indenture, and such Sections 3.7, 3.8, 9.1 and 9.5 of the Indenture will be deemed to be replaced with this Section 6 to the extent of such conflict or inconsistency, *mutatis mutandis*, and any provisions of Sections 3.7, 3.8, 9.1 and 9.5 of the Indenture not specifically addressed or amended by this Section 6 shall continue to apply and control.

Section 7. **Required Repurchase of Note upon a Fundamental Change.**

(A) *Repurchase Upon Fundamental Change*. Subject to the other terms of this **Section 7**, if a Fundamental Change occurs, then the Holder will have the right to require the Company to repurchase this Note (or any portion of this Note in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Fundamental Change Repurchase Date*. The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Holder's choosing that is no more than twenty (20) Business Days after the later of (x) the date the Company delivers to the Holder the related Fundamental Change Notice pursuant to **Section 7(C)**; and (y) the effective date of such Fundamental Change.

(C) *Fundamental Change Notice*. No later than the fifth (5th) Business Day before the occurrence of any Fundamental Change, the Company will send to the Holder (with a copy to the Trustee, which may be delivered via email) a written notice thereof (the "**Fundamental Change Notice**"), stating the expected date such Fundamental Change will occur.

(D) *Fundamental Change Repurchase Price*. The Fundamental Change Repurchase Price for this Note (or any portion of this Note to be repurchased) upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the Fundamental Change Base Repurchase Price for such Fundamental Change plus accrued and unpaid interest, if any, on this Note (or such portion of this Note) to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change.

(E) *Effect of Repurchase*. If this Note (or any portion of this Note) is to be repurchased upon a Repurchase Upon Fundamental Change, then, from and after the date the related Fundamental Change Repurchase Price is paid in full, this Note (or such portion) will cease to be outstanding and Default Interest, if any, will cease to accrue on this Note (or such portion). For the avoidance of doubt, any calculation of a Fundamental Change Repurchase Price will be calculated by the Holder and not the Trustee.

(F) *Fundamental Change Redemption*. Notwithstanding anything in this **Section 7** to the contrary, at the Holder's sole discretion following receipt of a Fundamental Change Notice, in lieu of receiving the Fundamental Change Repurchase Price (or any portion thereof), the Holder may, upon written notice to the Company (which may be delivered via email), require the Company to redeem this Note (or any portion of this Note in an Authorized Denomination) in exchange for a number of validly issued, fully paid and Freely Tradable Common Shares equal to the quotient (rounded up to the closest whole number) obtained by dividing the Fundamental Change Repurchase Price (or applicable portion thereof) by the Market Stock Payment Price. The Fundamental Change Redemption Date for any Fundamental Change will be a Business Day of the Holder's choosing that is no more than twenty (20) Business Days after the later of (x) the date the Company delivers to the Holder the related Fundamental Change Notice pursuant to **Section 7(C)**; and (y) the effective date of such Fundamental Change. Any such Common Shares will be delivered by the Company to the Holder on or before the second (2nd) Business Day following a Fundamental Change Redemption Date. Notwithstanding the foregoing, in the event that the Market Stock Payment Price is lower than the Floor Price on such Fundamental Change Redemption Date, (i) the Floor Price rather than the Market Stock Payment Price shall be used for purpose of calculating the number of Common Shares to be issued on such date pursuant to this **Section 7(F)** and (ii) the Company shall concurrently with the issuance of such shares also pay to the Holder an amount, in cash, equal to the product of (x) the number of shares by which the Common Shares issuable pursuant to this **Section 7(F)** was reduced as a result of the preceding clause (i), multiplied by (y) the Market Stock Payment Price.

(G) *Note Provisions Control*. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 7 will apply to the Note in lieu of Article 12 of the Indenture, and such Article 12 of the Indenture will be deemed to be replaced with this Section 7 to the extent of such conflict or inconsistency, *mutatis mutandis*, and any provisions of Article 12 of the Indenture not specifically addressed or amended by this Section 7 shall continue to apply and control.

Section 8. Conversion, Pre-Emptive Rights and Top-Up Rights.

(A) *Right to Convert*.

(i) *Generally.* Subject to the provisions of this **Section 8**, the Holder may, at its option, convert this Note into Conversion Consideration.

(ii) *Conversions in Part*. Subject to the terms of this **Section 8**, this Note may be converted in part, but only in an Authorized Denomination. Provisions of this **Section 8** applying to the conversion of this Note in whole will equally apply to conversions of any permitted portion of this Note.

(iii) *The Trustee*. The Trustee shall have no liability or responsibility for any conversion in connection with this Note or the actions or inactions of any party in connection with the conversion of this Note.

(B) *When this Note May Be Converted*.

(i) *Generally*. The Holder may convert this Note at any time until the Close of Business on the second (2nd) Scheduled Trading Day immediately before the Maturity Date.

(ii) *Limitations and Closed Periods*. Notwithstanding anything to the contrary in this **Section 8**, if this Note (or any portion of this Note) is to be repurchased upon a Repurchase Upon Fundamental Change pursuant to **Section 7**, then in no event may this Note (or such portion) be converted after the Close of Business on the Scheduled Trading Day immediately before the related Fundamental Change Repurchase Date; *provided*, that the limitations contained in this **Section 8(B)(ii)** shall no longer apply to this Note (or such applicable portion) if the applicable Fundamental Change Repurchase Price is not delivered on the Fundamental Change Repurchase Date in accordance with Section 6.

(C) *Conversion Procedures*.

(i) *Generally*. To convert this Note, the Holder must (1) complete, manually sign and deliver to the Company, with a copy to the Trustee (which may be delivered via email), the conversion notice attached to this Note or a portable document format (.pdf) version of such conversion notice (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 8(C)(iii)**. For the avoidance of doubt, the conversion notice may be delivered by e-mail in accordance with **Section 14**. If the Company fails to deliver, by the related Conversion Settlement Date, any Common Shares forming part of the Conversion Consideration of the conversion of this Note, the Holder, by notice to the Company, may rescind all or any portion of the corresponding conversion notice at any time until such Defaulted Shares are delivered.

(ii) *Holder of Record of Conversion Shares*. The person in whose name any Common Shares are issuable upon conversion of this Note will be deemed to become the holder of record of such shares as of the Close of Business on the Conversion Date for such conversion, conferring, as of such time, upon such person, without limitation, all voting and other rights appurtenant to such shares.

(iii) *Taxes and Duties.* If the Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue of any Common Shares upon such conversion; *provided*, *however*, that if any tax or duty is due because such Holder requested such shares to be issued in a name other than that of such Holder, then such Holder will pay such tax or duty and, until having received a sum sufficient to pay such tax or duty, the Company may refuse to deliver any such shares to be issued in a name other than that of such Holder.

(D) *Settlement upon Conversion*.

(i) *Generally*. The consideration (the "**Conversion Consideration**") due in respect of each $1,000 Principal Amount of this Note to be converted will consist of the following:

(1) subject to **Section 8(D)(iii)**, a number of Common Shares equal to the Conversion Rate in effect on the Conversion Date for such conversion; and

(2) cash in an amount equal to the aggregate accrued and unpaid interest, if any, on this Note to, but excluding, the Conversion Settlement Date for such conversion or, at the election of the Company, a number of validly issued, fully paid and Freely Tradable Common Shares equal to the quotient (rounded up to the closest whole number) obtained by dividing the aggregate accrued and unpaid interest, if any, on this Note to, but excluding, the Conversion Settlement Date by the Market Stock Payment Price (the "**Conversion Consideration Interest Shares**").

(ii) *Company's Election to Convert Accrued Interest into Common Shares*. At least ten (10) Trading Days prior to a Conversion Date, the Company, if it desires to elect to convert accrued and unpaid interest on this Note into Conversion Consideration Interest Shares pursuant to **Section 8(D)(i)(2)**, shall deliver to the Holder, with a copy to the Trustee (which may be delivered via email), a written notice of such election and certifying that the Equity Conditions are satisfied as of such date (a "**Conversion Consideration Interest Shares Notice**") (and such election shall be irrevocable with respect to such interest and all subsequent conversions until the Company provides to the Holder at least ten (10) Trading Days written notice of its intent to terminate such election). Failure to timely deliver such written notice to the Holder shall be deemed an election by the Company to pay such accrued and unpaid interest, if any, in cash. Notwithstanding anything herein to the contrary, the Company will not have the right to, and will not, make any conversion of accrued interest, if any, into Conversion Consideration Interest Shares if the Equity Conditions are not satisfied for each VWAP Trading Day occurring between the day of the delivery of the Conversion Consideration Interest Shares Notice and the applicable Conversion Settlement Date (and the Company shall certify in writing to the Holder on the applicable Conversion Settlement Date that the Equity Conditions have been satisfied during such period), and such conversion of accrued interest, if any, shall instead be paid in cash in accordance with **Section 8(D)(i)(2)**, unless such failure of the Equity Conditions to be so satisfied is waived in writing by the Holder, which waiver may be granted or withheld by the Holder in its sole discretion.

(iii) *Fractional Shares*. The total number of Common Shares due in respect of any conversion of this Note will be determined on the basis of the total Principal Amount of this Note to be converted with the same Conversion Date; *provided*, *however*, that if such number of Common Shares is not a whole number, then such number will be rounded up to the nearest whole number.

(iv) *Delivery of the Conversion Consideration*. The Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of this Note to the Holder on or before the second (2nd) Business Day (or, if earlier, (x) the standard settlement period for the primary Eligible Exchange on which the Common Shares are traded or (y) the standard settlement period for the TSX) immediately after the Conversion Date for such conversion (the "**Conversion Settlement Date**").

(v) *Effect of Conversion*. If this Note is converted in full, then, from and after the date the Conversion Consideration therefor is issued or delivered in settlement of such conversion, this Note will cease to be outstanding and Default Interest, if any, will cease to accrue on this Note and notice thereof (which may be delivered via email) shall be provided to the Trustee by the Holder.

(vi) *Conversion Settlement Defaults*. If (x) the Company fails to deliver, by the related Conversion Settlement Date, any Common Shares (the "**Defaulted Shares**") forming part of the Conversion Consideration of the conversion of this Note; and (y) the Holder (whether directly or indirectly, including by any broker acting on the Holder's behalf or acting with respect to such Defaulted Shares) purchases any Common Shares (whether in the open market or otherwise) to cover any such Defaulted Shares (whether to satisfy any settlement obligations with respect thereto of the Holder or otherwise), then, without limiting the Holder's right to pursue any other remedy available to it (whether hereunder, under applicable law or otherwise), the Holder will have the right, exercisable by notice to the Company, to cause the Company to either:

(1) pay, on or before the second (2nd) Business Day after the date such notice is delivered, cash to the Holder in an amount equal to the aggregate purchase price (including any brokerage commissions and other out-of-pocket costs) incurred to purchase such shares (such aggregate purchase price, the "**Covering Price**"); or

(2) promptly deliver, to the Holder, such Defaulted Shares in accordance with this Note, together with cash in an amount equal to the excess, if any, of the Covering Price over the product of (x) the number of such Defaulted Shares; and (y) the Daily VWAP per Common Share on the Conversion Date relating to such conversion.

To exercise such right, the Holder must deliver notice of such exercise to the Company, specifying whether the Holder has elected **clause (1)** or **(2)** above to apply. If the Holder has elected **clause (1)** to apply, then the Company's obligation to deliver the Defaulted Shares in accordance with this Note will be deemed to have been satisfied and discharged to the extent the Company has paid the Covering Price in accordance with **clause (1)**.

(E) *Reserve and Status of Common Shares Issued upon Conversion*.

(i) *Stock Reserve*. At all times when this Note is outstanding, the Company will reserve, out of its authorized but unissued and unreserved Common Shares, a number of Common Shares equal to the greater of (A) (x) the then outstanding Principal Amount, divided by (y) the Conversion Price then in effect and (B) two hundred percent (200%) of a fraction, the numerator of which shall be (x) the then outstanding Principal Amount plus an amount equal to all interest accruable on such outstanding Principal Amount through May 1, 2023, and the denominator of which shall be (y) the Market Stock Payment Price, for issuance upon the issuance of the Conversion Shares.

(ii) *Status of Conversion Shares; Listing*. Each share of Common Shares delivered upon conversion of this Note will be a newly issued or treasury share and will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any Lien or adverse claim (except to the extent of any Lien or adverse claim created by the action or inaction of the Holder or the Person to whom such share will be delivered). If the Common Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each share of Common Shares issued upon conversion of this Note, when delivered upon such conversion, to be admitted for listing on such exchange or quotation on such system.

(i) *Transferability of Conversion Shares*. Any Common Shares issued upon conversion of this Note will be issued in the form of book-entries at the facilities of DTC, identified therein by an "unrestricted" CUSIP number.

(F) *Forced Conversion*.

(i) *Generally*. If (1) the Daily VWAP per Common Share is equal to, or exceeds, US$3.00 (as proportionately decreased or increased to reflect any adjustment to the Conversion Rate contemplated in this Note) on each of twenty (20) consecutive VWAP Trading Days beginning after the Issue Date (such twenty (20) consecutive VWAP Trading Day period being the "**Forced Conversion Qualification Period**"); and (2) the Equity Conditions are satisfied on each of such twenty (20) consecutive VWAP Trading Days, then, subject to the limitations on conversion contained in **Section 8(K)**, the Company may provide written notice to the Holder electing to convert all or a portion of the Principal Amount of this Note on the Conversion Date into Conversion Consideration and certifying that the Equity Conditions have been satisfied on each of such VWAP Trading Days (the "**Forced Conversion Notice**"); *provided* that no Forced Conversion will be effected unless (x) the Daily VWAP per Common Share is equal to, or exceeds, US$3.00 (as proportionately decreased or increased to reflect any adjustment to the Conversion Rate contemplated in this Note) and (y) the Equity Conditions are satisfied, in the case of each of clauses (x) and (y), on each VWAP Trading Day from the date of such notice until the corresponding Conversion Consideration is delivered (and the Company shall certify in writing to the Holder on the date that such Conversion Consideration is delivered that the Equity Conditions have been satisfied during such period); and provided further, that the Company may deliver no more than one Forced Conversion Notice in any thirty (30) Trading Day period.

(ii) *Effect of Forced Conversion*. A Forced Conversion will have the same effect as a conversion of the applicable outstanding Principal Amount of this Note effected at the Holder's election pursuant to **Section 8(A)** with a Conversion Date occurring on the Business Day referred to in **Section 8(F)(i)** (for the avoidance of doubt, without the need for the Holder to deliver a conversion notice); *provided*, *however*, that the Company will not be obligated to deliver the Conversion Consideration until the Holder has complied, if applicable, with its obligations under **Section 8(C)(iii)**.

(G) *Adjustments to the Conversion Rate*.

(i) *Events Requiring an Adjustment to the Conversion Rate*. Subject to the prior approval of the TSX, the Conversion Rate will be adjusted from time to time as follows:

(1) *Stock Dividends, Splits and Combinations*. If the Company issues solely Common Shares as a dividend or distribution on all or substantially all shares of the Common Shares, or if the Company effects a stock split or a stock combination of the Common Shares (in each case excluding an issuance solely pursuant to a Common Shares Change Event, as to which **Section 8(J)** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such stock split or stock combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or the Open of Business on such effective date, as applicable;

OS_0 = the number of Common Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and

OS_1 = the number of Common Shares outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

If any dividend, distribution, stock split or stock combination of the type described in this **Section 8(G)(i)(1)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Conversion Rate that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(2) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of Common Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a stockholder rights plan, as to which the provisions set forth in **Sections 8(G)(i)(3)(a)** and **8(G)(v)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of Common Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of Common Shares issuable pursuant to such rights, options or warrants; and

Y = a number of Common Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent that Common Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Common Shares actually delivered upon exercise of such rights, option or warrants. To the extent such rights, options or warrants are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the Ex-Dividend Date for the distribution of such rights, options or warrants not occurred.

For purposes of this **Section 8(G)(i)(2)**, in determining whether any rights, options or warrants entitle holders of Common Shares to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors in good faith.

(3) *Spin-Offs and Other Distributed Property*.

(a) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Shares, excluding:

(v) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Rate is required pursuant to **Section 8(G)(i)(1)** or **Section 8(G)(i)(2)**;

(w) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required pursuant to **Section 8(G)(i)(4)**;

(x) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in **Section 8(G)(v)**;

(y) Spin-Offs for which an adjustment to the Conversion Rate is required pursuant to **Section 8(G)(i)(3)(b)**; and

(z) a distribution solely pursuant to a Common Shares Change Event, as to which **Section 8(J)** will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the average of the Last Reported Sale Prices per Common Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Board of Directors in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per Common Share pursuant to such distribution;

provided, *however*, that if FMV is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, the Holder will receive, for each $1,000 Principal Amount of this Note held by this Holder on the record date for such distribution, at the same time and on the same terms as holders of Common Shares, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Common Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(b) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interest, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Shares (other than solely pursuant to a Common Shares Change Event, as to which **Section 8(J)** will apply), and such Capital Stock or equity interest is listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, such Ex-Dividend Date (such average to be determined as if references to Common Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per Common Share in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per Common Share for each Trading Day in the Spin-Off Valuation Period.

The adjustment to the Conversion Rate pursuant to this **Section 8(G)(i)(3)(b)** will be calculated as of the Close of Business on the last Trading Day of the Spin-Off Valuation Period but will be given effect immediately after the Open of Business on the Ex-Dividend Date for the Spin-Off, with retroactive effect. If a Note is converted and the Conversion Date occurs during the Spin-Off Valuation Period, then, notwithstanding anything to the contrary in this Note, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Spin-Off Valuation Period.

To the extent any dividend or distribution of the type set forth in this **Section 8(G)(i)(3)(b)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(4) *Cash Dividends (Other than in the Ordinary Course) or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Common Shares, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Common Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Common Share in such dividend or distribution;

provided, *however*, that if D is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, the Holder will receive, for each $1,000 Principal Amount of this Note held by the Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Common Shares, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of Common Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(5) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for Common Shares (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the value (determined as of the Expiration Time by the Board of Directors in good faith) of the cash and other consideration paid per Common Share in such tender or exchange offer exceeds the Last Reported Sale Price per Common Share on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the time (the "**Expiration Time**") such tender or exchange offer expires;

CR_1 = the Conversion Rate in effect immediately after the Expiration Time;

AC = the aggregate value (determined as of the Expiration Time by the Board of Directors in good faith) of all cash and other consideration paid for Common Shares purchased or exchanged in such tender or exchange offer;

OS_0 = the number of Common Shares outstanding immediately before the Expiration Time (including all Common Shares accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of Common Shares outstanding immediately after the Expiration Time (excluding all Common Shares accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per Common Share over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, *however*, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 8(G)(i)(5)**, except to the extent provided in the immediately following paragraph. The adjustment to the Conversion Rate pursuant to this **Section 8(G)(i)(5)** will be calculated as of the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If a Note is converted and the Conversion Date occurs on the Expiration Date or during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in this Note, the Company will, if necessary, delay the settlement of such conversion until the second (2nd) Business Day after the last day of the Tender/Exchange Offer Valuation Period.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Common Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Common Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

(ii) *No Adjustments in Certain Cases*.

(1) *Where the Holder Participates in the Transaction or Event Without Conversion*. Notwithstanding anything to the contrary in **Section 8(G)(i)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 8(G)(i)** (other than a stock split or combination of the type set forth in **Section 8(G)(i)(1)** or a tender or exchange offer of the type set forth in **Section 8(G)(i)(5)**) if the Holder participates, at the same time and on the same terms as holders of Common Shares, and solely by virtue of being the Holder of this Note, in such transaction or event without having to convert this Note and as if the Holder held a number of Common Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate Principal Amount (expressed in thousands) of this Note held by this Holder on such date. Any such participation will be subject to the prior approval of the TSX.

(2) *Certain Events*. The Company will not adjust the Conversion Rate except as provided in **Section 8(G)**, **Section 8(H)** or **Section 8(I)**. Without limiting the foregoing, the Company will not adjust the Conversion Rate on account of:

(a) the sale of Common Shares, even if the purchase price is less than the market price per share of the Common Shares or less than the Conversion Price;

(b) the issuance of any Common Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Common Shares under any such plan;

(c) the issuance of any Common Shares, restricted stock, or options or rights to purchase Common Shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(d) the issuance of any Common Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding as of the Issue Date (other than an adjustment pursuant to **Section 8(G)(i)(3)(a)** in connection with the separation of rights under the Company's stockholder rights plan existing, if any, as of the Issue Date);

(e) solely a change in the par value of the Common Shares; or

(f) accrued and unpaid interest, if any, on this Note.

(iii) *Adjustments Not Yet Effective.* Notwithstanding anything to the contrary in this Note, if:

(1) this Note is to be converted;

(2) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 8(G)(i)** has occurred on or before the Conversion Date for such conversion, but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date;

(3) the Conversion Consideration due upon such conversion includes any whole Common Shares; and

(4) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date. In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(iv) *Conversion Rate Adjustments where the Converting Holder Participates in the Relevant Transaction or Event.* Notwithstanding anything to the contrary in this Note, if:

(1) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 8(G)(i)**;

(2) a Note is to be converted;

(3) the Conversion Date for such conversion occurs on or after such Ex-Dividend Date and on or before the related record date;

(4) the Conversion Consideration due upon such conversion includes any whole Common Shares based on a Conversion Rate that is adjusted for such dividend or distribution; and

(5) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 8(C)(ii)**),then (x) such Conversion Rate adjustment will not be given effect for such conversion; (y) the Common Shares issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution; and (z) there will be added, to the Conversion Consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such Common Shares had such shares been entitled to participate in such dividend or distribution.

(v) *Stockholder Rights Plans*. If any Common Shares are to be issued upon conversion of any Note and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under this Note upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 8(G)(i)(3)(a)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Common Shares, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(vi) *Limitation on Effecting Transactions Resulting in Adjustments*. The Company will not engage in or be a party to any transaction or event that would (without respect to TSX's right to approve adjustments) require the Conversion Rate to be adjusted (x) pursuant to this **Section 8(G)** without the prior consent of the Holder, which the Holder may grant or withhold in its sole discretion or (y) pursuant to Section 8(H) or Section 8(I) to an amount that would result in the Conversion Price per Common Share being less than the par value per Common Share.

(vii) *Equitable Adjustments to Prices*. Whenever any provision of this Note requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate an adjustment to the Conversion Rate), the Company will make proportionate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 8(G)(i)** that becomes effective, or any event requiring such an adjustment to the Conversion Rate where the Ex-Dividend Date or effective date, as applicable, of such event occurs, at any time during such period.

(viii) *Calculation of Number of Outstanding Shares of Common Shares*. For purposes of this **Section 8(G)**, the number of Common Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Common Shares; and (ii) exclude Common Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Common Shares held in its treasury).

(ix) *Calculations*. All calculations with respect to the Conversion Rate and adjustments thereto will be made to the nearest 1/10,000th of a Common Share (with 5/100,000ths rounded upward).

(x) *Notice of Conversion Rate Adjustments*. Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 8(G)(i)**, the Company will promptly send notice to the Holder containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

(H) *Voluntary Adjustments*.

(i) *Generally*. To the extent permitted by law and applicable stock exchange rules, the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines in good faith that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Common Shares or rights to purchase Common Shares as a result of any dividend or distribution of shares (or rights to acquire shares) of Common Shares or any similar event; and (ii) such increase is irrevocable. The Company and the Holder agree that any such voluntary adjustment to the Conversion Rate and any conversion of any portion of the Note based upon any such voluntary adjustment shall not constitute material non-public information with respect to the Company.

(ii) *Notice of Voluntary Increases*. If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 8(H)(i)**, then, no later than the first Business Day following such determination, the Company will send notice to the Holder of such increase, the amount thereof and the period during which such increase will be in effect.

(I) *Adjustments to the Conversion Rate in Connection with an Event of Default*. If an Event of Default occurs and the Conversion Date for the conversion of a Note occurs during the related Event of Default Conversion Period, then the Conversion Rate applicable to such conversion will be increased by a number of shares equal to the Event of Default Additional Shares.

(J) *Effect of Certain Recapitalizations, Reclassifications, Consolidations, Mergers and Sales*.

(i) *Generally*. If there occurs:

(1) recapitalization, reclassification or change of the Common Shares (other than (x) changes solely resulting from a subdivision or combination of the Common Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) stock splits and stock combinations that do not involve the issuance of any other series or class of securities);

(2) consolidation, merger, combination or binding or statutory share exchange involving the Company;

(3) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(4) other similar event,

and, in each case, as a result of such occurrence, the Common Shares are converted into, or is exchanged for, or represents solely the right to receive, other securities or other property (including cash or any combination of the foregoing) (such an event, a "**Common Shares Change Event**," and such other securities or other property, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) share of Common Shares would be entitled to receive on account of such Common Shares Change Event (without giving effect to any arrangement not to issue fractional shares of securities or other property), a "**Reference Property Unit**"), then, notwithstanding anything to the contrary in this Note, at the effective time of such Common Shares Change Event, (x) the Conversion Consideration due upon conversion of any Note will be determined in the same manner as if each reference to any number of Common Shares in this **Section 8** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (y) for purposes of **Section 8(A)**, each reference to any number of Common Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (z) for purposes of the definition of "Fundamental Change," the term "Common Shares" and "common equity" will be deemed to mean the common equity, if any, forming part of such Reference Property. For these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of "Daily VWAP," substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of stockholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Common Share, by the holders of Common Shares. The Company will notify the Holder of such weighted average as soon as practicable after such determination is made.

At or before the effective date of such Common Shares Change Event, the Company and the resulting, surviving or transferee Person (if not the Company) of such Common Shares Change Event (the "**Successor Person**") will execute and deliver such instruments or agreements that (x) provides for subsequent conversions of this Note in the manner set forth in this **Section 8(J)**; (y) provides for subsequent adjustments to the Conversion Rate pursuant to **Section 8(G)**, **Section 8(H)** and **Section 8(I)** in a manner consistent with this **Section 8(J)**; and (z) contains such other provisions as the Company reasonably determines are appropriate to preserve the economic interests of the Holder and to give effect to the provisions of this **Section 8(J)**. If the Reference Property includes shares of stock or other securities or assets of a Person other than the Successor Person, then such other Person will also execute such instruments or agreements and such instruments or agreements will contain such additional provisions the Company reasonably determines are appropriate to preserve the economic interests of the Holder.

(ii) *Notice of Common Shares Change Events*. As soon as practicable after learning the anticipated or actual effective date of any Common Shares Change Event, the Company will provide written notice to the Holder of such Common Shares Change Event, including a brief description of such Common Shares Change Event, its anticipated effective date and a brief description of the anticipated change in the conversion right of this Note.

(iii) *Compliance Covenant*. The Company will not become a party to any Common Shares Change Event unless its terms are consistent with this **Section 8(J)**.

(K) *Pre-Emptive Right.*

(i) In connection with any Distribution, the Holder shall have the right, but not the obligation (the "**Pre-Emptive Right**"), exercisable in accordance with **Section 8(K)(iii)**, to directly, or indirectly through an Affiliate, subscribe for up to an aggregate number of Distributed Securities, on the same terms and conditions as all other participants in the Distribution (including the same price but, in each case, excluding any underwriting commissions and discounts, to the extent not payable by the Company in relation to the securities issued on the exercise of the Pre-Emptive Right, it being agreed that the Company shall use its commercially reasonable efforts to have such charges not apply to the Holder), mutatis mutandis, determined in accordance with the following formula:

A = B X C

For purposes of the foregoing formula, the following definitions shall apply:

A means the aggregate number of Distributed Securities for which the Holder has the right to subscribe pursuant to the Pre-Emptive Right, expressed as a positive number;

B means the Ownership Percentage of the Holder, calculated as of immediately prior to the closing of the Distribution (for greater certainty, expressed for purposes of this formula as a number – *e.g.*, 19.9% shall be expressed as 0.1999); and

C means the aggregate number of Distributed Securities to be issued in connection with the Distribution, expressed as a positive number.

(ii) The Company shall deliver to the Holder a notice in writing, as soon as practicable following a determination by the Company to effect a Distribution and in no event less than 15 Business Days prior to closing of any proposed Distribution (a "**Distribution Notice**"), which Distribution Notice shall: (a) specify the total number and type of Distributed Securities which are being offered in the Distribution, to the extent known; (b) specify the rights, privileges, restrictions, terms and conditions of such Distributed Securities; (c) specify the price at which the Distributed Securities are being offered in the Distribution and any other material terms, to the extent known; (d) to the extent known, specify the maximum number of Distributed Securities for which the Holder has the right to subscribe pursuant to **Section 8(K)(i)** and the aggregate subscription price therefor; (e) specify the date (which shall not be less than 15 Business Days after the date on which the Distribution Notice is delivered) on which the Distribution is to be completed; (f) state the reasons for the issuance of the Distributed Securities; and (g) specify the resulting dilution to the Holder if pre-emptive rights are not exercised, to the extent known.

(iii) The Holder may elect to subscribe for up to such number of Distributable Securities as is calculated under **Section 8(K)(i)** by delivering a written subscription notice to the Company (the "**Pre-Emptive Right Subscription Notice**") within five Business Days after receipt of a Distribution Notice pursuant to **Section 8(K)(ii)**, setting out the number of Distributed Securities for which the Holder and/or its Affiliates wish to subscribe and the aggregate price therefor.

(iv) In the event that the Company expects to complete the applicable Distribution and the Holder has delivered a Pre-Emptive Right Subscription Notice, no later than two Business Days prior to the expected closing date thereof, the Company shall deliver a written notice to the Holder confirming: (a) the expected closing date thereof; and (b) the number of Distributed Securities allocated to the Holder and the aggregate subscription price therefor. The Holder shall or shall cause, on or prior to the closing date of the Distribution, deliver or cause to be delivered to the Company (or as the Company may otherwise direct) a certified cheque, bank draft or wire transfer of immediately available funds in the amount of the aggregate subscription price for the Distributed Securities allocated to the Holder, and the Company shall issue, or shall cause the issuance of, such Distributed Securities as directed by the Holder to the Holder or an Affiliate of the Holder, concurrently with the closing of the Distribution and in any event no later than 60 days following closing of the Distribution.

(L) *Top-Up Right.*

(i) In connection with any Top-Up Distribution, the Holder shall have the right, but not the obligation (the "**Top-Up Right**"), exercisable in accordance with **Section 8(L)(iii)**, to directly, or indirectly through an Affiliate, subscribe for up to an aggregate number of Top Up Distributed Shares on the same terms and conditions as all other participants in the Top-Up Distribution (including for any Top-Up Distribution (other than Designated ELOC Common Shares and/or ATM Shares), at the lower of (A) the same price as utilized in the Top-Up Distribution, and (B) the price at the end of the relevant quarter less the maximum discounted permitted by the rules of the TSX), mutatis mutandis, determined in accordance with the following formula:

$$\mathbf{A = [B / (1 - C)] - B}$$

For purposes of the foregoing formula, the following definitions shall apply:

A means the aggregate number of Top-Up Distributed Securities for which the Holder has the right to subscribe pursuant to the Top-Up Right, expressed as a positive number;

B means the aggregate number of Top-Up Distributed Securities issued in connection with the Top-Up Distribution expressed as a positive number; and

C means the Ownership Percentage of the Holder, calculated as of immediately prior to the closing of the Top-Up Distribution (for greater certainty, expressed for purposes of this formula as a number – *e.g.*, 19.9% shall be expressed as 0.1999).

(ii) Concurrently with and, in any event, no later than two Business Days following:

(1) the end of each of the Company's fiscal quarters; or

(2) if the Holder's Ownership Percentage is reduced by more than 1% in the aggregate solely as a result of one or more Top-Up Distributions contemplated in **Section 8(L)(i)** that have been completed since the end of the most recent fiscal quarter, the closing of the most recent Top-Up Distribution; or

(3) if applicable securities laws (including Canadian Securities Laws) do not permit the exercise in full of the Top-Up Right until the passage of a prescribed period of time, the later of: (i) the time implied by (1) and (2) above; and (ii) 20 Business Days prior to the expiry of such prescribed period of time, as applicable,

the Company shall deliver to the Holder a notice ("**Top-Up Notice**"), which Top-Up Notice shall: (A) specify the total number and type of Top-Up Distributable Securities which were issued in connection with the Top-Up Distribution; (B) specify the rights, privileges, restrictions, terms and conditions of such Top-Up Distributable Securities; (C) specify the price at which such Top-Up Distributable Securities were issued; (D) specify the maximum number of Top-Up Distributable Securities for which the Holder has the right to subscribe pursuant to **Section 8(L)(i)** and the aggregate subscription price therefor; (E) in the case of a Top-Up Distribution, state with reasonable supporting details the specific clause of the definition of "Top-Up Distribution" hereunder applicable thereto; and (F) specify the resulting dilution to the Holder if top-up rights are not exercised.

(iii) The Holder shall have the right, exercisable by the Holder within 90 days after receipt of a Top-Up Notice pursuant to **Section 8(L)(ii)**, by delivering a subscription notice to the Company (the "**Top-Up Right Subscription Notice**") setting out: (a) the number of Top-Up Distributable Securities for which the Holder and/or its Affiliates wish to subscribe; and (b) the desired closing date for the issuance of such Top-Up Distributable Securities (which date shall not be earlier than five Business Days after receipt by the Company of the Top-Up Right Subscription Notice and not earlier than, if applicable, the passage of the prescribed period of time referenced in **Section 8(L)(ii)**).

(iv) On or prior to the desired closing date for the issuance of the Top-Up Distributable Securities set out in the Top-Up Right Subscription Notice, The Holder shall deliver or cause to be delivered to the Company (or as the Company may otherwise direct) a certified cheque, bank draft or wire transfer of immediately available funds in the amount of the aggregate subscription price in respect of such Top-Up Distributable Securities, and the Company shall issue, or shall cause the issuance of, such Top-Up Distributable Securities as directed by the Holder to the Holder or an Affiliate of the Holder, on the desired closing date for such issuance as set out in the Top-Up Right Subscription Notice.

(v) For greater certainty, the provisions of paragraphs (i) to (iv) of this Section 8(L) shall apply to a Top-Up Distribution that is either a distribution or issuance of Designated ELOC Common Shares or ATM Shares, but except for the pricing provisions of paragraph (i), which shall not apply to a Top-Up Distribution that is either a distribution or issuance of Designated ELOC Common Shares or ATM Shares. With respect to any such Top-Up Distribution that is either a distribution or issuance of Designated ELOC Common Shares or ATM Shares, the relevant Top-Up Notice shall, in addition to such other details required to be included therein pursuant to paragraph (ii) of this Section 8(L), also specify the volume weighted average price of all Designated ELOC Common Shares or ATM Shares, as applicable, issued and sold by the Company during its last fiscal quarter and the Holder's Top-Up Right with respect thereto shall be exercisable at a price per Common Share equal to the foregoing volume weighted average price of all Designated ELOC Common Shares or ATM Shares, as applicable, so issued during the quarter and as so stated in the Top-Up Notice.

(M) *Required Approvals.*

(i) In the event that the approval of the TSX, any governmental authority or other applicable stock exchange on which the Company's Common Shares are then listed, is required in connection with (1) any exercise by the Holder of the Pre-Emptive Right or the Top-Up Right, or (2) any issuance of securities by the Company to the Holder pursuant thereto, the Company shall use its best efforts to obtain any such approval as promptly as practicable.

Section 9. Affirmative and Negative Covenants.

(A) *Stay, Extension and Usury Laws*. To the extent that it may lawfully do so, the Company (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that would prohibit or forgive the Company from paying all or any portion of the principal of the Note or may affect the covenants or the performance of this Note; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Holder by this Note, but will suffer and permit the execution of every such power as though no such law has been enacted.

(B) *Corporate Existence.* Subject to **Section 10**, the Company will cause to preserve and keep in full force and effect:

(i) its corporate existence and the corporate existence of its Subsidiaries in accordance with the organizational documents of the Company or its Subsidiaries, as applicable; and

(ii) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries;

provided, *however*, that the Company need not preserve or keep in full force and effect any such rights (charter and statutory), license or franchise or existence of any of its Subsidiaries if the Board of Directors determines in good faith that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole; and (y) the loss thereof is not, individually or in the aggregate, materially adverse to the Company; and provided further, that any Subsidiary may merge into, amalgamate or consolidate with any other Subsidiary and any Subsidiary may liquidate or dissolve if all of its property passes to the Company or another Subsidiary.

(C) *Ranking*. All payments due under this Note (i) shall rank pari passu with all Other Notes and (ii) shall rank senior to all other indebtedness of the Company.

(D) *Indebtedness; Amendments to Indebtedness*. The Company shall not and shall not permit any Subsidiary to without the prior written consent of the Holder: (a) create, incur, assume, guarantee or be or remain liable with respect to any Indebtedness, other than Permitted Indebtedness; (b) prepay any Indebtedness except for (i) by the conversion of Indebtedness into equity securities (other than Disqualified Stock) and the payment of cash in lieu of fractional shares in connection with such conversion, and (ii) a refinancing of the entire amount of such Indebtedness which does not impose materially more burdensome terms upon the Company or its Subsidiaries than exist in such Indebtedness prior to such refinancing, but with a maturity date which is later than one hundred eighty-one (181) days following the Maturity Date; or (c) amend or modify any documents or notes evidencing any Indebtedness in any manner which shortens the maturity date or any amortization, redemption or interest payment date thereof or otherwise imposes materially more burdensome terms upon the Company or its Subsidiaries than exist in such Indebtedness prior to such amendment or modification without the prior written consent of Holder. The Company shall not and shall not permit any Subsidiary to incur any Indebtedness that would cause a breach or Default under the Notes or prohibit or restrict the performance of any of the Company's or its Subsidiaries' obligations under the Notes, including without limitation, the payment of interest and principal thereon.

(E) *Change of Control*. The Company shall not be permitted to complete any Change of Control without the prior written consent of the Holder unless the price per share paid in connection with such Change of Control exceeds the Conversion Price at that time multiplied by 130% or, if such Change of Control consists of the sale of all or substantially all of the consolidated assets of the Company, the proceeds of such sale, if distributed to the shareholders of the Company, on a per share basis, exceeds the Conversion Price at that time multiplied by 130%, in which case the prior written consent of the Holder shall not be required.

(F) *Consolidations, Conversions or Mergers*. Except as permitted pursuant to **Section 9(E)**, the Company shall not be permitted to do any of the following: (a) convert its status as a type of Person (e.g., corporation, limited liability company, partnership) or the jurisdiction in which it is organized, formed or created, unless it shall have provided thirty (30) days prior written notice to the Collateral Agent; (b) consummate a statutory division, merge or consolidate with or into, any Person; (c) convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of the assets (whether now owned or hereafter acquired) of any Subsidiary (taken as a whole) to or in favour of any Person other than another Subsidiary; or (d) liquidate, wind-up or dissolve any Subsidiary.

(G) *No Prepayment of Notes*. The Company will not be permitted to redeem or repay the Note prior to the Maturity Date without the prior written consent of the Holder.

(H) *Liens*. The Company will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien of any kind on any asset now owned or hereafter acquired, except Permitted Liens.

(I) *Investments*. The Company shall not directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments; provided that the Company may not make any Investment (including a Permitted Investment) or permit any of its Subsidiaries to make any Investment (including a Permitted Investment) if (i) any Event of Default has occurred or (ii) any event or circumstance has occurred and is continuing which, with the giving of notice or passage of time or both, could constitute an Event of Default.

(J) *Distributions*. The Company shall not, and shall not allow any Subsidiary to, without the Holder's prior written consent, not to be unreasonably withheld (a) repurchase or redeem any class of stock or other Equity Interest other than pursuant to employee, director or consultant repurchase plans or other similar agreements provided under plans approved by the Board of Directors; provided, however, in each case the repurchase or redemption price does not exceed the original consideration paid for such stock or Equity Interest; provided further, that the Company or any Subsidiary may repurchase, receive via forfeiture, withhold or transfer any class of stock or other Equity Interest pursuant to a net exercise of an Equity Right or other convertible security to cover the payment of the exercise price or the payment of withholding taxes associated with the exercise or vesting of equity awards under any equity compensation plan of the Company or repurchases of Common Shares, Equity Right or other convertible security upon an employee's, contractor's or consultant's termination of services, or (b) declare or pay any cash dividend or make a cash distribution on any class of stock or other Equity Interest, except that a Subsidiary may pay dividends or make distributions to the Company or a parent company that is a direct or indirect Wholly Owned Subsidiary of the Company, or (c) lend money to any employees, officers or directors (except as permitted under clause (F) of the definition of Permitted Investment), or guarantee the payment of any such loans granted by a third party in excess of fifty thousand dollars ($50,000) in the aggregate or (d) waive, release or forgive any Indebtedness owed by any employees, officers or directors in excess of fifty thousand dollars ($50,000) in the aggregate.

(K) *Asset Dispositions*. The Company shall not, and shall not allow any Subsidiary to, voluntarily or involuntarily transfer, sell, lease, license, lend or in any other manner convey any equitable, beneficial or legal interest in any of the assets of the Company or any of its Subsidiaries, without the prior written consent of the Holder, except for Permitted Asset Dispositions. In respect of any Permitted Asset Dispositions or any other disposition (including, without limitation, any potential sale or liquidation of the Company's equity interest in Truss CBD USA), the Company shall apply the proceeds therefrom to pay down the outstanding balance of the Principal Amount if and to the extent required by the Holder (in its sole discretion).

(L) *Taxes*. The Company and its Subsidiaries shall pay when due all taxes, fees or other charges of any nature whatsoever (together with any related interest or penalties) now or hereafter imposed or assessed against the Company and its Subsidiaries or their respective assets or upon their ownership, possession, use, operation or disposition thereof or upon their rents, receipts or earnings arising therefrom (except where the failure to pay would not, individually or in the aggregate, have a material effect on the Company or any of its Subsidiaries). The Company and its Subsidiaries shall file on or before the due date therefor all personal property tax returns (except where the failure to file would not, individually or in the aggregate, have a material effect on the Company or any of its Subsidiaries). Notwithstanding the foregoing, the Company and its Subsidiaries may contest, in good faith and by appropriate proceedings, taxes for which they maintain adequate reserves therefor in accordance with IFRS.

(M) *Minimum Liquidity*. The Company shall at all times maintain Unrestricted Cash in an amount equal to or greater than $20,000,000, provided that if at any time the Company fails to maintain Unrestricted Cash in an amount equal to or greater than $20,000,000, the Company shall be entitled to cure such failure and shall not be in default of this covenant if it ensures, within 30 days thereafter, that the amount of its Unrestricted Cash is equal to or greater than $20,000,000, provided further that the Company shall be entitled to cure such default only one time during the term of this Note.

(N) *Adjusted EBITDA*. As of the last day of each three-month period starting with the three-month period ending April 30, 2023, the Company and its consolidated Subsidiaries shall have Adjusted EBITDA of not less than $1.00 for the three-month period ending on such day.

(O) *Change in Nature of Business*. The Company shall not, and the Company shall cause each of its Subsidiaries to not, directly or indirectly, engage in any material line of business substantially different from those lines of business conducted by or publicly contemplated to be conducted by the Company and each of its Subsidiaries on the Issue Date or any business substantially related or incidental thereto. For greater certainty, neither the Company nor its Subsidiaries shall be restricted from expanding their business through the introduction of new products, geographic expansion, or Permitted Investments as long as such expanded business is substantially related or incidental to the business conducted by the Company and each of its Subsidiaries on the Issue Date and is not in contravention of applicable law.

(P) *Change in Structure*. The Company shall not, and shall cause the Subsidiaries not to, amend, modify or restate any of its organizational documents in any manner that materially and adversely affects the Holder's interests, and any amendment, modification or restatement of such organizational documents shall be made in good faith and for a bona fide business or corporate governance purpose.

(Q) *Reporting Status*. The Company shall timely file all reports required to be filed with the CSA and with the SEC pursuant to the Exchange Act (reports filed in compliance with the time period specified in Rule 12b-25 promulgated under the Exchange Act shall be considered timely for this purpose), and the Company shall not terminate its status as a "reporting issuer" in each of the provinces and territories of Canada within the meaning of Canadian Securities Laws or as an issuer required to file reports under the Exchange Act even if the Exchange Act or the rules and regulations thereunder would no longer require or otherwise permit such termination.

(R) *Accounting Changes; Fiscal Year*. The Company shall use reasonable commercial efforts to convert the accounting standards it uses to prepare its financial statements to generally accepted accounting standards used by public company issuers in the United Stated of America (i.e. U.S. GAAP) as at and for the financial year ended July 31, 2023, provided that the Company shall be required to have converted to U.S. GAAP for all reporting periods of the Company beginning August 1, 2023. Except as provided in the immediately preceding sentence, the Company shall not make any material change in accounting treatment or reporting practices (except as required by IFRS or GAAP, as applicable), or change its fiscal year.

(S) *Annual Budget*. At least sixty (60) days prior to the commencement of each fiscal year of the Company, the Company shall deliver to the Holder the Company's consolidated annual operating plans, operating and capital expenditure budgets and financial forecasts, and promptly following the preparation thereof, shall deliver to the Holder any updates to any of the foregoing from time to time prepared by management of the Company (such report, as amended, supplemented or otherwise modified, in each case, subject to the immediately following sentence, as approved by the board of directors of the Company, the "**Annual Budget**"). Each such Annual Budget, and any updates made thereto, shall be subject to the review and comment of the Holder. The Company shall provide each proposed Annual Budget to the Holder for its review and comment not less than 10 Business Days prior to submitting such proposed Annual Budget to the board of directors of the Company and shall ensure that the Holder shall have had the opportunity to review and comment on any Annual Budget prior to submitting such proposed Annual Budget to the board of directors of the Company for its approval. The Company shall operate its business and the business of its Subsidiaries in all material respects in accordance with the Annual Budgets,

(T) *Maintenance of Properties, Etc*. The Company shall maintain and preserve, and the Company shall cause each of its Subsidiaries to maintain and preserve, all of its properties which are necessary or material (as determined by the Company in good faith) to the conduct of its business in good working order and condition, ordinary wear and tear excepted, and comply at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder, except where the failure to do so would not, individually or in the aggregate, have a material effect on the Company and the Subsidiaries taken as a whole.

(U) *Maintenance of Intellectual Property*. The Company will take, and the Company shall cause each of its Subsidiaries to take, all actions necessary or advisable to maintain all of the Intellectual Property Rights (as defined in the Transaction Agreement) of the Company or such Subsidiary that are necessary or material (as determined by the Company in good faith) to the conduct of its business in full force and effect, except where the failure to do so would not, individually or in the aggregate, have a material effect on the Company and the Subsidiaries taken as a whole.

(V) *Maintenance of Insurance*. The Company shall, and the Company shall cause each of its Subsidiaries to, maintain or cause to be maintained, with responsible and reputable insurance companies or associations, insurance with respect to their respective properties (including all real properties leased or owned by it) and business against such liabilities, casualties, risks and contingencies and in such types and amounts and with deductibles as is required by any governmental authority having jurisdiction with respect thereto or as are customary in the case of persons engaged in the same or similar businesses and similarly situated. Notwithstanding the foregoing, the Company and its Subsidiaries shall be entitled to maintain or cause to be maintained the Permitted Self-Insurance.

(W) *Transactions with Affiliates*. Neither the Company, nor any of its Subsidiaries, shall enter into, renew, extend or be a party to, any transaction or series of related transactions (including, without limitation, the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any affiliate (other than the Company or any of its Wholly Owned Subsidiaries), except (i) transactions for consideration and on terms no less favorable to it than would be obtainable in a comparable arm's length transaction with a Person that is not an Affiliate thereof, and (ii) transactions with any Permitted Investment which is a joint venture with an arm's length third party disclosed pursuant to the Transaction Agreement as of the date of the Transaction Agreement where the failure to complete the transaction or series of related transactions would result in the Company breaching or otherwise being in default under the terms of any shareholder, limited partnership, joint venture or similar agreement with such third party in respect of such Permitted Investment.

(X) *Restricted Issuances*. The Company shall not, and shall cause its Subsidiaries not to, directly or indirectly, without the prior written consent of the holders of a majority in aggregate principal amount of the Notes then outstanding, (i) issue any Notes (other than the Notes and, subject to the conditions specified in paragraph (A)(ii) of the definition of "Permitted Indebtedness", the Other Notes) or (ii) issue any other securities where it would cause a breach or Default under the Notes or that by their terms would prohibit or restrict the performance of any of the Company's or its Subsidiaries' obligations under the Notes, including without limitation, the payment of interest and principal thereon.

(Y) *Share Purchases*. The Company shall not purchase, repurchase, redeem or otherwise acquire any Common Shares except with the prior written consent of the Holder.

(Z) *Independent Investigation*. At the request of the Holder at any time the Holder has determined in good faith that an Event of Default has occurred and is continuing but the Company has not timely agreed to such determination in writing, the Company shall hire an independent, reputable investment bank selected by the Company and approved by the Holder to investigate as to whether such Event of Default has occurred (the "**Independent Investigator**"). If the Independent Investigator determines that such Event of Default has occurred, the Independent Investigator shall notify the Company of such Event of Default and the Company shall deliver written notice to the Holder of such Event of Default. In connection with such investigation, the Independent Investigator may, during normal business hours and upon signing a confidentiality agreement in a form reasonably acceptable to the Company, inspect all contracts, books, records, personnel, offices and other facilities and properties of the Company and its Subsidiaries and, to the extent available to the Company after the Company uses reasonable efforts to obtain them, the records of its accountants (including the accountants' work papers) and any books of account, records, reports and other papers not contractually required of the Company to be confidential or secret, or subject to attorney-client or other evidentiary privilege, and the Independent Investigator may make such copies and inspections thereof as the Independent Investigator may reasonably request. The Company shall furnish the Independent Investigator with such financial and operating data and other information with respect to the business and properties of the Company as the Independent Investigator may reasonably request. The Company shall permit the Independent Investigator to discuss the affairs, finances and accounts of the Company with, and to make proposals and furnish advice with respect thereto to, any of the Company's officers, directors, key employees and independent public accountants (and by this provision the Company authorizes said accountants to discuss with such Independent Investigator the finances and affairs of the Company and any Subsidiaries; provided, that the Company's chief executive officer and chief financial officer shall be invited to join any such discussion), all at such reasonable times, upon reasonable notice, and as often as may be reasonably requested.

(AA) Upon delivery by the Company to the Holder (or receipt by the Company from the Holder) of any notice in accordance with the terms of this Note, unless the Company has in good faith determined that the matters relating to such notice do not constitute material, non-public information relating to the Company or any of its Subsidiaries, the Company shall on or prior to 9:00 am, Toronto time on the Business Day immediately following such notice delivery date, publicly disclose such material, non-public information on a Form 6-K or otherwise. In the event that the Company believes that a notice contains material, non-public information relating to the Company or any of its Subsidiaries, the Company shall so indicate to the Holder explicitly in writing in such notice (or immediately upon receipt of notice from the Holder, as applicable), and in the absence of any such written indication in such notice (or notification from the Company immediately upon receipt of notice from the Holder), the Holder shall be entitled to presume that information contained in the notice does not constitute material, non-public information relating to the Company or any of its Subsidiaries. Nothing contained in this **Section 9(AA)** shall limit any obligations of the Company, or any rights of the Holder, under the Transaction Agreement.

(BB) The Company acknowledges and agrees that the Holder is not a fiduciary or agent of the Company, the Holder will not have any obligations hereunder except those obligations expressly set forth herein (and in the Transaction Agreement) and the Holder is acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the Note and not as a fiduciary or agent of the Company. The Company agrees that it will not assert any claim against the Holder based on an alleged breach of fiduciary duty by the Holder in connection with the Note. Subject to the Holder's compliance with applicable securities laws, the Company acknowledges that the Holder shall have no obligation to (a) maintain the confidentiality of any information provided by the Company or (b) refrain from trading any securities while in possession of such information in the absence of a written non-disclosure agreement signed by an officer of the Holder that explicitly provides for such confidentiality and trading restrictions. In the absence of such an executed, written non-disclosure agreement, the Company acknowledges that, subject to the Holder's compliance with applicable securities laws, the Holder may freely trade in any securities issued by the Company, may possess and use any information provided by the Company in connection with such trading activity, and may disclose any such information to any third party.

(CC) The Company agrees that any Common Shares issued under this Note (whether upon conversion of this Note or otherwise), shall be, at the option of the Holder, either be (i) initially eligible for trading on an Eligible Exchange and bearing the Stock Exchange Official List identification code BMDCRJ4 or (ii) initially eligible for trading on the TSX and bearing Stock Exchange Daily Official List identification code BMDCRL6.

(DD) By no later than thirty (30) days following the Closing Date, the Company shall cause a title company reasonably acceptable to the Holder to issue a title insurance policy, in an amount of not less than two hundred ten million dollars ($210,000,000) and otherwise in form and substance reasonably satisfactory to the Holder, insuring that the Lien of the mortgage recorded against the Issuer's property in Quebec, Canada, is for the benefit of the Holder and is senior to all Liens other than Permitted Liens.

(EE) *Settlement of Litigation*. The Company shall use best efforts to settle the litigation identified in Section 4.1(2) of the Disclosure Letter delivered in connection with the Transaction Agreement, such settlement to be on terms mutually agreeable to the Company and the Holder.

(FF) *Truss CBD USA*. The Company shall ensure that on the earliest date subsequent to the date hereof upon which any Equity Interest in Truss CBD USA held by the Company or any of its Subsidiaries may be pledged in connection herewith, the Company and each of its Subsidiaries which owns any Equity Interest in Truss CBD USA shall grant a fully-perfected, first-ranking Lien over all the Equity Interests that the Company and/or such Subsidiary owns in Truss CBD USA pursuant to a securities pledge agreement, in form and substance satisfactory to the Holder. Such securities pledge agreement shall be deemed to be a "Security Document". At the same time, the Company shall deliver or cause to be delivered to the Holder: (a) the original certificates representing such Equity Interests together with an executed blank stock power transfer form (in the case of shares) and such other evidence or instrument (in the case of any other Equity Interest), (b) legal opinions in form and substance satisfactory to the Holder, (c) any and all approvals and consents that may be required in connection with the granting of such Lien and (d) such other resolutions, certificates, instruments and other evidence that the Holder may require.

(GG) For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 9 will apply to the Note in lieu of Article 9 of the Indenture, and such Article 9 of the Indenture will be deemed to be replaced with this Section 9 to the extent of such conflicts or inconsistencies, *mutatis mutandis*, and any provisions of Article 9 of the Indenture not specifically addressed or amended by this Section 9 shall continue to apply and control.

SECTION 10. SUCCESSORS.

The Company will not consolidate with or merge with or into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person, other than the Holder or any of its Affiliates (a "**Business Combination Event**"), unless:

(A) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (the "**Successor Corporation**") duly organized and existing under the laws of the United States of America, any State thereof, the District of Columbia or the laws of Canada or any Province or Territory thereof that expressly assumes (by executing and delivering to the Holder, at or before the effective time of such Business Combination Event, a supplement to this Note, in form and substance satisfactory to the Holder) all of the Company's obligations under this Note; and

(B) immediately after giving effect to such Business Combination Event, no Default or Event of Default will have occurred and be continuing.

At the effective time of any Business Combination Event, the Successor Corporation (if not the Company) will (a) succeed to, and may exercise every right and power of, the Company under this Note and (b) assume and be liable and responsible for all obligations of the Company under this Note with the same effect as if such Successor Corporation had been named as the Company in this Note, and, except in the case of a lease, the predecessor Company will be discharged from its obligations under this Note.

Section 11. **DEFAULTS AND REMEDIES**

(A) *Events of Default*. "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due of the Principal Amount, Maturity Principal Amount, Fundamental Change Repurchase Price, or Forced Conversion Additional Payment, of this Note;

(ii) a default for two (2) Business Days in the payment when due of interest on this Note;

(iii) a default in the Company's obligation to convert this Note in accordance with **Section 8(A) through (J)**, inclusive, upon the exercise of the conversion right with respect thereto or upon Forced Conversion;

(iv) a default in the Company's obligation to timely deliver a Fundamental Change Notice pursuant to **Section 7(C)**, and such default continues for three (3) Business Days;

(v) any failure to timely deliver an Event of Default Notice or a certification that the Equity Conditions have been satisfied or a materially false or inaccurate certification as to whether any Event of Default has occurred or that the Equity Conditions have been satisfied;

(vi) a default in any of the Company's obligations or agreements under this Note or the Transaction Documents (in each case, other than a default set forth in clauses **(i)-(v)** or **(vii)-(xvii)** of this **Section 11(A)**), or a breach of any representation or warranty in any material respect (other than representations or warranties subject to material adverse effect or materiality qualifications, which may not be breached in any respect) of any Transaction Document; *provided*, *however*, that if such default can be cured, then such default will not be an Event of Default unless the Company has failed to cure such default within ten (10) days after the earlier of knowledge thereof by the Company or notice thereof from the Holder;

(vii) any provision of any Transaction Document at any time for any reason (other than pursuant to the express terms thereof) ceases to be valid and binding on or enforceable against the Company or any of its Subsidiaries which are parties thereto, or the validity or enforceability thereof is contested, directly or indirectly, by the Company or any of its Subsidiaries, or a proceeding is commenced by the Company or any of its Subsidiaries or any governmental authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof;

(viii) the Company fails to comply with any covenant set forth in **Section 9(B), Section 9(D)**, **Section 9(E)**, **Section 9(F)**, **Section 9(G) Section 9(H)**, **Section 9(I)**, **Section 9(J)**, **Section 9(K)**, **Section 9(N)**, **Section 9(P)**, **Section 9(Q) or Section 9(S)** of this Note;

(ix) at any time, this Note or any Common Shares issuable upon conversion of this Note are not Freely Tradable;

(x) the suspension from trading or failure of the Common Shares to be trading or listed on an Eligible Exchange or the TSX for a period of three (3) consecutive Trading Days;

(xi) (i) the failure of the Company or any of its Subsidiaries to pay when due or within any applicable grace period any Indebtedness having an individual principal amount in excess of at least two hundred and fifty thousand dollars ($250,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Subsidiaries, whether such Indebtedness exists as of the Issue Date or is thereafter created, and whether such default has been waived for any period of time or is subsequently cured; or (ii) the occurrence of any breach or default under any terms or provisions of any other Indebtedness of at least one hundred thousand dollars ($100,000) (or its foreign currency equivalent) in the aggregate of the Company or any of its Subsidiaries, if the effect of such failure or occurrence is to cause or to permit the holder or holders of any such indebtedness, to cause, Indebtedness having an individual principal amount in excess of one hundred thousand dollars ($100,000) to become or be declared due prior to its stated maturity;

(xii) one or more final judgments, orders or awards (or any settlement of any litigation or other proceeding that, if breached, would result in a judgment, order or award) for the payment of at least two hundred and fifty thousand dollars ($250,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance pursuant to which the insurer has been notified and has not denied coverage), is rendered against the Company or any of its Subsidiaries and remains unsatisfied and (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order, award or settlement or (ii) there shall be a period of fifteen (15) consecutive Trading Days after entry thereof during which (A) a stay of enforcement thereof is not in effect or (B) the same is not vacated, discharged, stayed or bonded pending appeal;

(xiii) (A) the Company fails to timely file its interim reports on Form 6-K or its annual reports on Form 40-F with the Commission in the manner and within the time periods required by the Exchange Act and has not subsequently remedied such failure to timely file such reports), or (B) the Company withdraws or restates any such quarterly report or annual report previously filed with the Commission due to any material misstatement in its financial statements, or (C) fails to comply in all material respects with its continuous disclosure obligations under applicable Canadian Securities Laws;

(xiv) any Security Document shall for any reason fail or cease to create a separate valid and perfected and, except to the extent permitted by the terms hereof or thereof, first priority Lien on the Collateral, in each case, in favor of the Collateral Agent in accordance with the terms thereof, or any material provision of any Security Document shall at any time for any reason cease to be valid and binding on or enforceable against the Company or the validity or enforceability thereof shall be contested by any party thereto, or a proceeding shall be commenced by the Company or any governmental authority having jurisdiction over the Company, seeking to establish the invalidity or unenforceability thereof;

(xv) any material damage to, or loss, theft or destruction of, any Collateral (provided that any damage, loss, theft or destruction of the Collateral that reduces the value of such Collateral by five hundred thousand dollars ($500,000) or more shall be deemed to be material), whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days, the cessation or substantial curtailment of revenue producing activities at any facility of the Company or any Subsidiary, if any such event or circumstance would reasonably be expected to have a Material Adverse Effect (as defined in the Transaction Agreement). For clarity, an Event of Default under this **Section 11(A)(xv)** will not require any curtailment of revenue;

(xvi) the Company or any of its Significant Subsidiaries, except as provided in Section 11 of the Disclosure Letter, pursuant to or within the meaning of any Bankruptcy Law, either:

(1) commences a voluntary case or proceeding;

(2) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(3) consents to the appointment of a custodian of it or for any substantial part of its property;

(4) makes a general assignment for the benefit of its creditors;

(5) takes any comparable action under any analogous bankruptcy laws outside of the United States or Canada; or

(6) generally is not paying its debts as they become due,

(xvii) except as provided in Section 11 of the Disclosure Letter, a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against Company or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of the Company or any of its Significant Subsidiaries, or for any substantial part of the property of the Company or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or

(4) grants any similar relief with respect to the Company or any of its Significant Subsidiaries under any foreign Bankruptcy Law,and, in each case under this **Section 11(A)(xvii)**, such order or decree remains unstayed and in effect for at least thirty (30) days; or

(xviii) failure of the Company to deliver an Annual Budget at least 60 days prior to the commencement of each fiscal year of the Company to the Holder pursuant to Section 9(S).

For the avoidance of doubt, this Section 11(A) will apply to the Note in lieu of Section 5.1 of the Indenture, and such Section 5.1 of the Indenture will be deemed to be replaced with this Section 11(A), *mutatis mutandis*.

(B) *Acceleration*.

(i) *Automatic Acceleration in Certain Circumstances*. If an Event of Default set forth in **Section 11(A)(xvi) or (xvii)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the then outstanding portion of the Maturity Principal Amount of, and all accrued and unpaid interest, if any, on, this Note will immediately become due and payable without any further action or notice by any Person.

(ii) *Optional Acceleration*. If an Event of Default (other than an Event of Default set forth in **Section 11(A)(xvi) or (xvii)** with respect to the Company and not solely with respect to a Subsidiary of the Company) occurs and has not been waived by the Holder, then the Holder, by notice to the Company, may declare this Note (or any portion thereof) to become due and payable immediately for cash in an amount equal to the Event of Default Acceleration Amount.

(iii) *Note Provisions Control*. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 11(B) will apply to the Note in lieu of Section 5.2 of the Indenture, and such Section 5.2 of the Indenture will be deemed to be replaced with this Section 11(B) to the extent of such conflict or inconsistency, *mutatis mutandis*, and any provisions of Section 5.2 of the Indenture not specifically addressed or amended by this Section 11(B) shall continue to apply and control.

(C) *Notice of Events of Default*. Promptly, but in no event later than two (2) Business Days after an Event of Default, the Company will provide written notice (which may be delivered via email) of such Event of Default to the Holder and to the Trustee (an "**Event of Default Notice**"), which Event of Default Notice shall include (i) a reasonable description of the applicable Event of Default, (ii) the date on which the Event of Default occurred and (iii) the date on which the Default underlying such Event of Default initially occurred, if different than the date on which the Event of Default occurred. For the avoidance of doubt, this Section 11(C) will apply to the Note in lieu of Section 6.1 of the Indenture, and such Section 6.1 of the Indenture will be deemed to be replaced with this Section 11(C), *mutatis mutandis*.

Section 12. RANKING.

The indebtedness represented by this Note will constitute the senior secured obligations of the Company.

Section 13. REPLACEMENT NOTES.

If the Holder of this Note claims that this Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver a replacement Note upon surrender to the Company of such mutilated Note, or upon delivery to the Company of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder to provide such security or an indemnity that is reasonably satisfactory to the Company and/or the Trustee, as applicable, to protect the Company and/or the Trustee from any loss that it may suffer if this Note is replaced. For the avoidance of doubt, this Section 13 will apply to the Note in lieu of Section 3.6 of the Indenture, and such Section 3.6 of the Indenture will be deemed to be replaced with this Section 13, *mutatis mutandis*.

Section 14. NOTICES.

Any notice or communication to the Company will be deemed to have been duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested), electronic transmission (including e-mail) or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

HEXO Corp.
120 Chemin de la rive
Gatineau, Quebec
J8M 1V2, Canada
Attention: General Counsel
Email address: roch.vaillancourt@hexo.com

The Company, by notice to the Holder, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to the Holder will be deemed to have been duly given if in writing and delivered in person or by first class mail (registered or certified, return receipt requested), electronic transmission (including e-mail) or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

Tilray Brands, Inc.
655 Madison Avenue
19th Floor
New York, NY
10065
United States of America

Attention: Mitchell Gendel, Global General Counsel
Email: mitchell.gendel@tilray.com

with a copy (which shall not constitute notice) to:

DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto, ON
M5X 1E2
Canada
Attention: Russel Drew
Email: russel.drew@dlapiper.com

The Holder, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

If a notice or communication is mailed in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

The Trustee shall not be deemed to have any knowledge of any repayment, repurchase, conversion, default or any other event hereunder unless it has received written notice of such event.

Section 15. Successors and Assigns.

All agreements of the Company in this Note will inure to the benefit of the Holder, its successors and assigns permitted hereby, except that the Holder may not assign or otherwise transfer any of their rights or obligations hereunder pursuant to **Section 16** hereof, unless an Event of Default has occurred.

In the event of any assignment or transfer by the Initial Holder of this Note or any subsequent Holder(s) of this Note, in whole or in part, all of the successors and assigns thereof shall enjoy the rights under this Note and the agreements of the Company in this Note, and shall be subject to the obligations under this Note, on a pro rata basis based on the Principal Amount held by any such successors and assigns as a result of such assignments or transfers.

Section 16. RIGHT OF FIRST REFUSAL.

If, at any time while no Default or Event of Defaults is continuing, the Holder desires to transfer or otherwise dispose of this Note (or any portion hereof) to a third-party that is not Affiliate of the Holder, the Holder shall deliver to the Company a written notice stating the terms upon which the Holder proposes to transfer or otherwise dispose of this Note, or the applicable portion thereof (the "**ROFR Notice**"). The ROFR Notice shall constitute the Holder's offer to transfer this Note, or the applicable portion thereof, to the Company on the terms set forth in the ROFR Notice, which offer shall be irrevocable until the end of the ROFR Notice Period (as defined below). Upon receipt of the ROFR Notice, the Company shall have 30 days (the "**ROFR Notice Period**") to elect to purchase this Note, or the applicable portion thereof, by delivering a written notice (an "**Acceptance Notice**") to the Holder stating that it elects to purchase this Note, or the applicable portion thereof, on the terms specified in the ROFR Notice. Any Acceptance Notice shall be binding upon delivery and irrevocable by the Company. Completion of the sale of this Note, or the applicable portion thereof, to the Company pursuant to such Acceptance Notice shall take place within two (2) Business Days following the end of the ROFR Notice Period, or such longer period as may be agreed between the Holder and the Company, at such place and on such date as the Holder and the Company shall agree. If the Company does not deliver an Acceptance Notice during the ROFR Notice Period, it shall be deemed to have waived its rights to purchase the Note, or the applicable portion thereof, pursuant to this Section with respect to the transfer or other disposition described in such ROFR Notice and the Holder shall be free to transfer or dispose of this Note, or the applicable portion thereof, without the prior consent of the Company to any third-party in accordance with the terms set forth in the ROFR Notice. This Section 16 shall not apply in connection with: (a) a change of control of the Holder or a sale of all or substantially all of the assets of the Holder or (b) any transfer or other disposition of this Note which occurs in connection with, or substantially simultaneously with, such change of control or sale.

Section 17. CURRENCY INDEMNITY.

If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Note, it becomes necessary to convert into a particular currency (the "**Judgment Currency**") any amount due under this Note in any currency other than the Judgment Currency (the "**Currency Due**"), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given for the relevant currencies as publicized at such time by Bloomberg L.P. In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given and the date of receipt by the Holder of the amount due, the Corporation will, on the date of receipt by the Holder, pay such additional amounts, if any, or be entitled to receive reimbursement of such amount, if any, as may be necessary to ensure that the amount received by the Holder on such date is the amount in the Judgment Currency which when converted at the rate of exchange prevailing on the date of receipt by the Holder is the amount then due under this Note in the Currency Due. If the amount of the Currency Due which the Holder is so able to purchase is less than the amount of the Currency Due originally due to it, the Corporation shall indemnify and save the Holder harmless from and against all loss or damage arising as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Note, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Holder from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Note or under any judgment or order. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 17 will apply to the Note in lieu of Section 1.14 of the Indenture, and such Section 1.14 of the Indenture will be deemed to be replaced with this Section 17 to the extent of such conflict or inconsistency, *mutatis mutandis*, and any provisions of Section 1.14 of the Indenture not specifically addressed or amended by this Section 17 shall continue to apply and control.

Section 18. QUEBEC MATTERS

For purposes of any assets, liabilities or entities located in the Province of Québec and for all other purposes pursuant to which the interpretation or construction of this Note may be subject to the laws of the Province of Québec or a court or tribunal exercising jurisdiction in the Province of Québec, (a) "personal property" shall include "movable property", (b) "real property" or "real estate" shall include "immovable property", (c) "tangible property" shall include "corporeal property", (d) "intangible property" shall include "incorporeal property", (e) "security interest", "mortgage" and "lien" shall include a "hypothec", "right of retention", "prior claim" and a resolutory clause, (f) all references to filing, perfection, priority, remedies, registering or recording under the Uniform Commercial Code or a Personal Property Security Act shall include publication under the *Civil Code of Québec,* (g) all references to "perfection" of or "perfected" liens or security interest shall include a reference to an "opposable" or "set up" lien or security interest as against third parties, (h) any "right of offset", "right of setoff" or similar expression shall include a "right of compensation", (i) "goods" shall include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall include a "mandatary", (k) "construction liens" shall include "legal hypothecs"; (l) "joint and several" shall include "solidary"; (m) "gross negligence or wilful misconduct" shall be deemed to be "intentional or gross fault"; (n) "beneficial ownership" shall include "ownership on behalf of another as mandatary"; (o) "easement" shall include "servitude"; (p) "priority" shall include "prior claim"; (q) "survey" shall include "certificate of location and plan"; (r) "state" shall include "province"; (s) "fee simple title" shall include "absolute ownership"; (t) "accounts" shall include "claims". The parties hereto confirm that it is their wish that this Note and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*

Section 19. SEVERABILITY.

If any provision of this Note is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Note will not in any way be affected or impaired thereby.

Section 20. HEADINGS, ETC.

The headings of the Sections of this Note have been inserted for convenience of reference only, are not to be considered a part of this Note and will in no way modify or restrict any of the terms or provisions of this Note.

Section 21. AMENDMENTS

This Note may not be amended or modified unless in writing by the Company and the Holder, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit. Any amendment or modification of this Note shall be subject to the prior approval of the TSX.

Section 22. GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.

All questions concerning the construction, validity, enforcement and interpretation of this Note shall be governed by the laws of the Province of Ontario, without giving effect to any choice of law or conflict of law provision or rule (whether of the Province of Ontario or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the Province of Ontario. The Company and the Holder hereby irrevocably submits to the exclusive jurisdiction of the courts of the Province of Ontario sitting in the city of Toronto, for the adjudication of any dispute hereunder or in connection herewith or under any of the other Transaction Documents or with any transaction contemplated hereby or thereby, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Note and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. Nothing contained herein shall be deemed or operate to preclude any Holder from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to such Holder or to enforce a judgment or other court ruling in favor of such Holder. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR UNDER ANY OTHER TRANSACTION DOCUMENT OR IN CONNECTION WITH OR ARISING OUT OF THIS NOTE OR ANY OTHER TRANSACTION DOCUMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY. For the avoidance of doubt, to the extent of any conflicts or inconsistencies, this Section 22 will apply to the Note in lieu of Section 14.7 of the Indenture, and such Section 14.7 of the Indenture will be deemed to be replaced with this Section 22 to the extent of such conflict or inconsistency, *mutatis mutandis*, and any provisions of Section 14.7 of the Indenture not specifically addressed or amended by this Section 22 shall continue to apply and control.

Section 23. ELECTRONIC EXECUTION.

Delivery of an executed counterpart of a signature page to this Note by facsimile, DocuSign or other electronic transmission, or by sending a scanned copy ("pdf" or "tif") by electronic mail shall be effective as delivery of a manually executed counterpart of this Note.

The words "executed," "execution," "signed," "signature," and words of similar import in this Note shall be deemed to include electronic or digital signatures or the keeping of records in electronic form, each of which shall be of the same effect, validity and enforceability as manually executed signatures or a paper-based recordkeeping system, as the case may be, to the extent and as provided for under applicable law, including the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar federal or provincial laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its Uniform Electronic Evidence Act, as the case may be.

Section 24. Enforcement Fees.

The Company agrees to pay all costs and expenses of the Holder incurred as a result of enforcement of this Note and the collection of any amounts owed to the Holder hereunder (whether in cash, Common Shares or otherwise), including, without limitation, reasonable attorneys' fees and expenses.

Section 25. Calculations.

For the avoidance of doubt, all calculations to be made in connection with this Note or any conversion, repayment, repurchase, default, or otherwise hereunder shall be made by the Holder, and the Trustee shall have no liability or responsibility for any calculation required in connection with this Note or any conversion, repayment, repurchase, default, or otherwise hereunder. If any such calculation results in a change in the principal amount of the Note, the Holder shall use reasonable efforts to provide the Trustee with written notice of such change.

Section 26. Currency

Any reference in this Note to "**Dollars**", "**dollars**" or "**$**" shall be deemed to be a reference to lawful money of the United States of America and any reference to any payments to be made by the Company shall be deemed to be a reference to payments made in lawful money of the United States of America. Any reference in this Agreement to "**CAD$**" shall be deemed to be a reference to lawful money of Canada. Except as specifically provided in this Note, the equivalent on any given date in one currency of an amount denominated in another currency is a reference to the amount of the first currency which could be purchased with the amount of the second currency at the screen rate published on Reuters or any substitute or successor of such service selected by the Holder or, if not available, the spot rate of exchange quoted to the Holder in the ordinary course of business at or about 11:00 a.m. (Toronto time) on such date for the purchase of the first currency with the second currency.

Section 27. UCC Recording

For the avoidance of doubt, the Trustee shall have no liability or responsibility for the filing, recording or delivery of any financing statement, continuation statement, amendment, termination, or any other document required under the UCC to be filed, recorded or delivered in connection with the Collateral.

Section 28. Rights of the Trustee.

The Company agrees that all of the rights, protections and indemnities afforded to the Trustee under the Indenture are extended hereto and incorporated herein .

* * *

CONVERSION NOTICE

HEXO Corp.

Senior Secured Convertible Note due 2023

Subject to the terms of this Note, by executing and delivering this Conversion Notice to the Company, the undersigned Holder of this Note directs the Company to convert the following Principal Amount of this Note: $_____ in accordance with the following details.

☐ Check if the Conversion Date occurs during an Event of Default Conversion Period.

Shares of Common Shares to be delivered:

_____

Accrued interest amount:

_____

DTC Participant Number:

_____

DTC Participant Name:

_____

Date: _____ _____

(Legal Name of Holder)

By: _____

Name:

Title:

☐ Check if the Conversion Rate is at a rate other than is otherwise currently applicable (counter signature by the Company is not required unless a Conversion Rate other than the currently applicable Conversion Rate is requested).

Check which Stock Exchange Official List identification code the Common Shares to be delivered shall bear:

☐ BMDCRJ4

☐ BMDCRL6.

Requested Conversion Rate:

Date:

HEXO Corp.

By:

Name:

Title:

Exhibit 10.7

HEXO CORP.

as Issuer

GLAS TRUST COMPANY LLC

as Trustee

Indenture

Dated as of May 27, 2021

HEXO Corp.

Reconciliation and tie between *Trust Indenture Act*

***of 1939* and Indenture, dated as of May 27, 2021**

Trust Indenture	
Act Section	**Indenture Section**
§310(a)(1)	6.7
(a)(2)	6.7
(b)	6.8
§312(b)	7.1
(c)	7.1
§313(a)	7.2
(b)(1)	7.2
(b)(2)	7.2
(c)	7.2
(d)	7.2
§314(a)	7.3
(a)(4)	9.4
(c)(1)	1.2
(c)(2)	1.2
(e)	1.2
§315(b)	6.4
§316(a)(last sentence)	1.1 (“Outstanding”)
(a)(1)(A)	5.2, 5.2
(a)(1)(B)	5.13
(b)	5.8
(c)	1.4(e)
§317(a)(1)	5.3
(a)(2)	5.4
(b)	9.3
§318(a)	1.11

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INDENTURE, dated as of May 27, 2021, between HEXO Corp., a corporation existing under the laws of the Province of Ontario, Canada (herein called the "**Company**"), having its principal office at 3000 Solandt Road, Ottawa, Ontario, Canada K2K 2X2, and GLAS Trust Company LLC, a limited liability company organized and existing under the laws of the State of New Hampshire, having its office at 3 Second Street, Suite 206, Jersey City, New Jersey, 07311, as trustee (herein called the "**Trustee**").

RECITALS

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its unsecured debentures, notes, bonds or other evidences of indebtedness (herein called the "**Securities**"), which may be convertible into or exchangeable for any securities of any Person (including the Company) to be issued in one or more series as in this Indenture provided.

This Indenture is subject to the provisions of the *Trust Indenture Act of 1939*, as amended, that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions.

All things necessary to make this Indenture a valid agreement of the Company in accordance with its terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

ARTICLE 1

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1 Definitions. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(2) all other terms used herein which are defined in the *Trust Indenture Act*, either directly or by reference therein, have the meanings assigned to them therein, and the terms "cash transaction" and "self-liquidating paper", as used in TIA Section 311, shall have the meanings assigned to them in the rules of the Commission adopted under the *Trust Indenture Act*;

(3) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with Canadian GAAP; and

(4) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

Certain terms, used principally in Article Three, are defined in that Article.

"**Act**" when used with respect to any Holder, has the meaning specified in Section 1.4.

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Authenticating Agent**" means any Person appointed by the Trustee to act on behalf of the Trustee pursuant to Section 6.11 to authenticate Securities.

"**Authorized Newspaper**" means a newspaper, in the English language or in an official language of the country of publication, customarily published on each Business Day, whether or not published on Saturdays, Sundays or holidays, and of general circulation in each place in connection with which the term is used or in the financial community of each such place. Where successive publications are required to be made in Authorized Newspapers, the successive publications may be made in the same or in different newspapers in the same city meeting the foregoing requirements and in each case on any Business Day.

"**Bankruptcy Law**" means the Federal Bankruptcy Code, *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), *Winding-Up & Restructuring Act* (Canada), or any other Canadian federal or provincial law or the law of any other jurisdiction relating to bankruptcy, insolvency, winding-up, liquidation, dissolution, reorganization or relief of debtors or any similar law now or hereafter in effect for the relief from, or otherwise affecting, creditors.

"**Bankruptcy Order**" means any court order made in a proceeding pursuant to or within the meaning of any Bankruptcy Law, containing an adjudication of bankruptcy or insolvency, or providing for liquidation, winding-up, dissolution or reorganization, or appointing a Custodian of a debtor or of all or any substantial part of a debtor's property, or providing for the staying, arrangement, adjustment or compromise of indebtedness or other relief of a debtor.

"**Bearer Security**" means any Security except a Registered Security.

"**Board of Directors**" means the board of directors of the Company or any duly authorized committee of such board.

"**Board Resolution**" means a copy of a resolution certified by any authorized signatory of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"**Business Day**", when used with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Securities, means, unless otherwise specified with respect to any Securities pursuant to Section 3.1, each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in that Place of Payment or other location are authorized or obligated by law or executive order to close.

"**calculation period**" has the meaning specified in Section 3.11.

"**Canadian GAAP**" means generally accepted accounting principles, and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such accounting principles used in the Company's annual financial statements contained in the Company's annual report delivered to its shareholders in respect of the fiscal year immediately prior to the date of such computation, including International Financial Reporting Standards as issued by the International Accounting Standards Board.

"**Clearstream**" means Clearstream Banking, société anonyme, or its successor.

"**Commission**" means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"**Common Depositary**" has the meaning specified in Section 3.4.

"**Company**" means the Person named as the "Company" in the first paragraph of this Indenture until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Person.

"**Company Request**" or "**Company Order**" means a written request or order signed in the name of the Company by any two authorized signatories of the Company and delivered to the Trustee.

"**Conversion Event**" means the cessation of use of (i) a Foreign Currency (other than the Euro or other currency unit) both by the government of the country which issued such Currency and by a central bank or other public institution of or within the international banking community for the settlement of transactions, (ii) the Euro or (iii) any currency unit (or composite currency) other than the Euro for the purposes for which it was established.

"**Corporate Trust Office**" means the principal corporate trust office of the Trustee at which at any particular time its corporate trust business may be administered, which office on the date of execution of this Indenture is located at [♦].

"**corporation**" includes corporations, associations, companies and business trusts.

"**covenant defeasance**" has the meaning specified in Section 13.3.

"**coupon**" means any interest coupon appertaining to a Bearer Security.

"**Currency**" means any currency or currencies, composite currency or currency unit or currency units, including, without limitation, the Euro, issued by the government of one or more countries or by any recognized confederation or association of such governments.

"**Custodian**" means any receiver, interim receiver, receiver and manager, trustee, assignee, liquidator, sequestrator, monitor, custodian or similar official or agent or any other Person with like powers.

"**Default**" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"**Defaulted Interest**" has the meaning specified in Section 3.7.

"**defeasance**" has the meaning specified in Section 13.2.

"**Depositary**" means, with respect to the Securities of any series, The Depository Trust Company, or any successor thereto, or any other Person designated pursuant to Section 3.1 with respect to the Securities of such series.

"**Dollar**" or "**$**" means a dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

"**Euro**" means the single currency of the participating member states from time to time of the European Union described in legislation of the European Counsel for the operation of a single unified European currency (whether known as the Euro or otherwise).

"**Euroclear**" means Euroclear Bank, S.A./N.V., and any successor thereto.

"**Event of Default**" has the meaning specified in Section 5.1.

"**Exchange Date**" has the meaning specified in Section 3.4.

"**Exchange Rate Agent**" means, with respect to Securities of or within any series, unless otherwise specified with respect to any Securities pursuant to Section 3.1, a New York clearing house bank, designated in accordance with this Indenture.

"**Exchange Rate Officer's Certificate**" means a tested telex or a certificate setting forth (i) the applicable Market Exchange Rate and (ii) the Dollar or Foreign Currency amounts of principal (and premium, if any) and interest, if any (on an aggregate basis and on the basis of a Security having the lowest denomination principal amount determined in accordance with Section 3.2 in the relevant Currency), payable with respect to a Security of any series on the basis of such Market Exchange Rate, sent (in the case of a telex) or signed (in the case of a certificate) by any authorized signatory of the Company.

"**Extension Notice**" has the meaning specified in Section 3.8.

"**Extension Period**" has the meaning specified in Section 3.8.

"**Federal Bankruptcy Code**" means the *Bankruptcy Act* of Title 11 of the United States Code, as amended from time to time.

"**Final Maturity**" has the meaning specified in Section 3.8.

"**First Currency**" has the meaning specified in Section 1.15.

"**Fiscal Year**" means the year ending July 31st.

"**Foreign Currency**" means any Currency other than Currency of the United States.

"**Governmental Authority**" means any nation or government, any state, province, territory or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"**Government Obligations**" means, unless otherwise specified with respect to any series of Securities pursuant to Section 301, securities which are (a) direct obligations of the government which issued the Currency in which the Securities of a particular series are payable or (b) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the government which issued the Currency in which the Securities of such series are payable, the payment of which is unconditionally guaranteed by such government, which, in either case, are full faith and credit obligations of such government payable in such Currency and are not callable or redeemable at the option of the issuer thereof and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such Government Obligation or a specific payment of interest on or principal of any such Government Obligation held by such custodian for the account of a holder of a depositary receipt, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Obligation or the specific payment of interest or principal of the Government Obligation evidenced by such depository receipt.

"**Holder**" means, in the case of a Registered Security, the Person in whose name a Security is registered in the Security Register and, in the case of a Bearer Security, the bearer thereof and, when used with respect to any coupon, shall mean the bearer thereof.

"**Indebtedness**" means obligations for money borrowed whether or not evidenced by notes, bonds, debentures or other similar evidences of indebtedness.

"**Indenture**" means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, and shall include the terms of particular series of Securities established as contemplated by Section 3.1; provided, however, that, if at any time more than one Person is acting as Trustee under this instrument, "Indenture" shall mean, with respect to any one or more series of Securities for which such Person is Trustee, this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the terms of particular series of Securities for which such Person is Trustee established as contemplated by Section 3.1, exclusive, however, of any provisions or terms which relate solely to other series of Securities for which such Person is not Trustee, regardless of when such terms or provisions were adopted, and exclusive of any provisions or terms adopted by means of one or more indentures supplemental hereto executed and delivered after such Person had become such Trustee but to which such Person, as such Trustee, was not a party.

"**Indexed Security**" means a Security the terms of which provide that the principal amount thereof payable at Stated Maturity may be more or less than the principal face amount thereof at original issuance.

"**interest**", when used with respect to an Original Issue Discount Security, which by its terms bears interest only after Maturity, means interest payable after Maturity at the rate prescribed in such Original Issue Discount Security.

"**Interest Payment Date**", when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

"**Judgment Currency**" has the meaning specified in Section 1.14.

"**Lien**" means any mortgage, lien, pledge, charge, security interest or encumbrance of any kind created, incurred or assumed in order to secure payment of Indebtedness.

"**mandatory sinking fund payment**" has the meaning specified in Section 11.1.

"**Market Exchange Rate**" means, unless otherwise specified with respect to any Securities pursuant to Section 3.1, (i) for any conversion involving a currency unit on the one hand and Dollars or any Foreign Currency on the other, the exchange rate between the relevant currency unit and Dollars or such Foreign Currency calculated by the method specified pursuant to Section 3.1 for the Securities of the relevant series, (ii) for any conversion of Dollars into any Foreign Currency, the noon (New York City time) buying rate for such Foreign Currency for cable transfers quoted in New York City as certified for customs purposes by the Federal Reserve Bank of New York and (iii) for any conversion of one Foreign Currency into Dollars or another Foreign Currency, the spot rate at noon local time in the relevant market at which, in accordance with normal banking procedures, the Dollars or Foreign Currency into which conversion is being made could be purchased with the Foreign Currency from which conversion is being made from major banks located in either New York City, London or any other principal market for Dollars or such purchased Foreign Currency, in each case determined by the Exchange Rate Agent. Unless otherwise specified with respect to any Securities pursuant to Section 3.1, in the event of the unavailability of any of the exchange rates provided for in the foregoing clauses (i), (ii) and (iii), the Exchange Rate Agent shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in New York City, London, England or another principal market for the Currency in question, or such other quotations as the Exchange Rate Agent shall deem appropriate. Unless otherwise specified by the Exchange Rate Agent, if there is more than one market for dealing in any Currency by reason of foreign exchange regulations or otherwise, the market to be used in respect of such Currency shall be that upon which a non-resident issuer of securities designated in such Currency would purchase such Currency in order to make payments in respect of such Securities.

"**Maturity**", when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption, notice of option to elect repayment or otherwise.

"**Officers' Certificate**" means a certificate signed by any two authorized signatories of the Company and delivered to the Trustee.

"**Opinion of Counsel**" means a written opinion of counsel, who may be counsel for the Company, including an employee of the Company, and who shall be acceptable to the Trustee.

"**Optional Reset Date**" has the meaning specified in Section 3.7.

"**optional sinking fund payment**" has the meaning specified in Section 11.1.

"**Original Issue Discount Security**" means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2.

"**Original Stated Maturity**" has the meaning specified in Section 3.8.

"**Outstanding**", when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(i) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities, or portions thereof, for whose payment or redemption or repayment at the option of the Holder money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities and any coupons appertaining thereto; provided that, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(iii) Securities, except to the extent provided in Section 13.2 and 13.3, with respect to which the Company has effected defeasance and/or covenant defeasance as provided in Article 13; and

(iv) Securities which have been paid pursuant to Section 3.6 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, *however*, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder or are present at a meeting of Holders for quorum purposes, and for the purpose of making the calculations required by TIA Section 313, (i) the principal amount of an Original Issue Discount Security that may be counted in making such determination or calculation and that shall be deemed to be Outstanding for such purpose shall be equal to the amount of principal thereof that would be (or shall have been declared to be) due and payable, at the time of such determination, upon a declaration of acceleration of the maturity thereof pursuant to Section 5.2, (ii) the principal amount of any Security denominated in a Foreign Currency that may be counted in making such determination or calculation and that shall be deemed Outstanding for such purpose shall be equal to the Dollar equivalent, determined as of the date such Security is originally issued by the Company as set forth in an Exchange Rate Officer's Certificate delivered to the Trustee, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent as of such date of original issuance of the amount determined as provided in clause (i) above) of such Security, (iii) the principal amount of any Indexed Security that may be counted in making such determination or calculation and that shall be deemed outstanding for such purpose shall be equal to the principal face amount of such Indexed Security at original issuance, unless otherwise provided with respect to such Security pursuant to Section 3.1, and (iv) Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in making such calculation or in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee certifies in writing to the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor.

"**Paying Agent**" means any Person (including the Company acting as Paying Agent) authorized by the Company to pay the principal of (or premium, if any) or interest, if any, on any Securities on behalf of the Company.

"**Person**" means an individual, partnership, limited liability company, joint stock company, corporation, business trust, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

"**Place of Payment**" means, when used with respect to the Securities of or within any series, the place or places where the principal of (and premium, if any) and interest, if any, on such Securities are payable as specified as contemplated by Sections 3.1 and 9.2.

"**Predecessor Security**" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.6 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security or a Security to which a mutilated, destroyed, lost or stolen coupon appertains shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security or the Security to which the mutilated, destroyed, lost or stolen coupon appertains, as the case may be.

"**rate(s) of exchange**" has the meaning specified in Section 1.14.

"**Redemption Date**", when used with respect to any Security to be redeemed, in whole or in part, means the date fixed for such redemption by or pursuant to this Indenture.

"**Redemption Price**", when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

"**Registered Security**" means any Security registered in the Security Register.

"**Regular Record Date**" for the interest payable on any Interest Payment Date on the Registered Securities of or within any series means the date specified for that purpose as contemplated by Section 3.1.

"**Repayment Date**" means, when used with respect to any Security to be repaid at the option of the Holder, the date fixed for such repayment pursuant to this Indenture.

"**Repayment Price**" means, when used with respect to any Security to be repaid at the option of the Holder, the price at which it is to be repaid pursuant to this Indenture.

"**Required Currency**" has the meaning specified in Section 1.14.

"**Reset Notice**" has the meaning specified in Section 3.7.

"**Responsible Officer**", when used with respect to the Trustee, means any vice president, assistant vice president, any trust officer or assistant trust officer, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"**Securities**" has the meaning stated in the first recital of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture; provided, however, that if at any time there is more than one Person acting as Trustee under this Indenture, "Securities" with respect to the Indenture as to which such Person is Trustee shall have the meaning stated in the first recital of this Indenture and shall more particularly mean Securities authenticated and delivered under this Indenture, exclusive, however, of Securities of any series as to which such Person is not Trustee.

"**Security Register**" and "**Security Registrar**" have the respective meanings specified in Section 3.5.

"**Special Record Date**" for the payment of any Defaulted Interest on the Registered Securities of or within any series means a date fixed by the Trustee pursuant to Section 3.7.

"**Stated Maturity**", when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security or a coupon representing such installment of interest as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable, as such date may be extended pursuant to the provisions of Section 3.8 (if applicable).

"**Subsequent Interest Period**" has the meaning specified in Section 3.7.

"**Subsidiary**" of any person means, at the date of determination, any corporation or other person of which Voting Shares or other interests carrying more than 50% of the voting rights attached to all outstanding Voting Shares or other interests are owned, directly or indirectly, by or for such person or one or more Subsidiaries thereof.

"**The Depository Trust Company**" means Depository Trust Clearing Corporation, and any successor thereto.

"**Trust Indenture Act**" or "**TIA**" means the *Trust Indenture Act of 1939*, as amended and as in force at the date as of which this Indenture was executed except as provided in Section 8.5.

"**Trustee**" means the Person named as the "Trustee" in the first paragraph of this Indenture 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; provided, however, that if at any time there is more than one such Person, "Trustee" as used with respect to the Securities of any series shall mean only the Trustee with respect to Securities of that series.

"**United States**" means, unless otherwise specified with respect to any Securities pursuant to Section 3.1, the United States of America (including the states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

"**United States person**" means, unless otherwise specified with respect to any Securities pursuant to Section 3.1, an individual who is a citizen or resident of the United States, a corporation, partnership or other entity created or organized in or under the laws of the United States or an estate or trust the income of which is subject to United States federal income taxation regardless of its source.

"**Voting Shares**" means shares of any class of a corporation having under all circumstances the right to vote for the election of the directors of such corporation, provided that, for the purpose of the definition, shares which only carry the right to vote conditionally on the happening of an event shall not be considered Voting Shares whether or not such event shall have happened.

"**Yield to Maturity**" means the yield to maturity, computed at the time of issuance of a Security (or, if applicable, at the most recent redetermination of interest on such Security) and as set forth in such Security in accordance with generally accepted United States bond yield computation principles.

Section 1.2 Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture (including any covenant compliance with which constitutes a condition precedent) relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture (other than pursuant to Section 9.4) shall include:

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) 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;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such covenant or condition has been complied with.

Section 1.3 Form of Documents Delivered to Trustee.

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. All communications with, and direction to, the Trustee shall be in writing.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Any certificate or opinion of an officer of the Company or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of, or representations by, an accountant or firm of accountants in the employ of the Company, unless such officer or counsel, as the case may be, knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the accounting matters upon which such certificate or opinion may be based are erroneous. Any certificate or opinion of any independent firm of public accountants filed with the Trustee shall contain a statement that such firm is independent.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 1.4 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 of the Outstanding Securities of all series or one or more series, as the case may be, may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing. If Securities of a series are issuable as Bearer Securities, any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders of such series may, alternatively, be embodied in and evidenced by the record of Holders of Securities of such series voting in favor thereof, either in person or by proxies duly appointed in writing, at any meeting of Holders of Securities of such series duly called and held in accordance with the provisions of Article 14, or a combination of such instruments and any such record. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments and any such record (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments or so voting at any such meeting. Proof of execution of any such instrument or of a writing appointing any such agent, or of the holding by any Person of a Security, shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section. The record of any meeting of Holders of Securities shall be proved in the manner provided in Section 14.6.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved in any reasonable manner which the Trustee deems sufficient.

(c) The principal amount and serial numbers of Registered Securities held by any Person, and the date of holding the same, shall be proved by the Security Register.

(d) The principal amount and serial numbers of Bearer Securities held by any Person, and the date of holding the same, may be proved by the production of such Bearer Securities or by a certificate executed, as depositary, by any trust company, bank, banker or other depositary, wherever situated, if such certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such Person had on deposit with such depositary, or exhibited to it, the Bearer Securities therein described; or such facts may be proved by the certificate or affidavit of the Person holding such Bearer Securities, if such certificate or affidavit is deemed by the Trustee to be satisfactory. The Trustee and the Company may assume that such ownership of any Bearer Security continues until (1) another certificate or affidavit bearing a later date issued in respect of the same Bearer Security is produced, or (2) such Bearer Security is produced to the Trustee by some other Person, or (3) such Bearer Security is surrendered in exchange for a Registered Security, or (4) such Bearer Security is no longer Outstanding. The principal amount and serial numbers of Bearer Securities held by any Person, and the date of holding the same, may also be proved in any other manner that the Trustee deems sufficient.

(e) If the Company shall solicit from the Holders of Registered Securities any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company, shall have no obligation to do so. Notwithstanding TIA Section 316(c), such record date shall be the record date specified in or pursuant to such Board Resolution, which shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such 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 purposes of determining whether Holders of the requisite proportion of Outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Securities shall be computed as of such record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than eleven months after the record date.

(f) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

Section 1.5 Notices, etc. to Trustee and Company.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing or sent by facsimile to the Trustee at its Corporate Trust Office, GLAS Trust Company LLC, 3 Second Street, Suite 206, Jersey City, New Jersey 07311, Fax: 212-202-6246, Attention Corporate Trust Administration, or

(2) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or sent by overnight courier to the Company, addressed to it at 3000 Solandt Road, Ottawa, Ontario, Canada K2K 2X2, Attention: Corporate Secretary, or at any other address previously furnished in writing to the Trustee by the Company.

Section 1.6 Notice to Holders; Waiver.

Where this Indenture provides for notice of any event to Holders of Registered Securities by the Company or the Trustee, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed at the expense of the Company, first-class postage prepaid, to each such Holder affected by such event, at his address as it appears in the Security Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Holders of Registered Securities 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 of Registered Securities or the sufficiency of any notice to Holders of Bearer Securities given as provided. Any notice mailed to a Holder in the manner herein prescribed shall be conclusively deemed to have been received by such Holder, whether or not such Holder actually receives such notice.

In case, by reason of the suspension of or irregularities in regular mail service or by reason of any other cause, it shall be impractical to mail notice of any event to Holders of Registered Securities when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be directed by the Company shall be deemed to be sufficient giving of such notice for every purpose hereunder.

Except as otherwise expressly provided herein or otherwise specified with respect to any Securities pursuant to Section 3.1, where this Indenture provides for notice to Holders of Bearer Securities of any event, such notice shall be sufficiently given at the expense of the Company to Holders of Bearer Securities if published in an Authorized Newspaper in The City of New York and in such other city or cities as may be specified in such Securities on a Business Day at least twice, the first such publication to be not earlier than the earliest date, and not later than the latest date, prescribed for the giving of such notice. Any such notice shall be deemed to have been given on the date of the first such publication.

In case, by reason of the suspension of publication of any Authorized Newspaper or Authorized Newspapers or by reason of any other cause, it shall be impracticable to publish any notice to Holders of Bearer Securities as provided above, then such notification to Holders of Bearer Securities as shall be given as directed by the Company shall constitute sufficient notice to such Holders for every purpose hereunder. Neither the failure to give notice by publication to Holders of Bearer Securities as provided above, nor any defect in any notice so published, shall affect the sufficiency of such notice with respect to other Holders of Bearer Securities or the sufficiency of any notice to Holders of Registered Securities given as provided herein.

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 1.7 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.8 Successors and Assigns.

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

Section 1.9 Separability Clause.

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

Section 1.10 Benefits of Indenture.

Nothing in this Indenture or in the Securities or coupons, express or implied, shall give to any Person, other than the parties hereto, any Authenticating Agent, any Paying Agent, any Securities Registrar and their successors hereunder and the Holders of Securities or coupons, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.11 Governing Law.

This Indenture and the Securities and coupons shall be governed by and construed in accordance with the law of the State of New York. This Indenture is subject to the provisions of the *Trust Indenture Act* that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions.

Section 1.12 Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, sinking fund payment date or Stated Maturity or Maturity of any Security shall not be a Business Day at any Place of Payment, then (notwithstanding any other provision of this Indenture or of any Security or coupon other than a provision in the Securities of any series which specifically states that such provision shall apply in lieu of this Section), payment of principal (or premium, if any) or interest, if any, need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on the Interest Payment Date, Repayment Date or Redemption Date or sinking fund payment date, or at the Stated Maturity or Maturity; provided that no interest shall accrue for the period from and after such Interest Payment Date, Repayment Date, Redemption Date, sinking fund payment date, Stated Maturity or Maturity, as the case may be.

Section 1.13 Agent for Service; Submission to Jurisdiction; Waiver of Immunities.

By the execution and delivery of this Indenture, the Company (i) irrevocably designates and appoints, and acknowledges that it has irrevocably designated and appointed, as its authorized agent upon which process may be served in any suit, action or proceeding arising out of or relating to the Securities or this Indenture that may be instituted in any United States federal or New York state court in The City of New York or brought under federal or state securities laws or brought by the Trustee (whether in its individual capacity or in its capacity as Trustee hereunder) or, subject to Section 5.7, any Holder of Securities in any United States federal or New York state court in The City of New York, (ii) submits to the non-exclusive jurisdiction of any such court in any such suit, action or proceeding, and (iii) agrees that service of process upon C T Corporation System, 1015 15th Street N.W., Suite 1000, Washington, D.C. 20005 and written notice of said service to the Company (mailed or delivered to its Corporate Secretary at its principal office specified in the first paragraph of this Indenture and in the manner specified in Section 1.5 hereof), shall be deemed in every respect effective service of process upon the Company in any such suit, action or proceeding. The Company further agrees to take any and all action, including the execution and filing of any and all such documents and instruments, as may be necessary to continue such designation and appointment of CT Corporation System in full force and effect so long as any of the Securities shall be Outstanding or any amounts shall be payable in respect of any Securities or coupons.

The Company irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such action, suit or proceeding in any such court or any appellate court with respect thereto and irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such action, suit or proceeding in any such court.

To the extent that the Company has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, it hereby irrevocably waives such immunity in respect of its obligations under this Indenture and the Securities, to the extent permitted by law.

Section 1.14 Conversion of Currency.

The Company covenants and agrees that the following provisions shall apply to conversion of Currency in the case of the Securities and this Indenture to the fullest extent permitted by applicable law:

(a) (i) If for the purposes of obtaining judgment in, or enforcing the judgment of, any court in any country, it becomes necessary to convert into a Currency (the "**Judgment Currency**") an amount due or contingently due under the Securities of any series or this Indenture in any other currency (the "**Required Currency**"), then the conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which the judgment is given or the order of enforcement is made, as the case may be (unless a court shall otherwise determine). The Trustee shall have no liability or responsibility to exchange or convert any Currency.

(ii) If there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given or an order of enforcement is made, as the case may be (or such other date as a court shall determine), and the date of receipt of the amount due, the Company shall pay such additional (or, as the case may be, such lesser) amount, if any, as may be necessary so that the amount paid in the Judgment Currency when converted at the rate of exchange prevailing on the date of receipt will produce the amount in the Required Currency originally due.

(b) In the event of the winding-up of the Company at any time while any amount or damages owing under the Securities and this Indenture, or any judgment or order rendered in respect thereof, shall remain unpaid or outstanding, the Company shall indemnify and hold the Holders and the Trustee and any agents harmless against any deficiency arising or resulting from any variation in rates of exchange between (1) the date as of which the equivalent of the amount in the Required Currency (other than under this Subsection (b)) is calculated for the purposes of such winding-up and (2) the final date for the filing of proofs of claim in such winding-up. For the purpose of this Subsection (b) the final date for the filing of proofs of claim in the winding-up of the Company shall be the date fixed by the liquidator or otherwise in accordance with the relevant provisions of applicable law as being the latest practicable date as at which liabilities of the Company may be ascertained for such winding-up prior to payment by the liquidator or otherwise in respect thereto.

(c) The obligations contained in Subsections (a)(ii) and (b) of this Section shall constitute separate and independent obligations of the Company from its other obligations under the Securities and this Indenture, shall give rise to separate and independent causes of action against the Company, shall apply irrespective of any waiver or extension granted by any Holder or Trustee from time to time and shall continue in full force and effect notwithstanding any judgment or order or the filing of any proof of claim in the winding-up of the Company for a liquidated sum in respect of amounts due hereunder (other than under Subsection (b) above) or under any such judgment or order. Any such deficiency as aforesaid shall be deemed to constitute a loss suffered by the Holders or the Trustee, as the case may be, and no proof or evidence of any actual loss shall be required by the Company or the applicable liquidator. In the case of Subsection (b) above, the amount of such deficiency shall not be deemed to be reduced by any variation in rates of exchange occurring between the said final date and the date of any liquidating distribution.

(d) The term "rate(s) of exchange" shall mean the Bank of Canada indicative rate for purchases on the relevant date of the Required Currency with the Judgment Currency, as reported on the "Exchange Rates" page of the website of Bank of Canada (or such other means of reporting the Bank of Canada indicative rate as may be agreed upon by each of the parties to this Indenture) and includes any premiums and costs of exchange payable.

Section 1.15 Currency Equivalent.

Except as otherwise provided in this Indenture, for purposes of the construction of the terms of this Indenture or of the Securities, in the event that any amount is stated herein in the Currency of one nation (the "**First Currency**"), as of any date such amount shall also be deemed to represent the amount in the Currency of any other relevant nation which is required to purchase such amount in the First Currency at the Bank of Canada indicative rate as reported on the "Exchange Rates" page of the website of Bank of Canada as determined by the Company (or such other means of reporting the Bank of Canada indicative rate as may be agreed upon by each of the parties to this Indenture) on the date of determination.

Section 1.16 No Recourse Against Others.

A director, officer, employee or shareholder, as such, of the Company shall not have any liability for any obligations of the Company under the Securities or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Holder shall waive and release all such liability. Such waiver and release shall be part of the consideration for the issue of the Securities.

Section 1.17 Multiple Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by electronic mail (".pdf") or other electronic means shall be equally effective as delivery of an original executed counterpart to this Indenture.

Section 1.18 Conflict with *Trust Indenture Act*.

If and to the extent that any provision hereof limits, qualifies or conflicts with another provision that is required or deemed to be included in this Indenture by any of the provisions of the *Trust Indenture Act*, such required or deemed provision shall control.

ARTICLE 2

SECURITY FORMS

Section 2.1 Forms Generally.

The Registered Securities, if any, of each series and the Bearer Securities, if any, of each series and related coupons shall be in substantially the forms as shall be established by or pursuant to a Board Resolution of the Company or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the Company. If the forms of Securities or coupons of any series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Company Order contemplated by Section 3.3 for the authentication and delivery of such Securities or coupons. Any portion of the text of any Security may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Security.

The Trustee's certificate of authentication on all Securities shall be in substantially the form set forth in this Article.

The definitive Securities and coupons, if any, may be produced in any manner, all as determined by the officers of the Company executing such Securities, as evidenced by their execution of such Securities or coupons. A Security may be in substantially the form attached as Exhibit A hereto, or a Security may be in any form established by or pursuant to authority granted by one or more Board Resolutions and set forth in an Officers' Certificate or supplemental indenture pursuant to Section 3.1.

Section 2.2 Form of Trustee's Certificate of Authentication.

Subject to Section 6.11, the Trustee's certificate of authentication shall be in substantially the following form:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Dated:_____

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

GLAS TRUST COMPANY LLC, as Trustee

By: _____
Authorized Signatory

Section 2.3 Securities Issuable in Global Form.

If Securities of or within a series are issuable in global form, as contemplated by Section 3.1, then, notwithstanding clause (11) of Section 3.1, any such Security shall represent such of the Outstanding Securities of such series as shall be specified therein and may provide that it shall represent the aggregate amount of Outstanding Securities of such series from time to time endorsed thereon and that the aggregate amount of Outstanding Securities of such series represented thereby may from time to time be increased or decreased to reflect exchanges. Any endorsement of a Security in global form to reflect the amount, or any increase or decrease in the amount, of Outstanding Securities represented thereby shall be made by the Trustee in such manner and upon instructions given by such Person or Persons as shall be specified therein or in the Company Order to be delivered to the Trustee pursuant to Section 3.3 or Section 3.4. Subject to the provisions of Section 3.3 and, if applicable, Section 3.4, the Trustee shall deliver and redeliver any Security in permanent global form in the manner and upon instructions given by the Person or Persons specified therein or in the Company Order. If a Company Order pursuant to Section 3.3 or Section 3.4 has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 1.2 and need not be accompanied by an Opinion of Counsel.

The provisions of the last sentence of Section 3.3 shall apply to any Security represented by a Security in global form if such Security was never issued and sold by the Company and the Company delivers to the Trustee the Security in global form together with written instructions (which need not comply with Section 1.2 and need not be accompanied by an Opinion of Counsel) with regard to the reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of Section 3.3.

Notwithstanding the provisions of Section 3.7, unless otherwise specified as contemplated by Section 3.1, payment of principal of (and premium, if any) and interest, if any, on any Security in permanent global form shall be made to the Person or Persons specified therein.

Notwithstanding the provisions of Section 3.9 and except as provided in the preceding paragraph, the Company, the Trustee and any agent of the Company or the Trustee shall treat as the Holder of such principal amount of Outstanding Securities represented by a permanent global Security (i) in the case of a permanent global Security in registered form, the Holder of such permanent global Security in registered form, or (ii) in the case of a permanent global Security in bearer form, Euroclear or Clearstream.

ARTICLE 3

THE SECURITIES

Section 3.1 Amount Unlimited; Issuable in Series.

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in one or more Board Resolutions of the Company or pursuant to authority granted by one or more Board Resolutions of the Company and, subject to Section 3.3, set forth in, or determined in the manner provided in, an Officers' Certificate of the Company, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series, any or all of the following, as applicable (each of which (except for the matters set forth in clauses (1), (2) and (17) below), if so provided, may be determined from time to time by the Company with respect to unissued Securities of the series and set forth in such Securities of the series when issued from time to time):

(1) the title of the Securities of the series (which shall distinguish the Securities of such series from all other series of Securities, except to the extent that Additional Securities of an existing series are being issued);

(2) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Sections 3.4, 3.5, 3.6, 8.6, 10.7 or 12.5) and, in the event that no limit upon the aggregate principal amount of the Securities of that series is specified, the Company shall have the right, subject to any terms, conditions or other provisions specified pursuant to this Section 3.1 with respect to the Securities of such series, to re-open such series for the issuance of additional Securities of such series from time to time;

(3) the extent and manner, if any, in which payment on or in respect of the Securities of the series will be senior or will be subordinated to the prior payment of other liabilities and obligations of the Company, and whether the payment of the Securities of the series will be guaranteed by any other Person;

(4) whether the Securities will be secured or unsecured and the nature and priority of any security;

(5) the percentage or percentages of principal amount at which the Securities of the series will be issued;

(6) the date or dates, or the method by which such date or dates will be determined or extended, on which the principal (and premium, if any) of the Securities of the series is payable;

(7) the rate or rates at which the Securities of the series shall bear interest, if any, or the method by which such rate or rates shall be determined, whether such interest shall be payable in cash or additional Securities of the same series or shall accrue and increase the aggregate principal amount outstanding of such series, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the Interest Payment Dates on which such interest shall be payable and the Regular Record Date, if any, for the interest payable on any Registered Security on any Interest Payment Date, or the method by which such date or dates shall be determined, and the basis upon which interest shall be calculated if other than on the basis of a 360-day year of twelve 30-day months;

(8) the place or places, if any, other than the Corporate Trust Office, where the principal of (and premium, if any) and interest, if any, on Securities of the series shall be payable, where any Registered Securities of the series may be surrendered for registration of transfer, where Securities of the series may be surrendered for exchange, where Securities of the series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable, and, if different than the location specified in Section 1.5, the place or places where notices or demands to or upon the Company in respect of the Securities of the series and this Indenture may be served; and the extent to which, or the manner in which, any interest payment due on a global Security of that series on an Interest Payment Date will be paid (if different than for other Securities of such series);

(9) the period or periods within which, the price or prices at which, the Currency (if other than Dollars) in which, and other terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option;

(10) the obligation, if any, of the Company to redeem, repay or purchase Securities of the series pursuant to any sinking fund or analogous provision or at the option of a Holder thereof, and the period or periods within which, the price or prices at which, the Currency (if other than Dollars) in which, and other terms and conditions upon which Securities of the series shall be redeemed, repaid or purchased, in whole or in part, pursuant to such obligation;

(11) if other than minimum denominations of $2,000 and integral multiples of $1,000, the denomination or denominations in which any Registered Securities of the series shall be issuable and, if other than denominations of $5,000, the denomination or denominations in which any Bearer Securities of the series shall be issuable;

(12) if other than the Trustee, the identity of each Security Registrar and/or Paying Agent;

(13) if other than the principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.2 or the method by which such portion shall be determined;

(14) whether the amount of payments of principal of (or premium, if any) or interest, if any, on the Securities of the series may be determined with reference to an index, formula or other method (which index, formula or method may be based, without limitation, on one or more Currencies, commodities, equity indices or other indices), and the manner in which such amounts shall be determined;

(15) the designation of the initial Exchange Rate Agent, if any;

(16) the applicability, if any, of Section 13.2 and/or 13.3 to the Securities of the series and any provisions in modification of, in addition to or in lieu of any of the provisions of Article 13 that shall be applicable to the Securities of the series;

(17) provisions, if any, granting special rights to the Holders of Securities of the series upon the occurrence of such events as may be specified;

(18) any deletions from, modifications of or additions to the Events of Default or covenants (including any deletions from, modifications of or additions to Section 9.8) of the Company with respect to Securities of the series, whether or not such Events of Default or covenants are consistent with the Events of Default or covenants set forth herein;

(19) whether Securities of the series are to be issuable as Registered Securities, Bearer Securities (with or without coupons) or both, any restrictions applicable to the offer, sale or delivery of Bearer Securities, whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form with or without coupons and, if so, whether beneficial owners of interests in any such permanent global Security may exchange such interests for Securities of such series and of like tenor of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 3.5, whether Registered Securities of the series may be exchanged for Bearer Securities of the series (if permitted by applicable laws and regulations), whether Bearer Securities of the series may be exchanged for Registered Securities of such series, and the circumstances under which and the place or places where any such exchanges may be made and if Securities of the series are to be issuable in global form, the identity of any initial depository therefor if other than The Depository Trust Company;

(20) the date as of which any Bearer Securities of the series and any temporary global Security representing Outstanding Securities of the series shall be dated if other than the date of original issuance of the first Security of the series to be issued;

(21) the Person to whom any interest on any Registered Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, the manner in which, or the Person to whom, any interest on any Bearer Security of the series shall be payable, if otherwise than upon presentation and surrender of the coupons appertaining thereto as they severally mature, and the extent to which, or the manner in which, any interest payable on a temporary global Security on an Interest Payment Date will be paid if other than in the manner provided in Section 3.4;

(22) if Securities of the series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and/or terms of such certificates, documents or conditions;

(23) if the Securities of the series are to be issued upon the exercise of warrants, the time, manner and place for such Securities to be authenticated and delivered;

(24) if the Securities of the series are to be convertible into or exchangeable for any securities of any Person (including the Company), the terms and conditions upon which such Securities will be so convertible or exchangeable; and

(25) any other terms, conditions, rights and preferences (or limitations on such rights and preferences) relating to the series (which terms shall not be inconsistent with the requirements of the *Trust Indenture Act* but which need not be consistent with the provisions of this Indenture).

All Securities of any one series and the coupons appertaining to any Bearer Securities of such series shall be substantially identical except, in the case of Registered Securities, as to denomination and except as may otherwise be provided in or pursuant to such Board Resolution (subject to Section 3.3) and set forth in such Officers' Certificate or in any such indenture supplemental hereto. Not all Securities of any one series need be issued at the same time, and, unless otherwise provided, a series may be reopened for issuances of additional Securities of such series.

If any of the terms of the series are established by action taken pursuant to one or more Board Resolutions, such Board Resolutions shall be delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the series.

Section 3.2 Denominations.

The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 3.1. With respect to Securities of any series denominated in Dollars, in the absence of any such provisions, the Registered Securities of such series, other than Registered Securities issued in global form (which may be of any denomination), shall be issuable in denominations of $1,000 and any integral multiple thereof and the Bearer Securities of such series, other than the Bearer Securities issued in global form (which may be of any denomination), shall be issuable in a denomination of $5,000.

Section 3.3 Execution, Authentication, Delivery and Dating.

The Securities and any coupons appertaining thereto shall be executed on behalf of the Company by any two of its authorized signatories. The signature of any of these officers on the Securities or coupons may be the manual or facsimile signatures of the present or any future such authorized signatory and may be imprinted or otherwise reproduced on the Securities.

Securities or coupons bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities or coupons.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series together with any coupons appertaining thereto, executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities; provided, however, that, in connection with its original issuance, no Bearer Security shall be mailed or otherwise delivered to any location in the United States or Canada; and provided further that, unless otherwise specified with respect to any series of Securities pursuant to Section 3.1, a Bearer Security may be delivered in connection with its original issuance only if the Person entitled to receive such Bearer Security shall have furnished a certificate in the form set forth in Exhibit B-1 to this Indenture, dated no earlier than 15 days prior to the earlier of the date on which such Bearer Security is delivered and the date on which any temporary Security first becomes exchangeable for such Bearer Security in accordance with the terms of such temporary Security and this Indenture. If any Security shall be represented by a permanent global Bearer Security, then, for purposes of this Section and Section 3.4, the notation of a beneficial owner's interest therein upon original issuance of such Security or upon exchange of a portion of a temporary global Security shall be deemed to be delivery in connection with its original issuance of such beneficial owner's interest in such permanent global Security. Except as permitted by Section 3.6, the Trustee shall not authenticate and deliver any Bearer Security unless all appurtenant coupons for interest then matured have been detached and cancelled. If not all the Securities of any series are to be issued at one time and if the Board Resolution or supplemental indenture establishing such series shall so permit, such Company Order may set forth procedures acceptable to the Trustee for the issuance of such Securities and determining terms of particular Securities of such series such as interest rate, stated maturity, date of issuance and date from which interest shall accrue.

In authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to TIA Sections 315(a) through 315(d)) shall be fully protected in conclusively relying upon, an Opinion or Opinions of Counsel of the Company stating:

(a) that the form or forms of such Securities and any coupons have been established in conformity with the provisions of this Indenture;

(b) that the terms of such Securities and any coupons have been established in conformity with the provisions of this Indenture;

(c) that such Securities, together with any coupons appertaining thereto, when completed by appropriate insertions and executed and delivered by the Company to the Trustee for authentication in accordance with this Indenture, authenticated and delivered by the Trustee in accordance with this Indenture and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute the legal, valid and binding obligations of the Company, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights, to general equitable principles and to such other qualifications as such counsel shall conclude do not materially affect the rights of Holders of such Securities and any coupons;

(d) that all laws and requirements in respect of the execution and delivery by the Company of such Securities, any coupons, and of the supplemental indentures, if any, have been complied with and that authentication and delivery of such Securities and any coupons and the execution and delivery of the supplemental indenture, if any, by the Trustee will not violate the terms of the Indenture;

(e) that the Company has the corporate power to issue such Securities and any coupons and has duly taken all necessary corporate action with respect to such issuance; and

(f) that the issuance of such Securities and any coupons will not contravene the articles of incorporation or amalgamation or by-laws of the Company, or result in any violation of any of the terms or provisions of any law or regulation.

Notwithstanding the provisions of Section 3.1 and of the preceding two paragraphs, if not all the Securities of any series are to be issued at one time, it shall not be necessary to deliver the Officers' Certificate otherwise required pursuant to Section 3.1 or the Company Order and Opinion of Counsel otherwise required pursuant to the preceding two paragraphs prior to or at the time of issuance of each Security, but such documents shall be delivered prior to or at the time of issuance of the first Security of such series.

The Trustee shall not be required to authenticate and deliver any such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustee.

Each Registered Security shall be dated the date of its authentication and each Bearer Security shall be dated as of the date specified as contemplated by Section 3.1.

No Security or coupon endorsed thereon shall entitle the Holder to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized signatory, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 3.1 together with a written statement (which need not comply with Section 1.2 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never entitle the Holder to the benefits of this Indenture.

Section 3.4 Temporary Securities.

Pending the preparation of definitive Securities of any series, the Company may execute, and upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued, in registered form or, if authorized, in bearer form with one or more coupons or without coupons and in all cases with such appropriate insertions, omissions, substitutions and other variations as the officers of the Company, executing such Securities may determine, as conclusively evidenced by their execution of such Securities. Such temporary Securities may be in global form.

Except in the case of temporary Securities in global form (which shall be exchanged in accordance with the provisions of the following paragraphs), if temporary Securities of any series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series (accompanied by any unmatured coupons appertaining thereto), the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of the same series of authorized denominations and of like tenor and evidencing the same Indebtedness; provided, however, that no definitive Bearer Security shall be delivered in exchange for a temporary Registered Security; and provided further that a definitive Bearer Security shall be delivered in exchange for a temporary Bearer Security only in compliance with the conditions set forth in Section 3.3. Until so exchanged the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

If temporary Securities of any series are issued in global form, any such temporary global Security shall, unless otherwise provided therein, be delivered to the London, England office of a depositary or common depositary (the "**Common Depositary**"), for the benefit of Euroclear and Clearstream, for credit to the respective accounts of the beneficial owners of such Securities (or to such other accounts as they may direct).

Without unnecessary delay, but in any event not later than the date specified in, or determined pursuant to the terms of, any such temporary global Security (the "**Exchange Date**"), the Company shall deliver to the Trustee definitive Securities, in aggregate principal amount equal to the principal amount of such temporary global Security and evidencing the same Indebtedness, executed by the Company. On or after the Exchange Date, such temporary global Security shall be surrendered by the Common Depositary to the Trustee, as the Company's agent for such purpose, to be exchanged, in whole or from time to time in part, for definitive Securities without charge, and the Trustee shall authenticate and deliver, in exchange for each portion of such temporary global Security, an equal aggregate principal amount of definitive Securities of the same series of authorized denominations and of like tenor and evidencing the same Indebtedness as the portion of such temporary global Security to be exchanged. The definitive Securities to be delivered in exchange for any such temporary global Security shall be in bearer form, registered form, permanent global bearer form or permanent global registered form, or any combination thereof, as specified as contemplated by Section 3.1, and, if any combination thereof is so specified, as requested by the beneficial owner thereof; provided, however, that, unless otherwise specified in such temporary global Security, upon such presentation by the Common Depositary, such temporary global Security is accompanied by a certificate dated the Exchange Date or a subsequent date and signed by Euroclear as to the portion of such temporary global Security held for its account then to be exchanged and a certificate dated the Exchange Date or a subsequent date and signed by Clearstream as to the portion of such temporary global Security held for its account then to be exchanged, each in the form set forth in Exhibit B-2 to this Indenture (or in such other form as may be established pursuant to Section 3.1); and provided further that definitive Bearer Securities shall be delivered in exchange for a portion of a temporary global Security only in compliance with the requirements of Section 3.3.

Unless otherwise specified in such temporary global Security, the interest of a beneficial owner of Securities of a series in a temporary global Security shall be exchanged for definitive Securities of the same series and of like tenor and evidencing the same Indebtedness following the Exchange Date when the account holder instructs Euroclear or Clearstream, as the case may be, to request such exchange on his behalf and delivers to Euroclear or Clearstream, as the case may be, a certificate in the form set forth in Exhibit B-1 to this Indenture (or in such other form as may be established pursuant to Section 3.1), dated no earlier than 15 days prior to the Exchange Date, copies of which certificate shall be available from the offices of Euroclear and Clearstream, the Trustee, any Authenticating Agent appointed for such series of Securities and each Paying Agent. Unless otherwise specified in such temporary global Security, any such exchange shall be made free of charge to the beneficial owners of such temporary global Security, except that a Person receiving definitive Securities must bear the cost of insurance, postage, transportation and the like in the event that such Person does not take delivery of such definitive Securities in person at the offices of Euroclear or Clearstream. Definitive Securities in bearer form to be delivered in exchange for any portion of a temporary global Security shall be delivered only outside the United States and Canada.

Until exchanged in full as hereinabove provided, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of the same series and of like tenor and evidencing the same Indebtedness authenticated and delivered hereunder, except that, unless otherwise specified as contemplated by Section 3.1, interest payable on a temporary global Security on an Interest Payment Date for Securities of such series occurring prior to the applicable Exchange Date shall be payable to Euroclear and Clearstream on such Interest Payment Date upon delivery by Euroclear and Clearstream to the Trustee of a certificate or certificates in the form set forth in Exhibit B-2 to this Indenture (or in such other form as may be established pursuant to Section 3.1), for credit without further interest thereon on or after such Interest Payment Date to the respective accounts of the Persons who are the beneficial owners of such temporary global Security on such Interest Payment Date and who have each delivered to Euroclear or Clearstream, as the case may be, a certificate dated no earlier than 15 days prior to the Interest Payment Date occurring prior to such Exchange Date in the form set forth in Exhibit B-1 to this Indenture (or in such other form as may be established pursuant to Section 3.1). Notwithstanding anything to the contrary herein contained, the certifications made pursuant to this paragraph shall satisfy the certification requirements of the preceding two paragraphs of this Section and of the third paragraph of Section 3.3 of this Indenture and the interests of the Persons who are the beneficial owners of the temporary global Security with respect to which such certification was made will be exchanged for definitive Securities of the same series and of like tenor and evidencing the same Indebtedness on the Exchange Date or the date of certification if such date occurs after the Exchange Date, without further act or deed by such beneficial owners. Except as otherwise provided in this paragraph, no payments of principal (or premium, if any) or interest, if any, owing with respect to a beneficial interest in a temporary global Security will be made unless and until such interest in such temporary global Security shall have been exchanged for an interest in a definitive Security. Any interest so received by Euroclear and Clearstream and not paid as herein provided shall be returned to the Trustee no later than one month prior to the expiration of two years after such Interest Payment Date in order to be repaid to the Company in accordance with Section 10.3.

Section 3.5 Registration, Registration of Transfer and Exchange.

The Company shall cause to be kept at the Corporate Trust Office of the Trustee or other Security Registrar office if specified pursuant to Section 3.1(9) a register for each series of Securities issued by the Company (the registers maintained in the Corporate Trust Office of the Trustee or other Security Registrar office if specified pursuant to Section 3.1(9) and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the "**Security Register**") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Registered Securities and of transfers of Registered Securities. The Security Register shall be in written form or any other form capable of being converted into written form within a reasonable time. At all reasonable times, the Security Register shall be open to inspection by the Trustee. The Trustee is hereby initially appointed as security registrar (the "**Security Registrar**") unless another Security Registrar is selected for a particular series for the purpose of registering Registered Securities and transfers of Registered Securities as herein provided. The Company shall have the right to remove and replace from time to time the Security Registrar for any series of Securities; provided, however, that no such removal or replacement shall be effective until a successor Security Registrar with respect to such series of Registered Securities shall have been appointed by the Company and shall have accepted such appointment by the Company. In the event that the Trustee shall not be or shall cease to be the Security Registrar with respect to a series of Securities, it shall have the right to examine the Security Register for such series at all reasonable times. There shall be only one Security Register for each series of Securities.

Upon surrender for registration of transfer of any Registered Security of any series at the office or agency in a Place of Payment for that series, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee, one or more replacement Registered Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor and evidencing the same Indebtedness.

At the option of the Holder, Registered Securities of any series may be exchanged for other replacement Registered Securities of the same series, of any authorized denomination and of a like aggregate principal amount and tenor and evidencing the same Indebtedness, upon surrender of the Registered Securities to be exchanged at such office or agency. Whenever any Registered Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Registered Securities, which the Holder making the exchange is entitled to receive. Unless otherwise specified with respect to any series of Securities as contemplated by Section 3.1, Bearer Securities may not be issued in exchange for Registered Securities.

If (but only if) expressly permitted in or pursuant to the applicable Board Resolution and (subject to Section 3.3) set forth in the applicable Officers' Certificate, or in any indenture supplemental hereto, delivered as contemplated by Section 3.1, at the option of the Holder, Bearer Securities of any series may be exchanged for Registered Securities of the same series of any authorized denomination and of a like aggregate principal amount and tenor, upon surrender of the Bearer Securities to be exchanged at any such office or agency, with all unmatured coupons and all matured coupons in default thereto appertaining. If the Holder of a Bearer Security is unable to produce any such unmatured coupon or coupons or matured coupon or coupons in default, any such permitted exchange may be effected if the Bearer Securities are accompanied by payment in funds acceptable to the Company in an amount equal to the face amount of such missing coupon or coupons, or the surrender of such missing coupon or coupons may be waived by the Company and the Trustee if there is furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless. If thereafter the Holder of such Security shall surrender to any Paying Agent any such missing coupon in respect of which such a payment shall have been made, such Holder shall be entitled to receive the amount of such payment; provided, however, that, except as otherwise provided in Section 9.2, interest represented by coupons shall be payable only upon presentation and surrender of those coupons at an office or agency located outside the United States. Notwithstanding the foregoing, in case a Bearer Security of any series is surrendered at any such office or agency in a permitted exchange for a Registered Security of the same series and like tenor after the close of business at such office or agency on (i) any Regular Record Date and before the opening of business at such office or agency on the relevant Interest Payment Date, or (ii) any Special Record Date and before the opening of business at such office or agency on the related proposed date for payment of Defaulted Interest, such Bearer Security shall be surrendered without the coupon relating to such Interest Payment Date or proposed date for payment, as the case may be, and interest or Defaulted Interest, as the case may be, will not be payable on such Interest Payment Date or proposed date for payment, as the case may be, in respect of the Registered Security issued in exchange for such Bearer Security, but will be payable only to the Holder of such coupon when due in accordance with the provisions of this Indenture.

Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver the Securities which the Holder making the exchange is entitled to receive.

Notwithstanding the foregoing, except as otherwise specified as contemplated by Section 3.1, any permanent global Security shall be exchangeable only as provided in this paragraph and the two following paragraphs. If any beneficial owner of an interest in a permanent global Security is entitled to exchange such interest for Securities of such series and of like tenor and principal amount of another authorized form and denomination, as specified as contemplated by Section 3.1 and provided that any applicable notice provided in the permanent global Security shall have been given, then without unnecessary delay but in any event not later than the earliest date on which such interest may be so exchanged, the Company shall deliver to the Trustee definitive Securities in aggregate principal amount equal to the principal amount of such beneficial owner's interest in such permanent global Security, executed by the Company. On or after the earliest date on which such interests may be so exchanged, such permanent global Security shall be surrendered by the Depositary for such permanent global Security to the Trustee, as the Company's agent for such purpose, to be exchanged, in whole or from time to time in part, for definitive Securities without charge, and the Trustee shall authenticate and deliver, in exchange for each portion of such permanent global Security, an equal aggregate principal amount of definitive Securities of the same series of authorized denominations and of like tenor and evidencing the same Indebtedness as the portion of such permanent global Security to be exchanged which, unless the Securities of the series are not issuable both as Bearer Securities and as Registered Securities, as specified as contemplated by Section 3.1, shall be in the form of Bearer Securities or Registered Securities, or any combination thereof, as shall be specified by the beneficial owner thereof; provided, however, that no Bearer Security delivered in exchange for a portion of a permanent global Security shall be mailed or otherwise delivered to any location in the United States or Canada. If a Registered Security is issued in exchange for any portion of a permanent global Security after the close of business at the office or agency where such exchange occurs on (i) any Regular Record Date and before the opening of business at such office or agency on the relevant Interest Payment Date, or (ii) any Special Record Date and before the opening of business at such office or agency on the related proposed date for payment of Defaulted Interest, then (in the case of clause (i)) interest or (in the case of clause (ii)) Defaulted Interest, as the case may be, will not be payable on such Interest Payment Date or proposed date for payment, as the case may be, in respect of such Registered Security, but will be payable on such Interest Payment Date or proposed date for payment, as the case may be, only to the Person who was the Holder of such permanent global Security at the close of business on the relevant Regular Record Date or Special Record Date, as the case may be.

If at any time the Depositary for Securities of a series notifies the Company that it is unwilling or unable to continue as Depositary for Securities of such series or if at any time the Depositary for global Securities for such series shall no longer be a clearing agency registered as such under the Securities Exchange Act of 1934, as amended, the Company shall appoint a successor depositary with respect to the Securities for such series. If a successor to the Depositary for Securities is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, the Company's election pursuant to Section 3.1 shall no longer be effective with respect to the Securities for such series and the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver replacement Securities of such series in definitive registered form, in authorized denominations and in an aggregate principal amount equal to the principal amount of the global Security or Securities representing such series and evidencing the same Indebtedness in exchange for such global Security or Securities. The provisions of the last sentence of the immediately preceding paragraph shall be applicable to any exchange pursuant to this paragraph.

The Company may at any time and in its sole discretion determine that the Securities of any series issued in the form of one or more global Securities shall no longer be represented by such global Security or Securities. In such event, the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver replacement Securities of such series in definitive registered form, in authorized denominations and in an aggregate principal amount equal to the principal amount of the global Security or Securities representing such series and evidencing the same Indebtedness in exchange for such global Security or Securities. The provisions of the last sentence of the second preceding paragraph shall be applicable to any exchange pursuant to this paragraph.

Upon the exchange of a global Security for Securities in definitive registered form, such global Security shall be cancelled by the Trustee. Securities issued in exchange for a global Security pursuant to this Section shall be registered in such names and in such authorized denominations as the Depositary for such global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee in writing. The Trustee shall deliver such Securities to the Persons in whose names such Securities are so registered.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Registered Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Security Registrar) be duly endorsed, or be accompanied by a written instrument of transfer, in form satisfactory to the Company and the Security Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.4, 8.6, 10.7 or 12.5 not involving any transfer.

The Company shall not be required (i) to issue, register the transfer of or exchange Securities of any series during a period beginning at the opening of business 15 days before the day of the selection for redemption of Securities of that series under Section 10.3 or 11.3 and ending at the close of business on (A) if Securities of the series are issuable only as Registered Securities, the day of the mailing of the relevant notice of redemption and (B) if Securities of the series are issuable as Bearer Securities, the day of the first publication of the relevant notice of redemption or, if Securities of the series are also issuable as Registered Securities and there is no publication, the mailing of the relevant notice of redemption; (ii) to register the transfer of or exchange any Registered Security so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part; (iii) to exchange any Bearer Security so selected for redemption except that such a Bearer Security may be exchanged for a Registered Security of that series and like tenor; provided that such Registered Security shall be simultaneously surrendered for redemption; or (iv) to issue, register the transfer of or exchange any Security which has been surrendered for repayment at the option of the Holder, except the portion, if any, of such Security not to be so repaid.

Section 3.6 Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security or a Security with a mutilated coupon appertaining to it is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a replacement Security of the same series and of like tenor and principal amount and evidencing the same Indebtedness, with coupons corresponding to the coupons, if any, appertaining to the surrendered Security; provided, however, that any Bearer Security or any coupon shall be delivered only outside the United States and Canada; and provided, further, that all Bearer Securities shall be delivered and received in person.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security or coupon and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security or coupon has been acquired by a bona fide purchaser, the Company shall execute and upon Company Order the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security or in exchange for the Security for which a destroyed, lost or stolen coupon appertains (with all appurtenant coupons not destroyed, lost or stolen), a replacement Security of the same series and of like tenor and principal amount and evidencing the same Indebtedness and, with coupons corresponding to the coupons, if any, appertaining to such destroyed, lost or stolen Security or to the Security to which such destroyed, lost or stolen coupon appertains; provided, however, that any Bearer Security or any coupon shall be delivered only outside the United States and Canada; and provided, further, that all Bearer Securities shall be delivered and received in person.

Notwithstanding the provisions of the previous two paragraphs, in case any such mutilated, destroyed, lost or stolen Security or coupon has become or is about to become due and payable, the Company in its discretion may, instead of issuing a replacement Security, with coupons corresponding to the coupons, if any, appertaining to such mutilated, destroyed, lost or stolen Security or to the Security to which such mutilated, destroyed, lost or stolen coupon appertains, pay such Security or coupon; provided, however, that payment of principal of (and premium, if any) and interest, if any, on Bearer Securities shall, except as otherwise provided in Section 9.2, be payable only at an office or agency located outside the United States and Canada and, unless otherwise specified as contemplated by Section 3.1, any interest on Bearer Securities shall be payable only upon presentation and surrender of the coupons appertaining thereto.

Upon the issuance of any replacement Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every replacement Security of any series with its coupons, if any, issued pursuant to this Section in lieu of any mutilated, destroyed, lost or stolen Security or in exchange for a Security to which a mutilated, destroyed, lost or stolen coupon appertains, shall constitute a contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security and its coupons, if any, or the mutilated, destroyed, lost or stolen coupon shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series and their coupons, if any, duly issued hereunder.

The provisions of this Section, as amended or supplemented pursuant to Section 3.1 of this Indenture with respect to particular securities or generally, are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities or coupons.

Section 3.7 Payment of Principal and Interest; Interest Rights Preserved; Optional Interest Reset.

(a) Unless otherwise provided as contemplated by Section 3.1 with respect to any series of Securities, interest, if any, on any Registered Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest at the office or agency of the Company maintained for such purpose pursuant to Section 9.2; provided, however, that each installment of interest, if any, on any Registered Security may at the Company's option be paid by (i) mailing a check for such interest, payable to or upon the written order of the Person entitled thereto pursuant to Section 3.9, to the address of such Person as it appears on the Security Register or (ii) wire transfer to an account located in the United States maintained by the Person entitled to such payment as specified in the Security Register. Principal paid in relation to any Security at Maturity shall be paid to the Holder of such Security only upon presentation and surrender of such Security to any office or agency referred to in this Section 3.7(a).

Unless otherwise provided as contemplated by Section 3.1 with respect to the Securities of any series, payment of interest, if any, may be made, in the case of a Bearer Security, by transfer to an account located outside the United States and Canada maintained by the payee, upon presentation and surrender of the coupons appertaining thereto.

If so provided pursuant to Section 3.1 with respect to the Securities of any series, every permanent global Security of such series will provide that interest, if any, payable on any Interest Payment Date will be paid to each of Euroclear, Clearstream and/or The Depository Trust Company, as applicable, with respect to that portion of such permanent global Security held for its account by the Common Depositary, for the purpose of permitting each of Euroclear and Clearstream to credit the interest, if any, received by it in respect of such permanent global Security to the accounts of the beneficial owners thereof.

Any interest on any Registered Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such defaulted interest and, if applicable, interest on such defaulted interest (to the extent lawful) at the rate specified in the Securities of such series (such defaulted interest and, if applicable, interest thereon herein collectively called "**Defaulted Interest**") shall be paid by the Company, at its election in each case, as provided in clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Registered Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Registered Security of such series and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.1 for the Securities of such series) equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given in the manner provided in Section 1.6, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so given, such Defaulted Interest shall be paid to the Persons in whose name the Registered Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on the Registered Securities of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(a) The provisions of this Section 3.7(2)(a) may be made applicable to any series of Securities pursuant to Section 3.1 (with such modifications, additions or substitutions as may be specified pursuant to such Section 3.1). The interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable) on any Security of such series may be reset by the Company on the date or dates specified on the face of such Security (each an "**Optional Reset Date**"). The Company may exercise such option with respect to such Security by notifying the Trustee of such exercise at least 50 but not more than 60 days prior to an Optional Reset Date for such Security, which notice shall specify the information to be included in the Reset Notice (as defined). Not later than 40 days prior to each Optional Reset Date, the Trustee shall transmit, in the manner provided for in Section 1.6, to the Holder of any such Security a notice (the "**Reset Notice**") indicating whether the Company has elected to reset the interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable), and if so (i) such new interest rate (or such new spread or spread multiplier, if applicable) and (ii) the provisions, if any, for redemption during the period from such Optional Reset Date to the next Optional Reset Date or if there is no such next Optional Reset Date, to the Stated Maturity of such Security (each such period a "**Subsequent Interest Period**"), including the date or dates on which or the period or periods during which and the price or prices at which such redemption may occur during the Subsequent Interest Period.

Notwithstanding the foregoing, not later than 20 days prior to the Optional Reset Date, the Company may, at its option, revoke the interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable) provided for in the Reset Notice and establish an interest rate (or a spread or spread multiplier used to calculate such interest rate, if applicable) that is higher than the interest rate (or the spread or spread multiplier, if applicable) provided for in the Reset Notice, for the Subsequent Interest Period by causing the Trustee to transmit, in the manner provided for in Section 1.6, notice of such higher interest rate (or such higher spread or spread multiplier, if applicable) to the Holder of such Security. Such notice shall be irrevocable. All Securities with respect to which the interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable) is reset on an Optional Reset Date, and with respect to which the Holders of such Securities have not tendered such Securities for repayment (or have validly revoked any such tender) pursuant to the next succeeding paragraph, will bear such higher interest rate (or such higher spread or spread multiplier, if applicable).

The Holder of any such Security will have the option to elect repayment by the Company of the principal of such Security on each Optional Reset Date at a price equal to the principal amount thereof plus interest accrued to such Optional Reset Date. In order to obtain repayment on an Optional Reset Date, the Holder must follow the procedures set forth in Article 12 for repayment at the option of Holders except that the period for delivery or notification to the Trustee shall be at least 25 but not more than 35 days prior to such Optional Reset Date and except that, if the Holder has tendered any Security for repayment pursuant to the Reset Notice, the Holder may, by written notice to the Trustee, revoke such tender or repayment until the close of business on the tenth day before such Optional Reset Date.

(b) Subject to the foregoing provisions of this Section and Section 3.5, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

Section 3.8 Optional Extension of Stated Maturity.

The provisions of this Section 3.8 may be made applicable to any series of Securities pursuant to Section 3.1 (with such modifications, additions or substitutions as may be specified pursuant to such Section 3.1). The Stated Maturity of any Security of such series may be extended at the option of the Company for the period or periods specified on the face of such Security (each an "**Extension Period**") up to but not beyond the date (the "**Final Maturity**") set forth on the face of such Security. The Company may exercise such option with respect to any Security by notifying the Trustee and the Paying Agent in writing of such exercise at least 50 but not more than 60 calendar days prior to the Stated Maturity of such Security in effect prior to the exercise of such option (the "**Original Stated Maturity**"). If the Company exercises such option, the Trustee or the Paying Agent (if the Paying Agent is different than the Trustee) shall transmit at the expense of the Company, in the manner provided for in Section 1.6, to the Holder of such Security not later than 40 calendar days prior to the Original Stated Maturity a notice (the "**Extension Notice**") indicating (i) the election of the Company to extend the Stated Maturity, (ii) the new Stated Maturity, (iii) the interest rate, if any, applicable to the Extension Period and (iv) the provisions, if any, for redemption during such Extension Period. Upon the Trustee's or Paying Agent's transmittal of the Extension Notice, the Stated Maturity of such Security shall be extended automatically and, except as modified by the Extension Notice and as described in the next paragraph, such Security will have the same terms as prior to the transmittal of such Extension Notice.

Notwithstanding the foregoing, not later than 20 calendar days before the Original Stated Maturity of such Security, the Company may, at its option, revoke the interest rate provided for in the Extension Notice and establish a higher interest rate for the Extension Period by causing the Trustee or Paying Agent to transmit at the expense of the Company, in the manner provided for in Section 1.6, notice of such higher interest rate to the Holder of such Security. Such notice shall be irrevocable. All Securities with respect to which the Stated Maturity is extended will bear such higher interest rate.

If the Company extends the Maturity of any Security, the Holder will have the option to elect repayment of such Security by the Company on the Original Stated Maturity at a price equal to the principal amount thereof, plus interest accrued to such date. In order to obtain repayment on the Original Stated Maturity once the Company has extended the Maturity thereof, the Holder must follow the procedures set forth in Article 12 for repayment at the option of Holders, except that the period for delivery or notification to the Trustee and Paying Agent shall be at least 25 but not more than 35 calendar days prior to the Original Stated Maturity and except that, if the Holder has tendered any Security for repayment pursuant to an Extension Notice, the Holder may by written notice to the Trustee and Paying Agent revoke such tender for repayment until the close of business on the tenth calendar day before the Original Stated Maturity.

Section 3.9 Persons Deemed Owners.

Prior to due presentment of a Registered Security for registration of transfer, the Company, the Trustee and any agent of any of the foregoing may treat the Person in whose name such Registered Security is registered as the owner of such Registered Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 3.5 and 3.7) interest, if any, on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Company, the Trustee or any agent of any of the foregoing shall be affected by notice to the contrary.

Title to any Bearer Security and any coupons appertaining thereto shall pass by delivery. The Company, the Trustee and any agent of any of the foregoing may treat the bearer of any Bearer Security and the bearer of any coupon as the absolute owner of such Security or coupon for the purpose of receiving payment thereof or on account thereof and for all other purposes whatsoever, whether or not such Security or coupons be overdue, and the Company, the Trustee or any agent of any of the foregoing shall be affected by notice to the contrary.

The Depositary for Securities may be treated by the Company, the Trustee, and any agent of the Company or the Trustee as the owner of such global Security for all purposes whatsoever. None of the Company, the Trustee, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Security in global form or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Notwithstanding the foregoing, with respect to any global Security, nothing herein shall prevent the Company, the Trustee, or any agent of any of the foregoing from giving effect to any written certification, proxy or other authorization furnished by any depositary, as a Holder, with respect to such global Security or impair, as between such depositary and owners of beneficial interests in such global Security, the operation of customary practices governing the exercise of the rights of such depositary (or its nominee) as Holder of such global Security.

Section 3.10 Cancellation.

All Securities and coupons surrendered for payment, redemption, repayment at the option of the Holder, registration of transfer or exchange or for credit against any current or future sinking fund payment shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee. All Securities and coupons so delivered to the Trustee shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to the Trustee (or to any other Person for delivery to the Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered shall be promptly cancelled by the Trustee. If the Company shall so acquire any of the Securities, however, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Securities unless and until the same are surrendered to the Trustee for cancellation. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. All cancelled Securities held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures and the relevant securities laws, and, if requested by the Company, certification of their disposal delivered to the Company unless by Company Order the Company shall direct that cancelled Securities be returned to it.

Section 3.11 Computation of Interest.

Except as otherwise specified as contemplated by Section 3.1 with respect to any Securities, interest, if any, on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months and, for a partial month, on the basis of the number of days actually elapsed in a 30-day month. For the purposes of disclosure under the Interest Act (Canada), the yearly rate of interest to which interest calculated under a Security for any period in any calendar year (the "**calculation period**") is equivalent, is the rate payable under a Security in respect of the calculation period multiplied by a fraction the numerator of which is the actual number of days in such calendar year and the denominator of which is the actual number of days in the calculation period.

ARTICLE 4

SATISFACTION AND DISCHARGE

Section 4.1 Satisfaction and Discharge of Indenture.

This Indenture shall upon Company Request cease to be of further effect with respect to any series of Securities issued by the Company specified in such Company Request (except as to any surviving rights of the Trustee and surviving rights of registration of transfer or exchange of Securities of such series expressly provided for herein or pursuant hereto, and the rights of Holders of such series of Securities and any related coupons to receive, solely from the trust fund described in subclause (b) of clause (1) of this Section, payments in respect of the principal of (and premium, if any) and interest, if any, on such Securities and any related coupons when such payments are due and except as provided in the last paragraph of this Section 4.1) and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture as to such series when

(1) either

(a) all Securities of such series theretofore authenticated and delivered and all coupons, if any, appertaining thereto (other than (i) coupons appertaining to Bearer Securities surrendered for exchange for Registered Securities and maturing after such exchange, whose surrender is not required or has been waived as provided in Section 3.5, (ii) Securities and coupons of such series which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.6, (iii) coupons appertaining to Securities called for redemption and maturing after the relevant Redemption Date, whose surrender has been waived as provided in Section 10.6, and (iv) Securities and coupons of such series for whose payment money has theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company, as provided in Section 9.3) have been delivered to the Trustee for cancellation; or

(b) all Securities of such series and, in the case of (i) or (ii) below, any coupons appertaining thereto not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) if redeemable at the option of the Company, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company, and the Company, in the case of (i), (ii) or (iii) above, has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose an amount in the Currency in which the Securities of such series are payable, sufficient to pay and discharge the entire Indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal (and premium, if any) and interest, if any, to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder by the Company, and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture as to such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the provisions of Section 9.5, the obligations of the Company to the Trustee under Section 6.6, the obligations of the Trustee to any Authenticating Agent under Section 6.11 and, if money shall have been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section, the provisions of Sections 1.13, 1.14, 3.4, 3.5, 3.6, 9.2 and 9.3 (and any applicable provisions of Article 10) and the obligations of the Trustee under Section 4.2 shall survive such satisfaction and discharge and remain in full force and effect.

Section 4.2 Application of Trust Money.

Subject to the provisions of the last paragraph of Section 9.3, all money deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by it, in accordance with the provisions of the Securities, the coupons and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest, if any, for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

ARTICLE 5

REMEDIES

Section 5.1 Events of Default.

"**Event of Default**", wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), unless such event is specifically deleted or modified in or pursuant to a supplemental indenture, Board Resolution or Officers' Certificate establishing the terms of such series pursuant to Section 3.1 of this Indenture:

(1) default in the payment of the principal of (or premium, if any, on) any Security of that series at its Maturity; or

(2) default in the payment of any interest on any Security of that series, or any related coupon, when such interest or coupon becomes due and payable, and continuance of such default for a period of 30 days; or

(3) default in the deposit of any sinking fund payment, when the same becomes due by the terms of the Securities of that series; or

(4) default in the performance, or breach, of any covenant or agreement of the Company in this Indenture in respect of the Securities of that series (other than a default in the performance or breach of a covenant or agreement which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount of all Outstanding Securities affected thereby, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) the Company pursuant to or under or within the meaning of any Bankruptcy Law:

  (i) commences a proceeding or makes an application seeking a Bankruptcy Order;

  (ii) consents to the making of a Bankruptcy Order or the commencement of any proceeding or application seeking the making of a Bankruptcy Order against it;

  (iii) consents to the appointment of a Custodian of it or for any substantial part of its property;

  (iv) makes a general assignment for the benefit of its creditors or files a proposal or notice of intention to make a proposal or other scheme of arrangement involving the rescheduling, reorganizing or compromise of its Indebtedness;

  (v) files an assignment in bankruptcy; or

  (vi) consents to the filing of an assignment in bankruptcy or the appointment of or taking possession by a Custodian;

(6) a court of competent jurisdiction in any involuntary case or proceeding makes a Bankruptcy Order against the Company, and such Bankruptcy Order remains unstayed and in effect for 90 consecutive days; or

(7) any other Event of Default provided with respect to Securities of that series.

Section 5.2 Acceleration of Maturity; Rescission and Annulment.

If an Event of Default described in Section 5.1, other than an Event of Default specified in Section 5.1(5) or 5.1(6), with respect to Securities of any series at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series may, subject to any subordination provisions thereof, declare the principal amount (or, if the Securities of that series are Original Issue Discount Securities or Indexed Securities, such portion of the principal amount as may be specified in the terms of such series) of all of the Outstanding Securities of that series and any accrued but unpaid interest thereon to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), and upon any such declaration such principal amount (or specified portion thereof) and any accrued but unpaid interest thereon shall become immediately due and payable. If an Event of Default specified in Section 5.1(5) or 5.1(6) with respect to Securities of any series at the time Outstanding occurs and is continuing, then the principal amount of all the Securities shall immediately become and be immediately due and payable without any declaration or other act on the part of the Trustees or any Holder. The Trustee shall have no obligation to accelerate the Notes if, in the reasonable judgment of the Trustee, acceleration is not in the best interest of the Holders.

At any time after a declaration of acceleration with respect to Securities of any series (or of all series, as the case may be) has been made, and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided in this Article, the Holders of a majority in principal amount of the Outstanding Securities of such series (or of all series, as the case may be), by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences, so long as such rescission and annulment would not conflict with any judgment of a court of competent jurisdiction, if:

(1) the Company has paid or deposited with the Trustee a sum sufficient to pay in the Currency in which the Securities of such series are payable, all overdue interest, if any, on all Outstanding Securities of that series (or of all series, as the case may be) and any related coupons, (i) all unpaid principal of (and premium, if any, on) all Outstanding Securities of that series (or of all series, as the case may be) which has become due otherwise than by such declaration of acceleration, and interest on such unpaid principal at the rate or rates prescribed therefor in such Securities, (ii) to the extent lawful, interest on overdue interest, if any, at the rate or rates prescribed therefor in such Securities, and (iii) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

(2) all Events of Default with respect to Securities of that series (or of all series, as the case may be), other than the non-payment of amounts of principal of (or premium, if any, on) or interest on Securities of that series (or of all series, as the case may be) which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

Section 5.3 Collection of Indebtedness and Suits for Enforcement by Trustee.

The Company covenants that if:

(1) default is made in the payment of any installment of interest on any Security or any related coupon when such interest becomes due and payable and such default continues for a period of 30 days, or

(2) default is made in the payment of the principal of (or premium, if any, on) any Security at the Maturity thereof, then the Company will, upon demand of the Trustee, pay to the Trustee for the benefit of the Holders of such Securities and coupons, the whole amount then due and payable on such Securities and coupons for principal (and premium, if any) and interest, if any, and interest on any overdue principal (and premium, if any) and to the extent lawful on any overdue interest, at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name as trustee of an express trust, may, but shall not be obligated to, institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to Securities of any series (or of all series, as the case may be) occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series (or of all series, as the case may be) by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

Section 5.4 Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal, premium, if any, or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise, (i) to file a proof of claim for the whole amount of principal (and premium, if any), or such portion of the principal amount of any series of Original Issue Discount Securities or Indexed Securities as may be specified in the terms of such series, and interest, if any, owing and unpaid in respect of the Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and (ii) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee hereunder.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 5.5 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Indenture, the Securities or coupons may be prosecuted and enforced by the Trustee without the possession of any of the Securities or coupons or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities and coupons in respect of which such judgment has been recovered.

Section 5.6 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, if any, upon presentation of the Securities or coupons, or both, as the case may be, and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee (acting in any capacity hereunder) hereunder;

Second: To the payment of the amounts then due and unpaid for principal of (and premium, if any) and interest, if any, on the Securities and coupons in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities and coupons for principal (and premium, if any) and interest, if any, respectively; and

Third: The balance, if any, to the Company or any other Person or Persons entitled thereto.

Section 5.7 Limitation on Suits.

No Holder of any Security of any series or any related coupons shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture or the Securities, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default with respect to the Securities of that series;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities of all series affected by such Event of Default (determined as provided in Section 5.2 and, if more than one series of Securities, as one class), shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee indemnity and/or security reasonably satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request (which includes the costs of the trustee's legal counsel);

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Holders of a majority or more in principal amount of the Outstanding Securities of all series affected by such Event of Default (determined as provided in Section 5.2 and, if more than one series of Securities, as one class);

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Outstanding Securities of such affected series, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Holders of Outstanding Securities of such affected series. For purposes of clarity, it is hereby understood and agreed that an Event of Default described in clause (1), (2) or (3) of Section 5.1 with respect to the Securities of any series shall, for purposes of this Section 5.7, be deemed to affect only such series of Securities.

Section 5.8 Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment, as provided herein (including, if applicable, Article 13) and in such Security of the principal of (and premium, if any) and (subject to Section 3.7) interest, if any, on, such Security or payment of such coupon on the respective Stated Maturities expressed in such Security or coupon (or, in the case of redemption, on the Redemption Date or, in the case of repayment at the option of the Holder as contemplated by Article 12 hereof, on the Repayment Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 5.9 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders of Securities and coupons shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 5.10 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities or coupons in the last paragraph of Section 3.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities or coupons is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not, to the extent permitted by law, prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.11 Delay or Omission Not Waiver.

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

Section 5.12 Control by Holders.

The Holders of not less than a majority in principal amount of the Outstanding Securities of all series affected by an Event of Default (determined as provided in Section 5.2 and, if more than one series of Securities, as one class) shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the Outstanding Securities of such affected series, provided in each case

(1) such direction shall not be in conflict with any rule of law or with this Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) the Trustee need not take any action which might in the opinion of the Trustee expose the Trustee to personal liability or be unduly prejudicial to the Holders of Outstanding Securities of such affected series not joining therein.

For purposes of clarity, it is hereby understood and agreed that an Event of Default described in clause (1), (2) or (3) of Section 5.1 with respect to the Securities of any series shall, for purposes of this Section 5.12, be deemed to affect only such series of Securities.

Section 5.13 Waiver of Past Defaults.

Subject to Section 5.2, the Holders of not less than a majority in principal amount of the Outstanding Securities of all series with respect to which a Default shall have occurred and be continuing (as one class if more than one series) may on behalf of the Holders of all the Outstanding Securities of such affected series waive any such past Default, and its consequences, except a Default

(1) in respect of the payment of the principal of (or premium, if any) or interest, if any, on any Security or any related coupon, or

(2) in respect of a covenant or provision which under Article 9 cannot be modified or amended without the consent of the Holder of each Outstanding Security of such affected series.

Upon any such waiver, any 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; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. For purposes of clarity, it is hereby understood and agreed that an Event of Default described in clause (1), (2) or (3) of Section 5.1 with respect to the Securities of any series shall, for purposes of this Section 5.13, be deemed to affect only such series of Securities.

Section 5.14 Waiver of Stay or Extension Laws.

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 5.15 Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Security by its acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of any undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Securities, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Security on or after the respective Stated Maturities expressed in such Security (or, in the case of redemption, on or after the Redemption Date or, in the case of repayment at the option of Holders as contemplated by Article 12 hereof, on or after the applicable Repayment Date).

ARTICLE 6

THE TRUSTEE

Section 6.1 Notice of Defaults.

Within 90 days after the occurrence and continuance of any Default hereunder with respect to the Securities of any series, the Trustee shall transmit in the manner and to the extent provided in TIA Section 313(c), notice of such default hereunder known to the Trustee, unless such Default shall have been cured or waived; provided, however, that, except in the case of a Default in the payment of the principal of (or premium, if any) or interest, if any, on any Security of such series or in the payment of any sinking fund installment with respect to Securities of such series, the Trustee shall be protected in withholding such notice if and so long as it in good faith determines that the withholding of such notice is in the interest of the Holders of Securities of such series and any related coupons; and provided further that in the case of any Default of the character specified in Section 5.1(4) with respect to Securities of such series, no such notice to Holders shall be given until at least 30 days after the occurrence thereof.

Section 6.2 Certain Rights of Trustee.

Subject to the provisions of TIA Sections 315(a) through 315(d):

(1) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(2) before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel, or both. The Trustee will not be liable for any action it takes or omits to take in good faith reliance on such Officers' Certificate or Opinion of Counsel;

(3) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(4) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on its part, conclusively rely upon an Officers' Certificate or Opinion of Counsel;

(5) the Trustee may consult with counsel of its own selection and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(6) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the written request or direction of any of the Holders of Securities of any series or any related coupons pursuant to this Indenture, unless such Holders shall have offered to the Trustee security and/or indemnity reasonably satisfactory to the Trustee against any costs, expenses, losses and liabilities (which include the costs of the Trustee's legal counsel) which might be incurred by it in compliance with such request or direction;

(7) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document, or inquiry as to the performance by the Company of any of its covenants in this Indenture, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(8) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder and any such agent or attorney shall have the same rights, protections and indemnities as the Trustee hereunder;

(9) the Trustee shall not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture;

(10) the Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture;

(11) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder on behalf of the Trustee;

(12) the Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded;

(13) in no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(14) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(15) in no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunction of utilities, third-party communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices to resume performance as soon as practicable under the circumstances;

(16) the permissive right of the Trustee to take actions permitted by this Indenture shall not be construed as an obligation or duty to do so; and

(17) the Trustee shall have no duty to monitor, inquire as to or ascertain compliance with the Company's covenants set forth herein, other than with respect to payments described in Section 9.1.

The Trustee shall not be required to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity and/or security against such risk or liability is not reasonably assured to it.

Section 6.3 Trustee Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except for the Trustee's certificates of authentication, and in any coupons shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities or coupons, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Securities and perform its obligations hereunder and that the statements made by it in any Statement of Eligibility on Form T-1 supplied to the Company are true and accurate, subject to the qualifications set forth therein. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of Securities or the proceeds thereof.

Section 6.4 May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities and coupons and, subject to TIA Sections 310(b) and 311, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

Section 6.5 Money Held in Trust.

Money held by the Trustee hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

Section 6.6 Compensation and Reimbursement.

The Company agrees:

(1) to pay to the Trustee from time to time such reasonable compensation as the Company and the Trustee shall from time to time agree in writing, for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its written request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as shall be determined to have been caused by its own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable order; and

(3) to indemnify the Trustee (acting in any capacity hereunder) and its officers, directs, employees and agents for, and to hold it harmless against, any and all loss, liability, claim, damage or expense, including taxes (other than taxes based on the income of the Trustee) incurred without gross negligence or willful misconduct on its part, as determined by a court of competent jurisdiction in a final, non-appealable order, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder, including the reasonable costs and expenses of enforcing this Indenture against the Company (including this Section 6.6).

The obligations of the Company under this Section 6.6 to compensate the Trustee, to pay or reimburse the Trustee for expenses, disbursements and advances and to indemnify and hold harmless the Trustee shall constitute additional Indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and resignation or removal of the Trustee. As security for the performance of such obligations of the Company, the Trustee shall have a claim prior to the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the payment of principal of (or premium, if any) or interest, if any, on particular Securities or any coupons.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services in connection with an Event of Default specified in Section 5.1(5) or (6), the expenses (including reasonable charges and expense of its counsel) of and the compensation for such services are intended to constitute expenses of administration under any applicable Bankruptcy Law.

The provisions of this Article 6 shall survive the termination of this Indenture and resignation or removal of the Trustee (or any agent, as applicable).

Section 6.7 Corporate Trustee Required; Eligibility; Conflicting Interests.

The Trustee shall comply with the terms of Section 310(b) of the TIA. There shall be at all times a Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1). If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of Federal, State, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 6.8 Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.9.

(b) The Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, a copy of which shall be delivered to the resigning Trustee and a copy to the successor Trustee. If the instrument of acceptance by a successor Trustee required by Section 6.9 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(c) The Trustee may be removed at any time with respect to the Securities of any series by Act of the Holders of not less than a majority in principal amount of the Outstanding Securities of such series, delivered to the Trustee and to the Company 30 days prior to the removal's effectiveness. If the instrument of acceptance by a successor Trustee required by Section 6.9 shall not have been delivered to the Trustee within 30 days after the giving of such notice of removal, the Trustee being removed may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee.

(d) If at any time:

(1) the Trustee shall fail to comply with the provisions of TIA Section 310(b) after written request therefor by either the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(2) the Trustee shall cease to be eligible under Section 6.7 and shall fail to resign after written request therefor by either the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) either the Company, by a Board Resolution, may remove the Trustee with respect to all Securities or the Securities of such series, or (ii) subject to TIA Section 315(e), any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities of such series and the appointment of a successor Trustee or Trustees.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, with respect to the Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any particular series). If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.

(a) The Company shall give notice of each resignation and each removal of the Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to the Holders of Securities of such series in the manner provided for in Section 1.6. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.

Section 6.9 Acceptance of Appointment by Successor.

(a) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.

(b) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates. Whenever there is a successor Trustee with respect to one or more (but less than all) series of securities issued pursuant to this Indenture, the terms "Indenture" and "Securities" shall have the meanings specified in the provisos to the respective definitions of those terms in Section 1.1 which contemplate such situation.

(c) Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all rights, powers and trusts referred to in paragraph (a) or (b) of this Section, as the case may be.

(d) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

(e) No resigning or removed Trustee shall be responsible or liable for any action or inaction of a successor Trustee.

Section 6.10 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities. In case any of the Securities shall not have been authenticated by such predecessor Trustee, any successor Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of the Trustee; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 6.11 Appointment of Authenticating Agent.

At any time when any of the Securities remain Outstanding, the Trustee may appoint an Authenticating Agent or Agents with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustee to authenticate Securities of such series and the Trustee shall give written notice of such appointment to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, in the manner provided for in Section 1.6. Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Any such appointment shall be evidenced by an instrument in writing signed by a Responsible Officer of the Trustee, and a copy of such instrument shall be promptly furnished to the Company. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any state thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent and subject to supervision or examination by federal or state authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, in the manner provided for in Section 1.6. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section.

If an appointment with respect to one or more series is made pursuant to this Section, the Securities of such series may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

Dated:_____

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

_____
as Trustee

By:

_____
as Authenticating Agent

By:

_____
Authorized Signatory

ARTICLE 7

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND THE COMPANY

Section 7.1 Disclosure of Names and Addresses of Holders.

Every Holder of Securities or coupons, by receiving and holding the same, agrees with the Company and the Trustee that none of the Company or the Trustee or any agent of any of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with TIA Section 312, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under TIA Section 312(b).

Section 7.2 Reports by Trustee.

(a) Within 60 days after May 15 of each year commencing with the first May 15 after the first issuance of Securities pursuant to this Indenture, the Trustee shall transmit a brief report by mail to the Holders of Securities, in accordance with and to the extent required by Section 313 of the TIA.

(b) A copy of each such report at the time of its mailing to Holders shall be filed with the Commission and each stock exchange on which Debt Securities of any series are listed.

Section 7.3 Reports by the Company.

The Company will file with the Trustee and the Commission, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act, at the times and in the manner provided pursuant to the Trust Indenture Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or 15(d) of the Exchange Act shall be filed with the Trustee within 15 days after the same is so required to be filed with the Commission; provided further that any such information, documents or reports filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system shall be deemed to be filed with the Trustee, provided further that the Trustee shall have no duty to determine whether such filing has occurred.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates). The Trustee shall have no liability or responsibility for the filing, timeliness or content of any such report.

Section 7.4 The Company to Furnish Trustee Names and Addresses of Holders.

The Company will furnish or cause to be furnished to the Trustee:

(1) semi-annually, not later than 15 days after the Regular Record Date for interest for each series of Securities if the Trustee is not the Security Registrar for such series, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders of Registered Securities of such series as of such Regular Record Date, or if there is no Regular Record Date for interest for such series of Securities, semi-annually, upon such dates as are set forth in the Board Resolution, Officers' Certificate or indenture supplemental hereto authorizing such series, and

(2) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished, provided, however, that so long as the Trustee is the Security Registrar, no such list shall be required to be furnished.

ARTICLE 8

SUPPLEMENTAL INDENTURES

Section 8.1 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company, when authorized by or pursuant to a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(1) to evidence the succession of another Person to the Company, or successive successions, and the assumption by such successor of the covenants and obligations of the Company contained in the Securities of one or more series and in this Indenture or any supplemental indenture;

(2) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities and any related coupons (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company; or

(3) to add any additional Events of Default (and if such Events of Default are to be for the benefit of less than all series of Securities, stating that such Events of Default are being included solely for the benefit of such series); or

(4) to add to or change any of the provisions of this Indenture to provide that Bearer Securities may be registrable as to principal, to change or eliminate any restrictions on the payment of principal of or any premium or interest on Bearer Securities, to permit Bearer Securities to be issued in exchange for Registered Securities, to permit Bearer Securities to be issued in exchange for Bearer Securities of other authorized denominations or to permit or facilitate the issuance of Securities in uncertificated form, in each case to the extent then permitted under the U.S. Internal Revenue Code of 1986, as amended, and the U.S. Treasury Regulations thereunder; provided that any such action shall not adversely affect the interests of the Holders of Securities of any series or any related coupons in any material respect; or

(5) to change or eliminate any of the provisions of this Indenture; provided that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or

(6) to secure the Securities; or

(7) to guaranty the Securities; or

(8) to establish the form or terms of Securities of any series as permitted by Sections 2.1 and 3.1; or

(9) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.9(b); or

(10) to cure any ambiguity or to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, provided that any such action under this clause (9) shall not adversely affect the interests of the Holders of Securities of any series and any related coupons in any material respect; or

(11) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Sections 4.1, 13.2 or 13.3; provided that any such action shall not adversely affect the interests of the Holders of Securities of such series and any related coupons or any other series of Securities in any material respect.

Section 8.2 Supplemental Indentures with Consent of Holders.

With the consent of the Holders of not less than a majority in principal amount of all Outstanding Securities of all series affected by such supplemental indenture, by Act of said Holders delivered to the Company and the Trustee, the Company, when authorized by or pursuant to a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture which affect such series of Securities or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security of such series,

(1) change the Stated Maturity (except with regard to section 3.8 of this indenture) of the principal of (or premium, if any) or any installment of interest on any Security of such series, or reduce the principal amount thereof (or premium, if any) or the rate of interest, if any, thereon, or the Redemption Price thereof or any amount payable upon repayment thereof at the option of the Holder, reduce the amount of the principal of an Original Issue Discount Security of such series that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.2 or the amount thereof provable in bankruptcy pursuant to Section 5.4, or adversely affect any right of repayment at the option of any Holder of any Security of such series, or change any Place of Payment where, or the Currency in which, any Security of such series or any premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption or repayment at the option of the Holder, on or after the Redemption Date or Repayment Date, as the case may be), or adversely affect any right to convert or exchange any Security as may be provided pursuant to Section 3.1 herein, or

(2) reduce the percentage in principal amount of the Outstanding Securities of such series required for any such supplemental indenture, for any waiver of compliance with certain provisions of this Indenture which affect such series or certain defaults applicable to such series hereunder and their consequences provided for in Section 5.13 or Section 9.8 of this Indenture, or reduce the requirements of Section 14.4 for quorum or voting with respect to Securities of such series, or

(3) modify any of the provisions of this Section, Section 5.13 or Section 9.8, except to increase any such percentage or to provide that certain other provisions of this Indenture which affect such series cannot be modified or waived without the consent of the Holder of each Outstanding Security of such series.

Any such supplemental indenture adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture, or modifying in any manner the rights of the Holders of Securities of such series, shall not affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Upon the written request of the Company, accompanied by an Officers' Certificate and Opinion of Counsel stating that such amendment is authorized or permitted by the Indenture and is legally valid, binding and enforceable against the Company and the guarantors, if any, and a copy of the Board Resolution, and upon the filing with the Trustee of evidence of the consent of the Holders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

Section 8.3 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and shall be fully protected in conclusively relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and is legally valid, binding and enforceable against the Company and the guarantors, if any. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 8.4 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 8.5 Conformity with *Trust Indenture Act*.

Every supplemental indenture executed pursuant to this Article shall conform to the requirements of the *Trust Indenture Act* as then in effect.

Section 8.6 Reference in Securities to Supplemental Indentures.

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 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 Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities of such series.

Section 8.7 Notice of Supplemental Indentures.

Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of Section 8.2, the Company shall give notice thereof to the Holders of each Outstanding Security affected, in the manner provided for in Section 1.6, setting forth in general terms the substance of such supplemental indenture.

ARTICLE 9

COVENANTS

Section 9.1 Payment of Principal, Premium, if any, and Interest.

The Company covenants and agrees for the benefit of the Holders of each series of Securities and any related coupons that it will duly and punctually pay the principal of (and premium, if any) and interest, if any, on the Securities of that series in accordance with the terms of the Securities, any coupons appertaining thereto and this Indenture. Unless otherwise specified as contemplated by Section 3.1 with respect to any series of Securities, any interest installments due on Bearer Securities on or before Maturity shall be payable only upon presentation and surrender of the several coupons for such interest installments as are evidenced thereby as they severally mature.

Section 9.2 Maintenance of Office or Agency.

If the Securities of a series are issuable only as Registered Securities, the Company will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange, where Securities of that series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served.

If Securities of a series are issuable as Bearer Securities, the Company will maintain (A) in The City of New York, an office or agency where any Registered Securities of that series may be presented or surrendered for payment, where any Registered Securities of that series may be surrendered for registration of transfer, where Securities of that series may be surrendered for exchange, where Securities of that series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable, where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served and where Bearer Securities of that series and related coupons may be presented or surrendered for payment in the circumstances described in the second succeeding paragraph (and not otherwise), (B) subject to any laws or regulations applicable thereto, in a Place of Payment for that series which is located outside the United States and Canada, an office or agency where Securities of that series and related coupons may be presented and surrendered for payment; provided, however, that, if the Securities of that series are listed on any stock exchange located outside the United States and Canada and such stock exchange shall so require, the Company will maintain a Paying Agent for the Securities of that series in any required city located outside the United States and Canada so long as the Securities of that series are listed on such exchange, and (C) subject to any laws or regulations applicable thereto, in a Place of Payment for that series located outside the United States and Canada an office or agency where any Registered Securities of that series may be surrendered for registration of transfer, where Securities of that series may be surrendered for exchange, where Securities of that series that are convertible and exchangeable may be surrendered for conversion or exchange, as applicable and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served.

The Company will give prompt written notice to the Trustee of the location, and any change in the location, of any such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, except that Bearer Securities of any series and the related coupons may be presented and surrendered for payment at the offices specified in the Security, and the Company hereby appoints the same as its agents to receive such respective presentations, surrenders, notices and demands.

Unless otherwise specified with respect to any Securities pursuant to Section 3.1, no payment of principal, premium or interest on Bearer Securities shall be made at any office or agency of the Company in the United States or Canada or by check mailed to any address in the United States or Canada or by transfer to an account maintained with a bank located in the United States or Canada; provided, however, that, if the Securities of a series are payable in Dollars, payment of principal of (and premium, if any) and interest, if any, on any Bearer Security shall be made at the office of the Company's Paying Agent, if (but only if) payment in Dollars of the full amount of such principal, premium or interest, as the case may be, at all offices or agencies outside the United States maintained for such purpose by the Company in accordance with this Indenture is illegal or effectively precluded by exchange controls or other similar restrictions.

The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in accordance with the requirements set forth above for Securities of any series for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. Unless otherwise specified with respect to any Securities as contemplated by Section 3.1 with respect to a series of Securities, the Company hereby designates as a Place of Payment for each series of Securities the office or agency of the Trustee in, and initially appoints the Trustee at its Corporate Trust Office as Paying Agent and as its agent to receive all such presentations, surrenders, notices and demands.

Unless otherwise specified with respect to any Securities pursuant to Section 3.1, if and so long as the Securities of any series (i) are denominated in a Currency other than Dollars or (ii) may be payable in a Currency other than Dollars, or so long as it is required under any other provision of the Indenture, then the Company will maintain with respect to each such series of Securities, or as so required, at least one Exchange Rate Agent.

Section 9.3 Money for Securities Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities and any related coupons, it will, on or before each due date of the principal of (or premium, if any) or interest, if any, on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum in the Currency in which the Securities of such series are payable (except as may otherwise be specified pursuant to Section 3.1 for the Securities of such series) sufficient to pay the principal of (or premium, if any) or interest, if any, on Securities of such series so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Securities and any related coupons, it will, prior to or on each due date of the principal of (or premium, if any) or interest, if any, on any Securities of that series, deposit with a Paying Agent a sum (in the Currency described in the preceding paragraph) sufficient to pay the principal (or premium, if any) or interest, if any, so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause the bank through which payment of funds to the Paying Agent will be made to deliver to the Paying Agent by 10:00 a.m. (New York Time) two Business Days prior to the due date of such payment an irrevocable confirmation (by tested telex or authenticated Swift MT 100 Message) of its intention to make such payment.

The Company will cause each Paying Agent (other than the Trustee) for any series of Securities to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

(1) hold all sums held by it for the payment of the principal of (and premium, if any) and interest, if any, on Securities of such series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities of such series) in the making of any payment of principal of (or premium, if any) or interest, if any, on the Securities of such series; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums.

Except as provided in the Securities of any series, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (or premium, if any) or interest, if any, on any Security of any series, or any coupon appertaining thereto, and remaining unclaimed for two years (or such shorter period as may be specified under applicable law) after such principal, premium or interest has become due and payable shall be paid to the Company, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security or coupon shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company, as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, shall at the written direction and at the expense of the Company cause to be published once, in an Authorized Newspaper, or cause to be mailed to such Holder or both, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication or mailing, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 9.4 Statement as to Compliance.

The Company will deliver to the Trustee, within 120 days after the end of each fiscal year (which as of the date hereof ends on the 31st day of December), a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of the Company's compliance with all conditions and covenants under this Indenture and as to any default in such performance. For purposes of this Section 9.4, such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

Section 9.5 Payment of Taxes and Other Claims.

The Company will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all material taxes, assessments and governmental charges levied or imposed upon the Company or upon the income, profits or property of the Company and (2) all material lawful claims for labor, materials and supplies which, if unpaid, might by law become a Lien upon any property of the Company; provided, however, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

Section 9.6 Maintenance of Properties.

The Company will cause all its properties to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times except to the extent that the failure to do so would not materially impair the operations of the Company and its Subsidiaries taken as a whole; provided, however, that nothing in this Section shall prevent or restrict the sale, abandonment or other disposition of any of such properties if such action is, in the judgment of the Company desirable in the conduct of the business of the Company and not disadvantageous in any material respect to the Holders.

Section 9.7 Corporate Existence.

The Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence (corporate or other) and the rights (charter and statutory) and franchises of the Company; provided, however, that the Company shall not be required to preserve any such right or franchise if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries as a whole, as the case may be.

Section 9.8 Waiver of Certain Covenants.

The Company may, with respect to any series of Securities, omit in any particular instance to comply with any term, provision or condition which affects such series set forth in Sections 9.5 to 9.7, inclusive, or, as specified pursuant to Section 3.1(16) for Securities of such series, in any covenants added to Article 9 pursuant to Section 3.1(16) in connection with Securities of such series, if before the time for such compliance the Holders of at least a majority in principal amount of all Outstanding Securities of such series, by Act of such Holders, waive such compliance in such instance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee to Holders of Securities of such series in respect of any such term, provision or condition shall remain in full force and effect.

ARTICLE 10

REDEMPTION OF SECURITIES

Section 10.1 Applicability of Article.

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.1 for Securities of any series) in accordance with this Article.

Section 10.2 Election to Redeem; Notice to Trustee.

The election of the Company to redeem any Securities shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company, the Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee), notify the Trustee of such Redemption Date and of the principal amount of Securities of such series to be redeemed and shall deliver to the Trustee such documentation and records as shall enable the Trustee to select the Securities to be redeemed pursuant to Section 10.3. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish the Trustee with an Officers' Certificate evidencing compliance with such restriction.

Section 10.3 Selection by Trustee of Securities to Be Redeemed.

If less than all the Securities of any series are to be redeemed, the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, from the Outstanding Securities of such series not previously called for redemption, by lot or in such manner as the Trustee shall deem fair and appropriate, in accordance with the procedures of the Depositary, and which may provide for the selection for redemption of portions of the principal of Securities of such series; provided, however, that no such partial redemption shall reduce the portion of the principal amount of a Security not redeemed to less than the minimum authorized denomination for Securities of such series established pursuant to Section 3.1.

The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

Section 10.4 Notice of Redemption.

Except as otherwise specified as contemplated by Section 3.1, notice of redemption shall be given in the manner provided for in Section 1.6 not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed.

All notices of redemption shall state:

(1) The Cusip or ISIN numbers of the Securities,

(2) the Redemption Date,

(3) the Redemption Price and the amount of accrued interest to the Redemption Date payable as provided in Section 10.6, if any,

(4) if less than all the Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Securities to be redeemed,

(5) in case any Security is to be redeemed in part only, the notice which relates to such Security shall state that on and after the Redemption Date, upon surrender of such Security, the Holder will receive, without charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed,

(6) that on the Redemption Date, the Redemption Price and accrued interest, if any, to the Redemption Date payable as provided in Section 10.6 will become due and payable upon each such Security, or the portion thereof, to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,

(7) the Place or Places of Payment where such Securities, together in the case of Bearer Securities with all coupons appertaining thereto, if any, maturing after the Redemption Date, are to be surrendered for payment of the Redemption Price and accrued interest, if any,

(8) that the redemption is for a sinking fund, if such is the case,

(9) that, unless otherwise specified in such notice, Bearer Securities of any series, if any, surrendered for redemption must be accompanied by all coupons maturing subsequent to the Redemption Date or the amount of any such missing coupon or coupons will be deducted from the Redemption Price unless security or indemnity satisfactory to the Company, the Trustee and any Paying Agent is furnished, and

(10) if Bearer Securities of any series are to be redeemed and any Registered Securities of such series are not to be redeemed, and if such Bearer Securities may be exchanged for Registered Securities not subject to redemption on such Redemption Date pursuant to Section 3.5 or otherwise, the last date, as determined by the Company, on which such exchanges may be made.

Unless otherwise specified with respect to any Securities in accordance with Section 3.1, with respect to any redemption of Securities at the election of the Company, unless, upon the giving of notice of such redemption, defeasance shall have been effected with respect to such Securities pursuant to Section 13.2, such notice may state that such redemption shall be conditional upon the receipt by the Trustee or the Paying Agent(s) for such Securities, on or prior to the date fixed for such redemption, of money sufficient to pay the principal of, and any premium, additional amounts and interest on, such Securities and that if such money shall not have been so received such notice shall be of no force or effect and the Company shall not be required to redeem such Securities. In the event that such notice of redemption contains such a condition and such money is not so received, the redemption shall not be made and within a reasonable time thereafter notice shall be given, in the manner in which the notice of redemption was given, that such money was not so received and such redemption was not required to be made, and the Trustee or Paying Agent(s) for the Securities otherwise to have been redeemed shall promptly return to the Holders thereof any of such Securities which had been surrendered for payment upon such redemption.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company provided that the Company makes such request at least 5 Business Days prior to the date by which such notice of redemption must be given to holders (unless a shorter notice period shall be satisfactory to the Trustee).

Section 10.5 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit or cause to be deposited with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 9.3) an amount of money in the Currency in which the Securities of such series are payable (except, if applicable, as otherwise specified pursuant to Section 3.1 for the Securities of such series) sufficient to pay the Redemption Price of, and accrued interest, if any, on, all the Securities which are to be redeemed on that date.

The Company will cause the bank through which payment of funds to the Trustee or the Paying Agent will be made to deliver to the Trustee or the Paying Agent, as the case may be, by 10:00 a.m. (New York Time) two Business Days prior to the due date of such payment an irrevocable confirmation (by tested telex or authenticated Swift MT 100 Message) of its intention to make such payment.

Section 10.6 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified in the Currency in which the Securities of such series are payable (except, if applicable, as otherwise specified pursuant to Section 3.1 for the Securities of such series) (together with accrued interest, if any, to the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest, if any) such Securities shall, if the same were interest-bearing, cease to bear interest and the coupons for such interest appertaining to any Bearer Securities so to be redeemed, except to the extent provided below, shall be void. Upon surrender of any such Security for redemption in accordance with said notice, together with all coupons, if any, appertaining thereto maturing after the Redemption Date, such Security shall be paid by the Company at the Redemption Price, together with accrued interest, if any, to the Redemption Date; provided, however, that installments of interest on Bearer Securities whose Stated Maturity is on or prior to the Redemption Date shall be payable only at an office or agency located outside the United States and Canada (except as otherwise provided in Section 9.2) and, unless otherwise specified as contemplated by Section 3.1, only upon presentation and surrender of coupons for such interest; and provided further that installments of interest on Registered Securities whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant record dates according to their terms and the provisions of Section 3.7.

If any Bearer Security surrendered for redemption shall not be accompanied by all appurtenant coupons maturing after the Redemption Date, such Security may be paid after deducting from the Redemption Price an amount equal to the face amount of all such missing coupons, or the surrender of such missing coupon or coupons may be waived by the Company and the Trustee if there be furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless. If thereafter the Holder of such Security shall surrender to the Trustee or any Paying Agent any such missing coupon in respect of which a deduction shall have been made from the Redemption Price, such Holder shall be entitled to receive the amount so deducted; provided, however, that interest represented by coupons shall be payable only at an office or agency located outside the United States and Canada (except as otherwise provided in Section 9.2) and, unless otherwise specified as contemplated by Section 3.1, only upon presentation and surrender of those coupons.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) set forth in such Security.

Section 10.7 Securities Redeemed in Part.

Any Security which is to be redeemed only in part (pursuant to the provisions of this Article or of Article 11) shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

ARTICLE 11

SINKING FUNDS

Section 11.1 Applicability of Article.

Retirements of Securities of any series pursuant to any sinking fund shall be made in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.1 for Securities of any series) in accordance with this Article.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a "mandatory sinking fund payment", and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Securities of any series, the cash amount of any mandatory sinking fund payment may be subject to reduction as provided in Section 11.2. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

Section 11.2 Satisfaction of Sinking Fund Payments with Securities.

Subject to Section 11.3, in lieu of making all or any part of any mandatory sinking fund payment with respect to any Securities of a series in cash, the Company may at its option (1) deliver to the Trustee Outstanding Securities of such series (other than any previously called for redemption) theretofore purchased or otherwise acquired by the Company together in the case of any Bearer Securities of such series with all unmatured coupons appertaining thereto, and/or (2) receive credit for the principal amount of Securities of such series which have been previously redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any mandatory sinking fund payment with respect to the Securities of the same series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; provided, however, that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such mandatory sinking fund payment shall be reduced accordingly.

Section 11.3 Redemption of Securities for Sinking Fund.

Not less than 60 days prior to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash in the Currency in which the Securities of such series are payable (except, if applicable, as otherwise specified pursuant to Section 3.1 for the Securities of such series) and the portion thereof, if any, which is to be satisfied by delivering or crediting Securities of that series pursuant to Section 11.2 (which Securities will, if not previously delivered, accompany such certificate) and whether the Company intends to exercise its right to make a permitted optional sinking fund payment with respect to such series. Such certificate shall be irrevocable and upon its delivery the Company shall be obligated to make the cash payment or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. In the case of the failure of the Company to deliver such certificate, the sinking fund payment due on the next succeeding sinking fund payment date for that series shall be paid entirely in cash and shall be sufficient to redeem the principal amount of such Securities subject to a mandatory sinking fund payment without the option to deliver or credit Securities as provided in Section 11.2 and without the right to make any optional sinking fund payment, if any, with respect to such series.

Not more than 60 days before each such sinking fund payment date the Trustee shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 10.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 10.4. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 10.6 and 10.7.

Prior to any sinking fund payment date, the Company shall pay to the Trustee or a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 9.3) in cash a sum equal to any interest that will accrue to the date fixed for redemption of Securities or portions thereof to be redeemed on such sinking fund payment date pursuant to this Section 11.3.

The Company will cause the bank through which payment of funds to the Trustee or the Paying Agent will be made to deliver to the Trustee or the Paying Agent, as the case may be, by 10:00 a.m. (New York Time) two Business Days prior to the due date of such payment an irrevocable confirmation (by tested telex or authenticated Swift MT 100 Message) of its intention to make such payment.

Notwithstanding the foregoing, with respect to a sinking fund for any series of Securities, if at any time the amount of cash to be paid into such sinking fund on the next succeeding sinking fund payment date, together with any unused balance of any preceding sinking fund payment or payments for such series, does not exceed in the aggregate $100,000, the Trustee, unless requested by the Company, shall not give the next succeeding notice of the redemption of Securities of such series through the operation of the sinking fund. Any such unused balance of moneys deposited in such sinking fund shall be added to the sinking fund payment for such series to be made in cash on the next succeeding sinking fund payment date or, at the request of the Company, shall be applied at any time or from time to time to the purchase of Securities of such series, by public or private purchase, in the open market or otherwise, at a purchase price for such Securities (excluding accrued interest and brokerage commissions, for which the Trustee or any Paying Agent will be reimbursed by the Company) not in excess of the principal amount thereof.

ARTICLE 12

REPAYMENT AT OPTION OF HOLDERS

Section 12.1 Applicability of Article.

Repayment of Securities of any series before their Stated Maturity at the option of Holders thereof shall be made in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.1 for Securities of any series) in accordance with this Article.

Section 12.2 Repayment of Securities.

Securities of any series subject to repayment in whole or in part at the option of the Holders thereof will, unless otherwise provided in the terms of such Securities, be repaid at a price equal to the principal amount thereof, together with interest, if any, thereon accrued to the Repayment Date specified in or pursuant to the terms of such Securities. The Company covenants that, with respect to Securities issued by the Company, on or before the Repayment Date it will deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 9.3) an amount of money in the Currency in which the Securities of such series are payable (except, if applicable, as otherwise specified pursuant to Section 3.1 for the Securities of such series) sufficient to pay the principal (or, if so provided by the terms of the Securities of any series, a percentage of the principal) of and (except if the Repayment Date shall be an Interest Payment Date) accrued interest, if any, on, all the Securities or portions thereof, as the case may be, to be repaid on such date.

Section 12.3 Exercise of Option.

Securities of any series subject to repayment at the option of the Holders thereof will contain an "Option to Elect Repayment" form on the reverse of such Securities. To be repaid at the option of the Holder, any Security so providing for such repayment, with the "Option to Elect Repayment" form on the reverse of such Security duly completed by the Holder (or by the Holder's attorney duly authorized in writing), must be received by the Company at the Place of Payment therefor specified in the terms of such Security (or at such other place or places or which the Company shall from time to time notify the Holders of such Securities) not earlier than 45 calendar days nor later than 30 calendar days prior to the Repayment Date. If less than the entire principal amount of such Security is to be repaid in accordance with the terms of such Security, the principal amount of such Security to be repaid, in increments of the minimum denomination for Securities of such series, and the denomination or denominations of the Security or Securities to be issued to the Holder for the portion of the principal amount of such Security surrendered that is not to be repaid, must be specified. The principal amount of any Security providing for repayment at the option of the Holder thereof may not be repaid in part if, following such repayment, the unpaid principal amount of such Security would be less than the minimum authorized denomination of Securities of the series of which such Security to be repaid is a part. Except as otherwise may be provided by the terms of any Security providing for repayment at the option of the Holder thereof, exercise of the repayment option by the Holder shall be irrevocable unless waived by the Company.

Section 12.4 When Securities Presented for Repayment Become Due and Payable.

If Securities of any series providing for repayment at the option of the Holders thereof shall have been surrendered as provided in this Article and as provided by or pursuant to the terms of such Securities, such Securities or the portions thereof, as the case may be, to be repaid shall become due and payable and shall be paid by the Company on the Repayment Date therein specified, and on and after such Repayment Date (unless the Company shall default in the payment of such Securities on such Repayment Date together with, if applicable, accrued interest, if any, thereon to the Repayment Date) such Securities shall, if the same were interest-bearing, cease to bear interest and the coupons for such interest appertaining to any Bearer Securities so to be repaid, except to the extent provided below, shall be void. Upon surrender of any such Security for repayment in accordance with such provisions, together with all coupons, if any, appertaining thereto maturing after the Repayment Date, the principal amount of such Security so to be repaid shall be paid by the Company, together with accrued interest, if any, to the Repayment Date; provided, however, that coupons whose Stated Maturity is on or prior to the Repayment Date shall be payable only at an office or agency located outside the United States and Canada (except as otherwise provided in Section 9.2) and, unless otherwise specified pursuant to Section 3.1, only upon presentation and surrender of such coupons; and provided further that, in the case of Registered Securities, installments of interest, if any, whose Stated Maturity is on or prior to the Repayment Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.7.

If any Bearer Security surrendered for repayment shall not be accompanied by all appurtenant coupons maturing after the Repayment Date, such Security may be paid after deducting from the amount payable therefor as provided in Section 12.2 an amount equal to the face amount of all such missing coupons, or the surrender of such missing coupon or coupons may be waived by the Company and the Trustee if there be furnished to them such security or indemnity as they may require to save each of them and any Paying Agent harmless. If thereafter the Holder of such Security shall surrender to the Trustee or any Paying Agent any such missing coupon in respect of which a deduction shall have been made as provided in the preceding sentence, such Holder shall be entitled to receive the amount so deducted; provided, however, that interest represented by coupons shall be payable only at an office or agency located outside the United States and Canada (except as otherwise provided in Section 9.2) and, unless otherwise specified as contemplated by Section 3.1, only upon presentation and surrender of those coupons.

If the principal amount of any Security surrendered for repayment shall not be so repaid upon surrender thereof, such principal amount (together with interest, if any, thereon accrued to such Repayment Date) shall, until paid, bear interest from the Repayment Date at the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) set forth in such Security.

Section 12.5 Securities Repaid in Part.

Upon surrender of any Registered Security which is to be repaid in part only, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without service charge and at the expense of the Company, a new Registered Security or Securities of the same series each, of any authorized denomination specified by the Holder, in an aggregate principal amount equal to and in exchange for the portion of the principal of such Security so surrendered which is not to be repaid.

ARTICLE 13

DEFEASANCE AND COVENANT DEFEASANCE

Section 13.1 Option to Effect Defeasance or Covenant Defeasance.

Except as otherwise specified as contemplated by Section 3.1 for Securities of any series, the provisions of this Article 13 shall apply to each series of Securities, and the Company may, at its option, effect defeasance of the Securities of a series under Section 13.2, or covenant defeasance of a series under Section 13.3 in accordance with the terms of such Securities and in accordance with this Article; provided, however, that, unless otherwise specified pursuant to Section 3.1 with respect to the Securities of any series, the Company may effect defeasance or covenant defeasance only with respect to all of the Securities of such series.

Section 13.2 Defeasance and Discharge.

Upon the exercise by the Company of the above option applicable to this Section with respect to any Securities of a series, the Company shall be deemed to have been discharged from its obligations with respect to such Outstanding Securities and any related coupons on the date the conditions set forth in Section 13.4 are satisfied (hereinafter, "**defeasance**"). For this purpose, such defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by such Outstanding Securities and any related coupons, respectively, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 13.5 and the other provisions of this Indenture referred to in (A), (B), (C) and (D) below, and to have satisfied all their other obligations under such Securities and any related coupons, respectively, and this Indenture insofar as such Securities and any related coupons are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of such Outstanding Securities and any related coupons to receive, solely from the trust fund described in Section 13.4 and as more fully set forth in such Section, payments in respect of the principal of (and premium, if any) and interest, if any, on such Securities and any related coupons when such payments are due, (B) the Company's and the Trustee's obligations with respect to such Securities under Sections 1.13, 1.14, 3.4, 3.5, 3.6, 9.2 and 9.3 (and any applicable provisions of Article 10), (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (D) this Article 13. Subject to compliance with this Article 13, the Company may exercise its option under this Section 13.2 notwithstanding the prior exercise of the option under Section 13.3 with respect to such Securities and any related coupons.

Section 13.3 Covenant Defeasance.

Upon the exercise by the Company of the above option applicable to this Section with respect to any Securities of a series, the Company shall be released from its obligations under Sections 9.5 through 9.7, and, if specified pursuant to Section 3.1, their obligations under any other covenant, in each case with respect to such Outstanding Securities and any related coupons, respectively, on and after the date the conditions set forth in Section 13.4 are satisfied (hereinafter, "**covenant defeasance**"), and such Securities and any related coupons shall thereafter be deemed not to be "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such covenant defeasance means that, with respect to such Outstanding Securities and any related coupons, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 5.1(4) or Section 5.1(7) or otherwise, as the case may be, but, except as specified above, the remainder of this Indenture and such Securities and any related coupons shall be unaffected thereby.

Section 13.4 Conditions to Defeasance or Covenant Defeasance.

The following shall be the conditions to application of either Section 13.2 or Section 13.3 to any Outstanding Securities of or within a series and any related coupons:

(1) The Company has deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.7 who shall agree to comply with the provisions of this Article 13 applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Securities and any related coupons, (A) an amount (in such Currency in which such Securities and any related coupons are then specified as payable at Stated Maturity), or (B) Government Obligations applicable to such Securities (determined on the basis of the Currency in which such Securities are then specified as payable at Stated Maturity) which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment of principal of or premium, if any, or interest, if any, or any other sums due under such Securities and any related coupons, money in an amount, or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent certified public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, (i) the principal of (and premium, if any) and interest, if any, and any other sums due under such Outstanding Securities and any related coupons on the Stated Maturity (or Redemption Date, if applicable) of such principal (and premium, if any) or installment of interest, if any, or any other sums and (ii) any mandatory sinking fund payments or analogous payments applicable to such Outstanding Securities and any related coupons on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Securities and any related coupons; provided that the Trustee shall have been irrevocably instructed to apply such money or the proceeds of such Government Obligations to said payments with respect to such Securities and any related coupons. Before such a deposit, the Company may give to the Trustee, in accordance with Section 10.2 hereof, a notice of its election to redeem all or any portion of such Outstanding Securities at a future date in accordance with the terms of the Securities of such series and Article 10 hereof, which notice shall be irrevocable. Such irrevocable redemption notice, if given, shall be given effect in applying the foregoing.

(2) In the case of an election under Section 13.2, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States stating that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (y) since the date of execution of this Indenture, there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of such Outstanding Securities and any related coupons will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred.

(3) In the case of an election under Section 13.3, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States to the effect that the Holders of such Outstanding Securities and any related coupons will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such covenant defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(4) The Company has delivered to the Trustee an Opinion of Counsel in Canada or a ruling from Canada Customs and Revenue Agency to the effect that the Holders of such Outstanding Securities and any related coupons will not recognize income, gain or loss for Canadian federal or provincial income tax or other tax purposes as a result of such defeasance or covenant defeasance and will be subject to Canadian federal and provincial income tax and other tax on the same amounts, in the same manner and at the same times as would have been the case had such defeasance or covenant defeasance not occurred (and for the purposes of such opinion, such Canadian counsel shall assume that Holders of such Outstanding Securities include Holders who are not resident in Canada).

(5) The Company is not an "insolvent person" within the meaning of the Bankruptcy and Insolvency Act (Canada) on the date of such deposit or at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(6) No Event of Default or event that, with the passing of time or the giving of notice, or both, shall constitute an Event of Default with respect to such Securities or any related coupons shall have occurred and be continuing on the date of such deposit or, insofar as paragraphs (5), (6) and (7) of Section 5.1 are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(7) The Company has delivered to the Trustee an Opinion of Counsel to the effect that such deposit shall not cause the Trustee or the trust so created to be subject to the Investment Company Act of 1940, as amended.

(8) Such defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other material agreement or instrument to which the Company is a party or by which it is bound.

(9) Notwithstanding any other provisions of this Section, such defeasance or covenant defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations in connection therewith pursuant to Section 3.1.

(10) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to either the defeasance under Section 13.2 or the covenant defeasance under Section 13.3 (as the case may be) have been complied with.

Section 13.5 Deposited Money and Government Obligations to Be Held in Trust; Other Miscellaneous Provisions.

Subject to the provisions of the last paragraph of Section 9.3, all money and Government Obligations (or other property as may be provided pursuant to Section 3.1) (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 13.5, the "**Trustee**") pursuant to Section 13.4 in respect of such Outstanding Securities and any related coupons shall be held in trust and applied by the Trustee, in accordance with the provisions of such Securities and any related coupons and this Indenture, to the payment, either directly or through any Paying Agent as the Trustee may determine (other than, with respect only to defeasance pursuant to Section 13.2, the Company or any of its Affiliates), to the Holders of such Securities and any related coupons of all sums due and to become due thereon in respect of principal (and premium, if any) and interest, if any, but such money need not be segregated from other funds except to the extent required by law.

Unless otherwise specified with respect to any Security pursuant to Section 3.1, if, after a deposit referred to in Section 13.4(1) has been made, (a) the Holder of a Security in respect of which such deposit was made is entitled to, and does, elect pursuant to TIA Section 312(b) or the terms of such Security to receive payment in a Currency other than that in which the deposit pursuant to Section 13.4(1) has been made in respect of such Security, or (b) a Conversion Event occurs as contemplated by the terms of any Security in respect of which the deposit pursuant to Section 13.4(1) has been made, the Indebtedness represented by such Security and any related coupons shall be deemed to have been, and will be, fully discharged and satisfied through the payment of the principal of (and premium, if any) and interest, if any, on such Security as they become due out of the proceeds yielded by converting (from time to time as specified below in the case of any such election) the amount or other property deposited in respect of such Security into the Currency in which such Security becomes payable as a result of such election or Conversion Event based on the applicable Market Exchange Rate for such Currency in effect on the third Business Day prior to each payment date, except, with respect to a Conversion Event, for such Currency in effect (as nearly as feasible) at the time of the Conversion Event.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 13.4 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of such Outstanding Securities and any related coupons.

Anything in this Article 13 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon request of the Company any money or Government Obligations (or other property and any proceeds therefrom) held by it as provided in Section 13.4 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent defeasance or covenant defeasance, as applicable, in accordance with this Article.

Section 13.6 Reinstatement.

If the Trustee or any Paying Agent is unable to apply any money in accordance with Section 13.5 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the obligations of the Company under this Indenture and such Securities and any related coupons shall be revived and reinstated as though no deposit had occurred pursuant to Section 13.2 or 13.3, as the case may be, until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 13.5; provided, however, that if the Company makes any payment of principal of (or premium, if any) or interest, if any, on any such Security or any related coupon following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities and any related coupons to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 14

MEETINGS OF HOLDERS OF SECURITIES

Section 14.1 Purposes for Which Meetings May Be Called.

If Securities of a series are issuable, in whole or in part, as Bearer Securities, a meeting of Holders of Securities of such series may be called at any time and from time to time pursuant to this Article to make, give or take any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be made, given or taken by Holders of Securities of such series.

Section 14.2 Call, Notice and Place of Meetings.

(a) The Trustee may at any time call a meeting of Holders of Securities of any series for any purpose specified in Section 14.1, to be held at such time and at such place in the City of New York or in London or in Ottawa or Toronto, Ontario, Canada as the Trustee shall determine. Notice of every meeting of Holders of Securities of any series, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided for in Section 1.6, not less than 21 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, pursuant to a Board Resolution or the Holders of at least 10% in principal amount of the Outstanding Securities of any series shall have requested the Trustee to call a meeting of the Holders of Securities of such series for any purpose specified in Section 14.1, by written request (a) setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 21 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities of such series in the amount above specified, as the case may be, may determine the time and the place in the City of New York, London or in Ottawa or Toronto, Ontario, Canada for such meeting and may call such meeting for such purposes by giving notice thereof as provided in paragraph (a) of this Section.

Section 14.3 Persons Entitled to Vote at Meetings.

To be entitled to vote at any meeting of Holders of Securities of any series, a Person shall be (1) a Holder of one or more Outstanding Securities of such series, or (2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Securities of such series by such Holder of Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders of Securities of any series shall be the Person entitled to vote at such meeting and their counsel, any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 14.4 Quorum; Action.

The Persons entitled to vote a majority in principal amount of the Outstanding Securities of a series shall constitute a quorum for a meeting of Holders of Securities of such series; provided, however, that, if any action is to be taken at such meeting with respect to a consent or waiver which this Indenture expressly provides may be given by the Holders of not less than a specified percentage in principal amount of the Outstanding Securities of a series, the Persons entitled to vote such specified percentage in principal amount of the Outstanding Securities of such series shall constitute a quorum. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting shall, if convened at the request of Holders of Securities of such series, be dissolved. In any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting. Notice of the reconvening of any adjourned meeting shall be given as provided in Section 14.2(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of any adjourned meeting shall state expressly the percentage, as provided above, of the principal amount of the Outstanding Securities of such series which shall constitute a quorum.

Subject to the foregoing, at the reconvening of any meeting adjourned for lack of a quorum the Persons entitled to vote 25% in principal amount of the Outstanding Securities at the time shall constitute a quorum for the taking of any action set forth in the notice of the original meeting.

Except as limited by the proviso to Section 8.2, any resolution presented to a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted by the affirmative vote of the Holders of not less than a majority in principal amount of the Outstanding Securities of such series; provided, however, that, except as limited by the proviso to Section 8.2, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver or other action which this Indenture expressly provides may be made, given or taken by the Holders of a specified percentage, which is less than a majority, in principal amount of the Outstanding Securities of a series 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 not less than such specified percentage in principal amount of the Outstanding Securities of such series.

Any resolution passed or decision taken at any meeting of Holders of Securities of any series duly held in accordance with this Section shall be binding on all the Holders of Securities of such series and the related coupons, whether or not present or represented at the meeting.

Notwithstanding the foregoing provisions of this Section 14.4, if any action is to be taken at a meeting of Holders of Securities of any series with respect to any request, demand, authorization, direction, notice, consent, waiver or other action that this Indenture expressly provides may be made, given or taken by the Holders of a specified percentage in principal amount of all Outstanding Securities affected thereby, or of the Holders of such series and one or more additional series:

(i) there shall be no minimum quorum requirement for such meeting; and

(ii) the principal amount of the Outstanding Securities of such series that vote in favor of such request, demand, authorization, direction, notice, consent, waiver or other action shall be taken into account in determining whether such request, demand, authorization, direction, notice, consent, waiver or other action has been made, given or taken under this Indenture.

Section 14.5 Determination of Voting Rights; Conduct and Adjournment of Meetings.

(a) Notwithstanding any provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders of Securities of a series in regard to proof of the holding of Securities of such series and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as its shall deem appropriate. Except as otherwise permitted or required by any such regulations, the holding of Securities shall be proved in the manner specified in Section 1.4 and the appointment of any proxy shall be proved in the manner specified in Section 1.4 or by having the signature of the person executing the proxy witnessed or guaranteed by any trust company, bank or banker authorized by Section 1.4 to certify to the holding of Bearer Securities. Such regulations may provide that written instruments appointing proxies, regular on their face, may be presumed valid and genuine without the proof specified in Section 1.4 or other proof.

(b) The Trustee shall, by an instrument in writing appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 14.2(b), in which case the Company or the Holders of Securities of the series calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the Outstanding Securities of such series represented at the meeting.

(c) At any meeting each Holder of a Security of such series or proxy shall be entitled to one vote for each $1,000 principal amount of Outstanding Securities of such series held or represented by him (determined as specified in the definition of "Outstanding" in Section 1.1); provided, however, that no vote shall be cast or counted at any meeting in respect of any Security 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 Security of such series or proxy.

(d) Any meeting of Holders of Securities of any series duly called pursuant to Section 14.2 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the Outstanding Securities of such series represented at the meeting; and the meeting may be held as so adjourned without further notice.

Section 14.6 Counting Votes and Recording Action of Meetings.

The vote upon any resolution submitted to any meeting of Holders of Securities of any series shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities of such series or of their representatives by proxy and the principal amounts and serial numbers of the Outstanding Securities of such series held or represented by them. The permanent chairman of the meeting shall appoint two inspectors 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 duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities of any series shall be prepared by the Secretary of the meeting and there shall be attached to said record the original reports of the inspectors 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 14.2 and, if applicable, Section 14.4. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company, and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 14.7 Waiver of Jury Trial.

Each of the Company and the Trustee hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Indenture, the Securities or the transactions contemplated hereby.

This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Indenture.

Section 14.8 U.S.A. PATRIOT Act

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity the Trustee will ask for documentation to verify its formation and existence as a legal entity. The Trustee may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The parties each agree to provide all such information and documentation as to themselves as requested by the Trustee to ensure compliance with federal law.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of the day and year first above written.

HEXO Corp.

By: (signed) "*Trent MacDonald*"
Name: Trent MacDonald
Title: Chief Financial Officer

GLAS Trust Company LLC, as Trustee

By: (signed) "*Lisha John*"
Name: Lisha John
Title: Vice President

[Signature Page to Indenture]

EXHIBIT A

FORM OF SECURITY

***[Unless this Security is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Company (as defined below) or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.**

***[This Security is a global Security within the meaning of the Indenture hereinafter referred to and is registered in the name of DTC or a nominee of DTC. This Security is exchangeable for Securities registered in the name of a Person other than DTC or its nominee only in the limited circumstances described in the Indenture, and no transfer of this Security (other than a transfer of this Security as a whole by DTC to a nominee of DTC or by a nominee of DTC to DTC or another nominee of DTC or by DTC or any such nominee to a successor Depositary or nominee of such successor Depositary) may be registered except in limited circumstances.]**

HEXO Corp.

% [Debenture] [Note] [Due]

No. [●] $[●]

CUSIP: [●]

HEXO Corp., a corporation existing under the laws of the Province of Ontario, Canada (herein called the "Company", which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to [Cede & Co.]*, or registered assigns, the principal sum of $[♦] ([♦] DOLLARS) on [date and year], at the office or agency of the Company referred to below, and to pay interest thereon on [date and year], and semi-annually thereafter on [date] and [date] in each year, from and including [date and year],** or from and including the most recent Interest Payment Date to which interest has been paid or duly provided for, at the rate of [♦]% per annum, until the principal hereof is paid or duly provided for, and (to the extent lawful) to pay on demand interest on any overdue principal, [premium, if any,] or interest at the rate borne by this Security from and including the date on which such overdue principal, [premium, if any,] or interest becomes payable to but excluding the date payment of such principal, [premium, if any,] or interest has been made or duly provided for. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the [date] or [date] (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date, and such Defaulted Interest, and (to the extent lawful) interest on such Defaulted Interest at the rate borne by the Securities of this series, may be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture. Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

*Include if Securities are to be issued in global form. At the time of this writing, DTC will not accept global securities with an aggregate principal amount in excess of $500,000,000. If the aggregate principal amount of the offering exceeds this amount, use more than one global security.

**Insert date from which interest is to accrue or, if the Securities are to be sold "flat", the closing date of the offering.

Unless the certificate of authentication hereon has been duly executed by the Trustee by manual signature, this Security shall not be entitled to any benefit under the Indenture, or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated: ♦

HEXO Corp.

By: _____

By: _____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

[♦], as Trustee

_____

Authorized Signatory

[Form of Reverse]

This Security is one of a duly authorized issue of securities of the Company designated as its [●]% [Debentures] [Notes] [Due] [●] (herein called the "**Securities**"), limited (except as otherwise provided in the Indenture referred to below [and except as provided in the second succeeding paragraph]) in aggregate principal amount to $[●], which may be issued under an indenture (herein called the "**Indenture**") dated as of May 27, 2021 between HEXO Corp. and GLAS Trust Company LLC, as trustee (herein called the "**Trustee**", which term includes any successor trustee under the Indenture), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties, obligations and immunities thereunder of the Company, the Trustee and the Holders of the Securities, and of the terms upon which the Securities are, and are to be, authenticated and delivered. [This Security is a global Security representing $[●] aggregate principal amount [at maturity]** of the Securities of this series.]***

Payment of the principal of (and premium, if any,) and interest on this Security will be made at the office or agency of the Company maintained for that purpose in [●], in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; provided, however, that payment of interest may be made at the option of the Company (i) by check mailed to the address of the Person entitled thereto as such address shall appear on the Security Register or (ii) by wire transfer to an account maintained in the United States by the Person entitled to such payment as specified in the Security Register. [Notwithstanding the foregoing, payments of principal, premium, if any, and interest on a global Security registered in the name of a Depositary or its nominee will be made by wire transfer of immediately available funds.] Principal paid in relation to any Security of this series at Maturity shall be paid to the Holder of such Security only upon presentation and surrender of such Security to such office or agency referred to above.

[As provided for in the Indenture, the Company may from time to time without notice to, or the consent of, the Holders of the Securities, create and issue additional Securities of this series under the Indenture, equal in rank to the Outstanding Securities of this series in all respects (or in all respects except for the payment of interest accruing prior to the issue date of the new Securities of this series or except for the first payment of interest following the issue date of the new Securities of this series) so that the new Securities of this series shall be consolidated and form a single series with the Outstanding Securities of this series and have the same terms as to status, redemption or otherwise as the Outstanding Securities of this series.]****

** Include if a discount security.
*** Include in a global Security.
**** Include if this series of Securities may be reopened pursuant to Section 301 of the Indenture.

[The Securities of this series are subject to redemption upon not less than 30 nor more than 60 days' notice, at any time after [date and year], as a whole or in part, at the election of the Company [, at a Redemption Price equal to the percentage of the principal amount set forth below if redeemed during the 12-month period beginning [date], of the years indicated:

Year	Redemption Price	Year	Redemption Price
	%		%
	%		%

and thereafter] at 100% of the principal amount, together in the case of any such redemption with accrued interest, if any, to the Redemption Date, all as provided in the Indenture.]*

[The Securities of this series are also subject to redemption on [date] in each year commencing in [year] through the operation of a sinking fund, at a Redemption Price equal to 100% of the principal amount, together with accrued interest to the Redemption Date, all as provided in the Indenture. The sinking fund provides for the [mandatory] redemption on [date] in each year beginning with the year [year] of $ [●] aggregate principal amount of Securities of this series. [In addition, the Company may, at its option, elect to redeem up to an additional $[●] aggregate principal amount of Securities of this series on any such date.] Securities of this series acquired or redeemed by the Company (other than through operation of the sinking fund) may be credited against subsequent [mandatory] sinking fund payments.]**

[The Securities of this series are subject to repayment at the option of the Holders thereof on [Repayment Date(s)] at a Repayment Price equal to [●]% of the principal amount, together with accrued interest to the Repayment Date, all as provided in the Indenture. To be repaid at the option of the Holder, this Security, with the "Option to Elect Repayment" form duly completed by the Holder hereof (or the Holder's attorney duly authorized in writing), must be received by the Company at its office or agency maintained for that purpose in [●] not earlier than 45 days nor later than 30 days prior to the Repayment Date. Exercise of such option by the Holder of this Security shall be irrevocable unless waived by the Company.]***

In the case of any redemption [repayment] of Securities of this series, interest installments whose Stated Maturity is on or prior to the Redemption Date [Repayment Date] will be payable to the Holders of such Securities, or one or more Predecessor Securities, of record at the close of business on the relevant record dates according to their terms and the provisions of Section 3.7 of the Indenture. Securities of this series (or portions thereof) for whose redemption [repayment] payment is made or duly provided for in accordance with the Indenture shall cease to bear interest from and after the Redemption Date [Repayment Date].

In the event of redemption [repayment] of this Security in part only, a new Security or Securities of this series for the unredeemed [unpaid] portion hereof shall be issued in the name of the Holder hereof upon the cancellation hereof.

* Include if the Securities are subject to redemption or replace with any other redemption provisions applicable to the Securities.
** Include if the Securities are subject to a sinking fund.
*** Include if the Securities are subject to repayment at the option of the Holders.

If an Event of Default shall occur and be continuing, the principal of [and accrued but unpaid interest on] all the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture contains provisions for defeasance at any time of (a) the entire Indebtedness of the Company on this Security and (b) certain restrictive covenants and the related Defaults and Events of Default applicable to the Securities of this series, upon compliance by the Company, with certain conditions set forth therein, which provisions apply to this Security.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding of all series affected by such amendment or modification. The Indenture also contains provisions permitting the Holders of specified percentages in aggregate principal amount of the Securities of this series at the time Outstanding, on behalf of the Holders of all the Securities of this series, to waive compliance by the Company with certain provisions of the Indenture and also contains provisions permitting the Holders of not less than a majority in aggregate principal amount of the Outstanding Securities of all series with respect to which a Default shall have occurred and shall be continuing, on behalf of the Holders of all Outstanding Securities of such affected series, to waive certain past defaults under the Indenture and their consequences. Any such consent or waiver by or on behalf of the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof whether or not notation of such consent or waiver is made upon this Security.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of (and premium, if any, on) and interest on this Security at the times, place, and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registerable on the Security Register of the Company, upon surrender of this Security for registration of transfer at the office or agency of the Company maintained for such purpose in [ ] duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of $1,000 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, the Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any registration of transfer or exchange of Securities of this series, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to the time of due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security is overdue, and neither the Company, the Trustee nor any agent shall be affected by notice to the contrary.

Interest on this Security shall be computed on the basis of a 360-day year of twelve 30-day months. For the purposes of disclosure under the Interest Act (Canada), the yearly rate of interest to which interest calculated under a Security of this series for any period in any calendar year (the "calculation period") is equivalent is the rate payable under a Security of this series in respect of the calculation period multiplied by a fraction the numerator of which is the actual number of days in such calendar year and the denominator of which is the actual number of days in the calculation period.

[If at any time, (i) the Depositary for the Securities of this series notifies the Company that it is unwilling or unable to continue as Depositary for the Securities of this series or if at any time the Depositary for the Securities of this series shall no longer be a clearing agency registered as such under the Securities Exchange Act of 1934, as amended, and a successor Depositary is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, [or] (ii) the Company determines that the Securities of this series shall no longer be represented by a global Security or Securities [or (iii) any Event of Default shall have occurred and be continuing with respect to the Securities of this series]*, then in such event the Company will execute and the Trustee will authenticate and deliver Securities of this series in definitive registered form, in authorized denominations, and in an aggregate principal amount equal to the principal amount of this Security in exchange for this Security. Such Securities of this series in definitive registered form shall be registered in such names and issued in such authorized denominations as the Depository, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities of this series to the Persons in whose names such Securities of this series are so registered.]**

The Indenture and this Security shall be governed by and construed in accordance with the laws of the State of New York.

All references herein to "dollars" or "$" means a dollar or other equivalent unit in such coin or currency of the United States of America as at the time should be legal tender for the payment of public and private debts, and all terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

* Include, if applicable.
** Include for global security.

[OPTION TO ELECT REPAYMENT

The undersigned hereby irrevocably requests and instructs the Company to repay the within Security [(or the portion thereof specified below)], pursuant to its terms, on the "Repayment Date" first occurring after the date of receipt of the within Security as specified below, at a Repayment Price equal to [●]% of the principal amount thereof, together with accrued interest to the Repayment Date, to the undersigned at:

(Please Print or Type Name and Address of the Undersigned.)

For this Option to Elect Repayment to be effective, this Security with the Option to Elect Repayment duly completed must be received not earlier than 45 days prior to the Repayment Date and not later than 30 days prior to the Repayment Date by the Company at its office or agency in New York, New York.

If less than the entire principal amount of the within Security is to be repaid, specify the portion thereof (which shall be $1,000 or an integral multiple thereof) which is to be repaid: $[●].

If less than the entire principal amount of the within Security is to be repaid, specify the denomination(s) of the Security(ies) to be issued for the unpaid amount ($1,000 or any integral multiple of $1,000): $[●].

Dated:

Note: The signature to this Option to Elect Repayment must correspond with the name as written upon the face of the within Security in every particular without alterations or enlargement or any change whatsoever.]

ASSIGNMENT FORM*

To assign this Security, fill in the form below:
I or we assign and transfer this Security to

_____

_____
(INSERT ASSIGNEE'S SOC. SEC., SOC. INS.
OR TAX ID NO.)

(Print or type assignee's name, address and zip or postal code)

and irrevocably appoint

agent

to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Dated:

Your Signature: _____ (Sign exactly as name appears on the other side of this Security)

Signature Guarantee: _____

(Signature must be guaranteed by a commercial bank or trust company, by a member or members' organization of The New York Stock Exchange or by another eligible guarantor institution as defined in Rule 17Ad-15 under the Securities Exchange Act of 1934, as amended)

* Omit if a global security

EXHIBIT B

FORMS OF CERTIFICATION

EXHIBIT B-1

FORM OF CERTIFICATE TO BE GIVEN BY
PERSON ENTITLED TO RECEIVE BEARER SECURITY
OR TO OBTAIN INTEREST PAYABLE PRIOR
TO THE EXCHANGE DATE CERTIFICATE

[Insert title or sufficient description
of Securities to be delivered]

This is to certify that as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are not owned by any person(s) that is a citizen or resident of the United States; a corporation or partnership (including any entity treated as a corporation or partnership for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia unless, in the case of a partnership, U.S. Treasury Regulations provide otherwise; any estate whose income is subject to U.S. federal income tax regardless of its source or; a trust if (A) a U.S. court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust or (B) a trust in existence on August 20, 1996, and treated as a United States person before this date that timely elected to continue to be treated as a United States person ("**United States persons(s)**"), (ii) are owned by United States person(s) that are (a) foreign branches of U.S. financial institutions (financial institutions, as defined in U.S. Treasury Regulation Section 1.165-12(c)(1)(iv) are herein referred to as "**financial institutions**") purchasing for their own account or for resale, or (b) United States person(s) who acquired the Securities through foreign branches of U.S. financial institutions and who hold the Securities through such U.S. financial institutions on the date hereof (and in either case (a) or (b), each such U.S. financial institution hereby agrees, on its own behalf or through its agent, that you may advise HEXO Corp. or its agent that such financial institution will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the U.S. Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by U.S. or foreign financial institution(s) for purposes of resale during the restricted period (as defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), and, in addition, if the owner is a U.S. or foreign financial institution described in clause (iii) above (whether or not also described in clause (i) or (ii)), this is to further certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "United States" means the United States of America (including the states and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly by tested telex on or prior to the date on which you intend to submit your certification relating to the above-captioned Securities held by you for our account in accordance with your Operating Procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certificate excepts and does not relate to [U.S.$] [●] of such interest in the above-captioned Securities in respect of which we are not able to certify and as to which we understand an exchange for an interest in a permanent global Security or an exchange for and delivery of definitive Securities (or, if relevant, collection of any interest) cannot be made until we do so certify.

We understand that this certificate may be required in connection with certain tax legislation in the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Dated:

[To be dated no earlier than the 15th day prior to (i) the Exchange Date or (ii) the relevant Interest Payment Date occurring prior to the Exchange Date, as applicable]

[Name of Person Making Certification]

(Authorized Signatory)
Name:
Title:

EXHIBIT B-2

FORM OF CERTIFICATE TO BE GIVEN BY EUROCLEAR

AND CLEARSTREAM IN
CONNECTION WITH THE EXCHANGE OF A PORTION OF A
TEMPORARY GLOBAL SECURITY OR TO OBTAIN INTEREST
PAYABLE PRIOR TO THE EXCHANGE DATE
CERTIFICATE

[Insert title or sufficient description
of Securities to be delivered]

This is to certify that based solely on written certifications that we have received in writing, by tested telex or by electronic transmission from each of the persons appearing in our records as persons entitled to a portion of the principal amount set forth below (our "**Member Organizations**") substantially in the form attached hereto, as of the date hereof, [U.S.$] [●] principal amount of the above-captioned Securities (i) is not owned by any person(s) that is a citizen or resident of the United States; a corporation or partnership (including any entity treated as a corporation or partnership for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia unless, in the case of a partnership, U.S. Treasury Regulations provide otherwise; any estate whose income is subject to U.S. federal income tax regardless of its source or; a trust if (A) a U.S. court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust or (B) a trust in existence on August 20, 1996, and treated as a United States person before this date that timely elected to continue to be treated as a United States person ("**United States person(s)**"), (ii) is owned by United States person(s) that are (a) foreign branches of U.S. financial institutions (financial institutions, as defined in U.S. Treasury Regulation Section 1.165-12(c)(1)(iv) are herein referred to as "**financial institutions**") purchasing for their own account or for resale, or (b) United States person(s) who acquired the Securities through foreign branches of U.S. financial institutions and who hold the Securities through such U.S. financial institutions on the date hereof (and in either case (a) or (b), each such financial institution has agreed, on its own behalf or through its agent, that we may advise HEXO Corp. or its agent that such financial institution will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by U.S. or foreign financial institution(s) for purposes of resale during the restricted period (as defined in U.S. Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)) and, to the further effect, that financial institutions described in clause (iii) above (whether or not also described in clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "United States" means the United States of America (including the states and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We further certify that (i) we are not making available herewith for exchange (or, if relevant, collection of any interest) any portion of the temporary global Security representing the above-captioned Securities excepted in the above-referenced certificates of Member Organizations and (ii) as of the date hereof we have not received any notification from any of our Member Organizations to the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange (or, if relevant, collection of any interest) are no longer true and cannot be relied upon as of the date hereof.

We understand that this certification is required in connection with certain tax legislation in the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Dated:

[To be dated no earlier than the Exchange Date or the relevant Interest Payment Date occurring prior to the Exchange Date, as applicable]

[MORGAN GUARANTY TRUST COMPANY OF NEW YORK, BRUSSELS OFFICE, as Operator of the Euroclear System]
[CLEARSTREAM]

By: _____

Exhibit 99.1

Tilray Brands Announces Closing of Transaction with HEXO, Laying Groundwork for the Next Evolution of Canadian Cannabis

Alliance Looks to Enhance Consumer Experience and Strengthen Tilray Brands' Potential for U.S. Federal Legalization and International Expansion

Transaction Expected to Immediately be Revenue, EBITDA and Cash-Flow Positive, and Accretive to EPS for Tilray Brands

LEAMINGTON, Ontario, July 12, 2022 (GLOBE NEWSWIRE) -- Tilray Brands, Inc. ("Tilray Brands" or the "Company") (Nasdaq | TSX: TLRY), a leading global cannabis-lifestyle and consumer packaged goods company inspiring and empowering the worldwide community to live their very best life, today announced that the Company has closed its previously-disclosed acquisition from HT Investments MA LLC ("HTI") of the secured convertible note (the "HEXO Note") issued by HEXO Corp. ("HEXO").

Irwin D. Simon, Tilray Brands' Chairman and CEO, said, "We are excited to close on this strategic transaction and alliance with HEXO, which is expected to provide several financial and commercial benefits, including substantial cost-savings synergies, increased strength in product innovation to capitalize on for market opportunities in Canada and internationally, along with the U.S., upon federal legalization. This is a unique opportunity to realize our vision to enhance consumer experience and lay the groundwork for the next evolution of Canadian cannabis."

Charlie Bowman, HEXO's President and CEO, added, "Closing this transaction with Tilray will provide HEXO with the financial flexibility needed to accelerate our operational turnaround and put us on the path to profitable growth. We are confident that the savings and production efficiencies we are able to realize between the two companies will reset the industry."

Financial and Commercial Benefits:

- **Substantial Savings:** The strategic alliance between Tilray Brands and HEXO is expected to deliver up to $80 million of shared cost-savings within the next two years. Both companies have identified operational and production efficiencies with respect to cultivation and processing services, including pre-rolls, beverages and edibles, as well as shared services and procurement.
- **Accretion:** As a result of the substantial savings, as well as the annual advisory fee, the acquisition of the HEXO Note by Tilray Brands will be immediately accretive to the Company.
- **Strengthening Product Innovation in Canada and International Markets:** Tilray Brands and HEXO bring together industry leading expertise in the global cannabis industry, including cannabis cultivation, product innovation, brand building, and distribution. Leveraging both companies' commitment to innovation and operational efficiencies, both companies will provide their respective expertise and know-how to strengthen market positioning and capitalize on opportunities for growth through a broadened product offering and accelerated CPG innovation. These efforts will also provide benefits to the U.S. market, upon potential federal legalization.

Transaction Details

Tilray Brands acquired the HEXO Note from HTI, which has a current principal balance of $173.7 million outstanding. The purchase price paid to HTI for the HEXO Note was $155 million, reflecting a 10.8% discount on the outstanding principal balance.

The conversion price of the HEXO Note of CAD$0.40 per share, implies that, as of July 11, 2022, Tilray Brands would have the right to convert into approximately 48% of the outstanding common stock of HEXO (on a non-diluted basis).

The purchase price was satisfied, in part, by Tilray Brands' issuance to HTI of a new $50 million convertible unsecured note (the "Tilray Convertible Note") and approximately 33.3 million shares in Class 2 common stock of Tilray Brands. The Tilray Convertible Note bears interest at a rate of 4.00% per annum, calculated and paid on a quarterly basis and matures on September 1, 2023. HEXO did not receive any proceeds as a result of Tilray Brands' purchase of the HEXO Note from HTI.

Tilray Brands has nominated two directors to HEXO's Board of Directors ("Board") and one Board observer.

Commercial Agreements

Tilray Brands and HEXO also entered into certain commercial agreements covering the following key areas; (i) each party will complete production and processing as a third-party manufacturer of certain products for the other party; (ii) HEXO will source its cannabis products for international markets, excluding Canada and the US, from Tilray Brands; and (iii) HEXO and Tilray Brands will share savings related to specified facilities optimization activities, procurement, general and administrative costs, including insurance and certain shared services, and certain production and processing activities for straight-edge pre-rolls, edibles and beverages. The commercial agreements further provide that HEXO shall pay Tilray Brands an annual fee of $18 million for advisory services with respect to cultivation, operation and production matters.

Early Warning Reporting Disclosure

In connection with Tilray Brands' acquisition of the HEXO Note, Tilray Brands announces, pursuant to applicable requirements of Canadian securities laws, that it has acquired the right to convert the HEXO Note into approximately 48% of the outstanding common stock of HEXO, on a non-diluted basis (the "Acquisition"). Prior to the Acquisition, Tilray Brands did not beneficially own or control any of the common stock of HEXO.

Tilray Brands completed the Acquisition for investment purposes and for strategic reasons, including in connection with its negotiation around the commercial agreements which will enable the realization of shared cost-saving synergies and the other benefits described above.

Although not in its present plans, from time to time, Tilray Brands may hold discussions with HEXO's management, its board of directors, other stockholders, and other relevant parties concerning the business, operations, board composition, management, strategy and future plans of HEXO. Depending on various factors including, without limitation, the results of any such discussions, HEXO's financial position and business strategy, the status of the HEXO Note, the availability of securities of HEXO that would make the purchase of such securities desirable, conditions in the securities market and general economic and industry conditions, other investment opportunities, the liquidity requirements of Tilray Brands, and so forth, Tilray Brands may consider from time to time various alternative courses of action with respect to increasing or decreasing its ownership, control or direction over HEXO securities. Tilray Brands reserves the right to acquire (whether by conversion of the HEXO Note or otherwise) additional securities of HEXO, including without limitation Common Shares, and/or to dispose of any or all of its interests under the HEXO Note (or any securities of HEXO acquired in connection with the conversion of the HEXO Note). There can be no assurances that Tilray Brands will pursue or consummate any of these transactions. Any such transaction referred to in this paragraph would be made in compliance with all applicable laws and regulations.

A copy of the early warning report required to be filed by Tilray Brands in connection with the acquisition will be filed on SEDAR and made available under HEXO's issuer profile on SEDAR at www.sedar.com.

About Tilray Brands

Tilray Brands, Inc. (Nasdaq: TLRY; TSX: TLRY), is a leading global cannabis-lifestyle and consumer packaged goods company with operations in Canada, the United States, Europe, Australia, and Latin America that is changing people's lives for the better – one person at a time. Tilray Brands delivers on this mission by inspiring and empowering the worldwide community to live their very best life and providing access to products that meet the needs of their mind, body, and soul while invoking wellbeing. Patients and consumers trust Tilray Brands to deliver a cultivated experience and health and wellbeing through high-quality, differentiated brands and innovative products. A pioneer in cannabis research, cultivation, and distribution, Tilray Brands' unprecedented production platform supports over 20 brands in over 20 countries, including comprehensive cannabis offerings, hemp-based foods, and craft beverages.

For more information on Tilray Brands, visit www.Tilray.com and follow @Tilray

Cautionary Statement Concerning Forward-Looking Statements

Certain statements in this communication that are not historical facts constitute forward-looking information or forward-looking statements (together, "forward-looking statements") under Canadian securities laws and within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, that are intended to be subject to the "safe harbor" created by those sections and other applicable laws. Forward-looking statements can be identified by words such as "forecast," "future," "should," "could," "enable," "potential," "contemplate," "believe," "anticipate," "estimate," "plan," "expect," "intend," "may," "project," "will," "would" and the negative of these terms or similar expressions, although not all forward-looking statements contain these identifying words. Certain material factors, estimates, goals, projections or assumptions were used in drawing the conclusions contained in the forward-looking statements throughout this communication. Forward-looking statements include statements regarding our intentions, beliefs, projections, outlook, analyses or current expectations concerning, among other things: accretion related to the HEXO transactions; expected production efficiencies, strengthened market positioning and potential cost saving synergies resulting from the transactions and agreed commercial arrangements; the Company's ability to commercialize new and innovative products; and HEXO management's stated expectations for its operational turnaround and growth in global markets. Many factors could cause actual results, performance or achievement to be materially different from any forward-looking statements, and other risks and uncertainties not presently known to the Company or that the Company deems immaterial could also cause actual results or events to differ materially from those expressed in the forward-looking statements contained herein. For a more detailed discussion of these risks and other factors, see the most recently filed Annual Report on Form 10-K (and other periodic reports filed with the SEC) of Tilray Brands made with the SEC and available on EDGAR. The forward-looking statements included in this communication are made as of the date of this communication and the Company does not undertake any obligation to publicly update such forward-looking statements to reflect new information, subsequent events or otherwise unless required by applicable securities laws.

For further information:

Media: Berrin Noorata, news@tilray.com
Investors: Raphael Gross, +1-203-682-8253, Raphael.Gross@icrinc.com