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## **UNANIMOUS SHAREHOLDERS AGREEMENT**

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**UNANIMOUS SHAREHOLDERS AGREEMENT**

THIS AGREEMENT made the • day of •, 199•, by and among • (“•”), • (“•”), • (“•”) and • (the “Corporation”).

**RECITALS:**

A. The Corporation was incorporated under the Business Corporations Act R.S.O. 1990, c.B.16, or a predecessor of that legislation, by Articles of Incorporation effective •, as amended by Articles of Amendment effective •, and it carries on the business of a holding corporation, and is authorized to issue • special shares (• votes per share), an unlimited number of preference shares (non-voting) and • common shares (• vote per share), all without nominal or par value, of which only • special shares, • preference shares and • common shares have been issued and allotted as fully paid and non-assessable.

B. At the date hereof the Shareholders of the Corporation and their respective shareholdings are as follows:

<u>Shareholder</u>	<u>Special Shares</u>	<u>Preference Shares</u>	<u>Common Shares</u>
•	•	•	•
•	•	•	•
•	•	•	•
•	•	•	•

C. All of the issued Shares are beneficially owned by the Shareholder in whose name the Shares are registered.

D. The Parties believe it to be in the best interests of the Shareholders and the Corporation to enter into this Agreement and to provide for the orderly succession of management of the Business and for the governance of the business and affairs of the Corporation from and after the respective Effective Dates set out herein and to govern the relationship between the Shareholders.

**WITNESSETH:**

NOW THEREFORE in consideration of the sum of \$1 of lawful money of Canada paid by each of the Parties hereto to the other and in consideration of the mutual covenants and obligations herein contained, the receipt and sufficiency whereof are hereby acknowledged, it is agreed by and between the Parties effective as of the Effective Date, as follows:

**ARTICLE 1**  
**INTERPRETATION**

1.1 **Definitions** - In this Agreement, unless the context otherwise requires, the following words and terms shall have the meanings ascribed to them as follows:

“**Act**” means the Business Corporations Act R.S.O. 1990, c.B.16;

“**Affiliate**” means an affiliate within the meaning of the Act;

“**Arm’s Length**” shall have the meaning ascribed to that term for the purposes of the Income Tax Act (Canada);

“**Articles**” means the Articles of the Corporation and the term shall have the meaning ascribed to it in s.1(1)3 of the Act;

“**Board**” means the board of directors of the Corporation;

“**Business**” means the Corporation’s business described in paragraph A of the recitals herein;

“**Business Day**” means a day which is not a Saturday or a Sunday or a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario;

“**Corporation**” includes any successor to the Corporation resulting from any amalgamation, mergers, arrangement or other re-organization of or including the Corporation or any continuance under the laws of another jurisdiction;

“**Effective Date**” means the date or time on which the Article of this Agreement to which the term relates becomes effective and operative pursuant to the provisions of Section 11.1;

“**Encumbrances**” means mortgages, charges, pledges, security interests, liens, encumbrances, actions, claims, demands and equities of any nature whatsoever or howsoever arising and any rights or privileges capable of becoming any of the foregoing, and with respect to properties “Encumbrances” shall also include leases, licenses, rights of use, rights of occupancy, rights of possession, reservations, restrictions, easements, rights-of-way, encroachments, construction lien claims and profits-a-prendre;

“**First Refusal Notice**” shall have the meaning ascribed to that term in Section 7.2;

**“Generally Accepted Accounting Principles”** or **“GAAP”** means those accounting principles which are recognized as being generally accepted in Canada from time to time as set forth in the Handbook published by the Canadian Institute of Chartered Accountants;

**“Incompetent or Incapacitated Person”** means a person not able to manage his or her own financial or personal affairs as that term is defined in the Substitute Decisions Act, 1992, S.O. 1992, c.30;

**“Offeree”** shall have the meaning ascribed to that term in Section 8.4;

**“Offeror”** shall have the meaning ascribed to that term in Section 8.4;

**“Parties”** means •, •, •, the Corporation and the respective heirs, Personal Representatives, and successors of each of them, collectively, and **“Party”** means any one of them;

**“Person”** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

**“Personal Representative”** means the executor or administrator of a deceased Party duly appointed by a court or public authority having jurisdiction to do so and if no such executor or administrator is appointed that term means and includes the executor or trustees, if any, named in the last will and testament of a deceased Party and the heirs at law of the deceased Party;

**“Piggy-Back Offer”** shall have the meaning ascribed to that term in Section 7.6;

**“Prime Rate”** means the rate of interest per annum established and reported by the Corporation’s principal bank to the Bank of Canada from time to time as a reference rate of interest for the determination of interest rates that the Corporation’s principal bank charges to customers of varying degrees of credit worthiness in Canada for Canadian dollar loans made by it in Canada;

**“Related To”** and similar references in relation to any Person includes, with respect to any individual, any current or former spouse and any parent, grandparent, lineal descendant, sibling, cousin, nephew, aunt or uncle (either by blood or adoption) of such individual or spouse, and any corporation, partnership, trust or other entity controlled, directly or indirectly by any one or more of such Persons, alone or in combination and, with respect to any corporation, partnership, trust or other entity, any Person or related group of Persons who or which controls, is controlled by or is under common control with such corporation, partnership, trust or other entity;

**“Securities”** means Shares and any other securities issued by the Corporation and which carry a residual right to participate in the earnings of the Corporation, and upon liquidation or winding-up of the Corporation, in its assets, and any instrument of the Corporation that is convertible into such securities or that evidences the right to acquire such securities;

**“Selling Shareholder”** shall have the meaning ascribed to that term in Section 7.2;

**“Shares”** means the voting special shares and voting common shares of the Corporation at the date hereof and includes any shares or securities into which voting special shares and voting common shares may be converted or changed or which result from a consolidation, subdivision, reclassification or redesignation of voting special shares and voting common shares, any shares or securities which are received as a stock dividend or distribution payable in shares or securities of the Corporation, any shares received on the exercise of any option, warrant or other similar right and any shares or securities which may be received by the Parties or bound hereby as a result of an amalgamation, merger, arrangement or other re-organization of or including the Corporation, and where the context permits, includes any instrument of the Corporation that is convertible into Shares or evidences the right to acquire Shares;

**“Shareholders”** means • and • and the heirs, Personal Representatives, and successors, respectively, of each of them; and, **“Shareholder”** means either one of them;

**“Shareholder’s Debt”** means indebtedness which is owed by the Corporation and/or an Affiliate to a Shareholder for advances or loans made by such Shareholder to the Corporation and/or an Affiliate with the consent of the other Shareholders in accordance with the provisions of Section 6.6;

**“Shot-Gun Notice”** shall have the meaning ascribed to that term in Section 8.4;

**“Third Party”** shall have the meaning ascribed to that term in Section 7.2;

**“Third Party Offer”** shall have the meaning ascribed to that term in Section 7.2;

**“Transfer”** includes any sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, Encumbrance, grant of security interest or other arrangement by which possession, legal title or beneficial ownership passes from one Person to another, or to the same Person in a different capacity, whether or not voluntary and whether or not for value, and any agreement to effect any of the foregoing; and the words “Transferred”, “Transferring” and similar words have corresponding meanings.

1.2 **Recitals** - Each Party represents and warrants to the others that the recitals in this Agreement are true and correct; and, that all representations and warranties contained therein insofar as they relate to it are true and correct as of the date of this Agreement except to the extent the provisions thereof have been carried out as provided for therein.

1.3 **Interpretation** - For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) “this Agreement” means this Unanimous Shareholders Agreement as it may from time to time be supplemented or amended;

(b) any references in this Agreement to a designated Recital, Article, Section, Schedule, Exhibit or other subdivision thereof is to the designated Recital, Article, Section, Schedule, Exhibit or other subdivision of this Agreement;

(c) the table of contents preceding this Agreement is included for convenience of reference only and shall not be considered to be part of this Agreement;

(d) the Schedules listed in the table of contents and which are attached to this Agreement shall be deemed to be a part of this Agreement and are incorporated herein by this reference;

(e) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Schedule, Exhibit or other subdivision of this Agreement;

(f) all terms used herein which are denoted with initial capital letters shall have the meanings assigned to them by Section 1.1;

(g) the headings are for convenience only and do not form a part of this Agreement nor are they intended to interpret, define or limit the scope, extent or intent of this Agreement or any provisions hereof;

(h) the word “include” or “including”, when following any general statement, term or matter, is not to be construed to limit such general statement, term or matter to the specific items or matters set forth immediately following such word or similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather refers to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter;

(i) all accounting terms not otherwise defined herein shall have the meanings assigned to them by generally accepted accounting principles as applied in Canada and all financial computations made and all financial information prepared pursuant to this Agreement relating to the financial position of the Corporation shall be made and prepared in accordance with generally accepted accounting principles as applied in Canada, consistently applied;

(j) unless otherwise indicated herein, all dollar amounts are expressed in Canadian Funds;

(k) any reference to a statute, except where otherwise expressly provided, shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, as they may be amended from time to time, and to any successor legislation thereto;

(l) any reference to an entity shall include and shall be deemed to be a reference to any entity that is a successor to such entity;

(m) words in the singular number include the plural and such words shall be construed as if the plural had been used; words in the plural include the singular and such words shall be construed as if the singular had been used, and words importing the use of any gender shall include all genders where the context or party referred to so requires, and the rest of the sentence shall be construed as if the necessary grammatical and terminological changes had been made;

(n) whenever any action to be taken hereunder shall be stated to be required to be taken on a day other than a Business Day, such action shall be taken on the next succeeding Business Day; and

(o) the Parties acknowledge that their respective legal counsel have reviewed and participated in settling the terms of this Agreement, and the Parties hereby agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the interpretation of this Agreement.

1.4 **Choice of Law and Attornment** - This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties to this Agreement agree that, subject to the provisions of Article Twelve, the courts of the Province of Ontario will have exclusive jurisdiction to determine all disputes and claims arising between and among them.

1.5 **Effective Date of Agreement** - The Parties do not intend all of the provisions hereof to become effective immediately upon the execution and delivery of this Agreement by the Parties. The Parties intend that the provisions of Article Eleven shall determine the date and/or time that each Article is to be effective, and that each Section hereof shall be deemed to be made subject to the provisions of Section 11.1.

## ARTICLE 2

### IMPLEMENTATION OF AGREEMENT

2.1 **Shareholders Agreement** - This Agreement is a unanimous shareholders agreement made pursuant to s.108 of the Act and to the extent that this Agreement specifies that, after the applicable Effective Date, any matters may only be or shall be dealt with or approved by or shall require action by the Shareholders, the discretion and powers of the directors of the Corporation to manage and to supervise the management of the Business and affairs of the Corporation with respect to such matters from and after such Effective Date are correspondingly restricted so that all of such matters require attention and action by the Shareholders of the Corporation.

2.2 **Shareholders Covenant** - The Shareholders shall at all times carry out and cause the Corporation to carry out the provisions of this Agreement.

2.3 **Voting by Nominee Directors** - The nominee directors of each of the Shareholders (if any), so long as they are directors of the Corporation and to the extent that each Shareholder is permitted by law to bind their nominees to do so, will act and vote as directors in order that the purpose, intent and provisions of this Agreement shall be carried out.

2.4 **Covenant of •, •, the Corporation and • - •, •, the Corporation and •** each confirm that they have knowledge of this Agreement and the covenants contained herein and they each agree to carry out and be bound by the provisions hereof to the full extent that they have the capacity and power at law to do so.

### ARTICLE 3

#### DIRECTORS

3.1 **Directors of the Corporation** - The Board shall consist of three (3) directors. • shall be entitled to designate two (2) directors and • shall be entitled to designate the remaining director. A majority of the directors shall be resident Canadians as that term is defined in the Act and all nominees shall be individuals who are not disqualified under the Act from acting as directors. If a director ceases to be a director for any reason (a “retiring director”), the Shareholders shall fill the vacancy thereby created by appointing as soon as reasonably possible that individual who is designated by the Shareholder who designated the retiring director. Until the vacancy is filled, the directors shall not transact any business or exercise any of their powers or duties. If any Person entitled to do so fails for any reason to nominate an individual to fill the vacancy within fifteen (15) days after the vacancy occurs, the remaining directors shall appoint an individual to fill the vacancy. In the event of the proposed removal of any director, each Shareholder agrees to vote for such removal if, and against such removal unless, it has been proposed or approved by the shareholder who designated such director.

3.2 **Meetings of Board** - The Board shall meet at least once in every calendar quarter at such place as the directors unanimously agree upon from time to time and if they cannot agree at the Corporation’s registered office. Meetings of the Board may be called by the President, the Vice-President or by any two directors of the Corporation upon not less than two Business Days notice, which notice shall contain a statement describing the business proposed to be transacted at such meeting. A director may participate in a meeting of the Board by means of a conference telephone or other communications equipment by which all persons participating in the meeting can hear each other, and each Shareholder shall cause its nominees to the Board to consent accordingly.

3.3 **Quorum** - A quorum for a meeting of the Board shall be two (2) directors.

3.4 **Decisions of Directors** - Except to the extent the powers of the Board are restricted by this Agreement, in order to be effective, a decision of the Board must be made by either a resolution passed by the affirmative vote of not less than a majority of the directors present and constituting a quorum at a meeting of the Board duly called or by an instrument signed by all of the directors.

3.5 **Casting Vote** - The chairman of a meeting of the Board shall not have a second or casting vote.

3.6 **Officers of the Corporation** - The officers of the Corporation shall be a President, Vice-President, Secretary and Treasurer. • shall be entitled to designate the President, Secretary and Treasurer and • shall be entitled to designate the Vice-President.

3.7 **Day to Day Operations** - The day to day operation of the Business will be subject to the direction and control of the President.

3.8 **Execution of Documents** - Contracts, obligations and other instruments of the Corporation shall require the signature of any two directors or officers or a director and an officer. In addition, the Board may from time to time direct the manner in which the Persons by whom any particular instrument shall be signed provided that two signatures shall be required at all times.

## ARTICLE 4

### SHAREHOLDERS

4.1 **Meetings of Shareholders** - The Shareholders shall meet at least once in each year. Meetings of Shareholders shall be held in such place, inside or outside Canada, as the Board designates and may be called by the President, Vice-President or any two directors upon not less than 10 Business Days' notice.

4.2 **Quorum** - A quorum for the transaction of business at any meeting of Shareholders shall be at least two (2) Shareholders present in person holding or representing by proxy at least sixty-seven (67%) per cent of the total number of issued Common Shares. If at any meeting of Shareholders (the "first meeting") a quorum shall not be present, then, notwithstanding anything herein contained, the Shareholders present at such meeting may call a supplementary meeting of Shareholders (the "second meeting") on not less than ten Business Days' notice to each Shareholder, the form and content of which notice shall conform to the requirements of the Act. A quorum for the transaction of the business at the second meeting shall be at least two Persons present in person and holding or representing by proxy at least fifty (50%) per cent of the total number of issued Common Shares. The Shareholders shall not proceed with the business of a meeting in the absence of a quorum of the Shareholders notwithstanding that a quorum was present at the opening of the meeting.

4.3 **Voting** - At each meeting of Shareholders every question shall be determined by a majority of votes of all the Shares cast on the question. The chairman of a meeting of the Shareholders shall not have a second or casting vote.

4.4 **Decisions of Shareholders** - In order to be effective, a decision by the Shareholders must be made by either a resolution passed by the affirmative vote of a meeting of the Shareholders as provided in Section 4.3 or by an instrument signed by all the Shareholders.

## ARTICLE 5

### RESTRICTIONS ON POWERS OF DIRECTORS

5.1 **Restrictions** - The powers of the Board to manage, supervise or deal with the management of the Business and the business and affairs of the Corporation shall be restricted and the exercise of the following powers shall be reserved unto and only authorized by the Shareholders:

- (a) the power to amend the Articles or to make, amend or repeal any by-law;
- (b) to issue, or to enter into any agreement to issue any Shares of any class or any securities convertible into Shares of any class or any Securities or to grant any option or other right to purchase any Shares or securities convertible into Shares or any Securities;
- (c) to redeem, purchase for cancellation or otherwise retire any outstanding Shares of any class or any Securities;
- (d) to declare or pay any dividends or make any distribution, whether in cash, in stock or in specie, on any outstanding Shares of any class;
- (e) to create, assume, have outstanding or become liable for any borrowing in any amount or amounts or create any Encumbrance on any of the assets of the Corporation;
- (f) to give security for or guarantee, or otherwise become liable or give any support in respect of, any debt, liability or obligation of any Person;
- (g) to take, hold, subscribe for or agree to purchase or acquire shares of any company or take or have any interest in a joint venture or partnership or similar undertaking;
- (h) to enter into, amend or terminate any contract, agreement or commitment with any Shareholder or any Affiliate of any Shareholder or any Person Related To a Shareholder, except •;

(i) to repay any principal outstanding on any Shareholder's Debt or on any loan made to the Corporation by any Shareholder or any Affiliate of any Shareholder or by any Person Related To or who does not deal at Arm's Length with any Shareholder or pay interest on any such loans, other than in accordance with the terms of a written agreement approved by the Shareholders;

(j) to make any payment or advance to a Shareholder or any Affiliate of a Shareholder or any Person Related To or who does not deal at Arm's Length with a Shareholder, except for •, the management contract referred to in Article Ten, and for salary and/or commissions payable in the ordinary course of business in accordance with employment arrangements approved by all the Shareholders;

(k) to Transfer all or a substantial part of the undertaking of the Corporation or amalgamate or merge with or into any other company or apply to be continued as a company under the laws of any other jurisdiction;

(l) to take or institute any proceedings for the bankruptcy, winding-up, re-organization or dissolution of the Corporation or to acknowledge its insolvency or consent to the enforcement by any secured creditor of its security;

(m) to depart from any of the provisions of Subsections (a) to (l) of this Section 5.1; or

(n) to permit any Affiliate to do any of the matters contemplated by Subsections (a) to (c), inclusive, (f), (h), and (j) to (m), inclusive, of this Section 5.1.

5.2 **Shareholders Majority Approval Required** - A decision of the Shareholders to exercise any of the powers reserved to the Shareholders under Subsections (d), (e), (g) and (i) of Section 5.1, shall be effective if made by a majority of votes cast on the question as provided in Sections 4.3 and 4.4.

5.3 **Shareholders Unanimous Approval Required** - Except as provided in Section 5.2, the Shareholders shall not authorize or permit the Corporation to exercise any of the powers reserved to the Shareholders under Section 5.1 unless all the Shareholders consent in writing thereto.

## ARTICLE 6

### FINANCIAL MATTERS

6.1 **Financial Year** - The financial year of the Corporation shall end on 31 December in each year.

6.2 **Auditor** - The auditor of the Corporation shall be a chartered accountant licenced to practice in the Province of Ontario and shall be its auditor until changed by the Shareholders.

6.3 **Books of Account** - In addition to the books and records required by the Act, books of account and other records shall be kept on an accrual basis all in accordance with GAAP in which shall be entered fully and accurately all transactions affecting the Corporation. All of such books and records shall be maintained at the registered office and shall be open to inspection and examination by each Shareholder and its properly authorized representatives during business hours upon reasonable notice for the purpose of audit or otherwise.

6.4 **Financial Statements** - The following shall be prepared and delivered to each director of the Corporation and to each Shareholder:

(a) audited financial statements of the Corporation and of each of its subsidiaries and an audited consolidated financial statement of the Corporation, prepared in accordance with GAAP, consistently applied, showing the results of the operation of its business and affairs for each financial year, within 90 days after the end of each financial year; and

(b) a separate report of the auditors setting out any default under any material contract or any breach of representation or warranty under any material contract known to them as a result of their audit.

6.5 **Tax Returns** - Each Shareholder shall be supplied with copies of all tax returns and of all other filings made by the Corporation and each of its Affiliates pursuant to the Income Tax Act (Canada), the laws of any province, municipality and other jurisdiction (domestic and foreign) requiring a tax return to be filed, promptly after they are filed.

6.6 **Additional Capital and Loans** - Neither Shareholder shall be obligated to make any further capital contributions or loans to the Corporation. If the Shareholders determine that additional funds are required by the Corporation for capital acquisitions, payments on debt, working capital or other legitimate Corporation purposes (the "Amount"), the Amount shall be obtained, to the extent possible, from the Corporation's retained earnings (if any) or by either term financing from conventional lending institutions or by borrowing from a bank or other lender acceptable to the Board. If there are no surpluses or the Corporation is unable to borrow the Amount upon terms acceptable to the Board then, subject to the provisions of Section 6.7, any Shareholder may (but shall not be obligated) with the consent of the other Shareholder, advance the whole or part of the Amount to the Corporation or pay the same to third parties for the benefit of the Corporation and the Amount advanced shall be deemed to be a Shareholder's Debt.

6.7 **Shareholders Debts** - A Shareholder's Debt created pursuant to the provisions of Section 6.6 shall be upon such terms and conditions as are unanimously agreed upon in writing by the Shareholder making the loan, the other Shareholder and the Corporation.

## ARTICLE 7

### RIGHT OF FIRST REFUSAL

7.1 **Transfer of Securities Prohibited** - The Transfer of Securities by a Shareholder is prohibited except as expressly provided by this Agreement.

7.2 **First Refusal Notice** - Subject to Section 7.5, if a Shareholder (a "Selling Shareholder") receives from a Person with whom the Selling Shareholder is dealing at Arm's Length (a "Third Party") a bona fide offer (a "Third Party Offer") to purchase all, but not less than all, of the Securities and Shareholder's Debt, if any, held by the Selling Shareholder for cash and the Selling Shareholder is willing and able to accept the Third Party Offer, the Selling Shareholder shall give notice thereof (the "First Refusal Notice") to the other Shareholder. A Third Party Offer shall not provide for any consideration other than cash consideration. The First Refusal Notice shall state that the Selling Shareholder has received an offer which he or she is willing and able to accept, and that the offer is bona fide and is made by a Person with whom the Selling Shareholder is dealing at Arm's Length and shall be accompanied by a copy of the Third Party Offer and details as to the identity and business of the Third Party and of any Person who controls the Third Party and by a copy of the Piggy-Back Offer referred to Section 7.6.

7.3 **Other Shareholders Rights** - The Other Shareholder shall have the right, exercisable by notice given to the Selling Shareholder within thirty (30) days after receipt of the First Refusal Notice: (a) to agree to purchase all the Securities and Shareholder's Debt, if any, held by the Selling Shareholder on the terms and conditions contained in the Third Party Offer; or, (b) to agree that the Selling Shareholder may sell all the Securities held by it to the Third Party on the terms and conditions contained in the Third Party Offer and to exercise the piggy-back right by accepting the Piggy-Back Offer. If no notice is given by the Other Shareholder under this Section, the Other Shareholder shall be deemed to have given the notice referred to in Subsection 7.3(b).

7.4 **Completion of Purchase and Sale** - If the Other Shareholder gives the notice referred to in Subsection 7.3(a), the purchase by the Other Shareholder of the Securities and Shareholder's Debt, if any, held by the Selling Shareholder shall be completed in accordance with the terms of the Third Party Offer. If the Other Shareholder gives the notice referred to in Subsection 7.3(b) the sale of the Securities and Shareholder's Debt, if any, by the Selling Shareholder and the Other Shareholder to the Third Party shall be completed concurrently in accordance with the terms of the Third Party Offer and the Piggy-Back Offer, respectively.

7.5 **Restriction on Exercise of First Refusal** - A Shareholder shall not be entitled to deliver a First Refusal Notice during the period from the date on which either Shareholder delivers a Shot-Gun Notice to the other Shareholder pursuant to the provisions of Section 8.4 to the date which is fifteen (15) days after the date for completion of the transaction provided for in Section 9.2. After the expiry of such period, if the transaction provided for in Section 9.2 is not completed, a Shareholder shall be entitled to deliver a First Refusal Notice.

7.6 **Piggy-Back Right** - A Shareholder shall not be entitled to deliver a First Refusal Notice unless the Third Party Offer contains, or is accompanied by, an offer by the Third Party to purchase all the Securities and Shareholder's Debt, if any, held by the Other Shareholder (the "Piggy-Back Offer"). The Piggy-Back Offer shall contain terms and conditions identical to those contained in the Third Party Offer, except that the obligations of the Third Party under the Piggy-Back Offer may be conditional upon completion of the transaction contemplated by the Third Party Offer. The Piggy-Back Offer shall be irrevocable and shall be open for acceptance by the Other Shareholder for the thirty (30) day period referred to in Section 7.3.

7.7 **Effect of Prohibited Transfer** - A Transfer of any Shares in violation of the provisions of Section 7.1 shall not be valid and the Corporation shall not register, nor permit any transfer agent to register, any of such Shares on the securities register of the Corporation, nor shall any voting rights attaching to or relating to such Shares be exercised, nor shall any purported exercise of such voting rights be valid or effective, nor shall any dividend or distribution be paid on such Shares and the holder of such Shares agrees to donate and hereby donates to the Corporation all dividends and distributions paid or made on such Shares.

## ARTICLE 8

### DEADLOCK

8.1 **Notice of Deadlock** - In the event the Shareholders become deadlocked in any decision requiring a unanimous vote of the Shareholders under Section 5.1, either Shareholder may deliver notice in writing to the other Shareholder of the existence of a deadlock and invoke the provisions of this Article.

8.2 **"Cooling-Off" Period** - Upon delivery of a notice pursuant to Section 8.1, each Shareholder shall consider the deadlocked matter for a thirty (30) day "cooling-off" period which shall commence on the date the deadlock notice is received by the other Shareholder. Upon the expiration of such thirty (30) day period either Shareholder may deliver notice in writing to the other Shareholder that the deadlock is irreconcilable.

8.3 **Mediation** - Upon delivery of a notice pursuant to Section 8.2, the Shareholders agree to attempt to settle the deadlocked matter by submitting the same to non-binding mediation with a mediator [**Discuss how he is to be selected**]. The cost of mediation shall be paid by the Corporation as a Corporation expense. Each Shareholder shall bear its own counsel's fees in such mediation.

8.4 **Shot-Gun** - After mediation, but not in any other case, if the Shareholders remain deadlocked, either Shareholder (the "Offeror") may deliver a notice in writing to the other Shareholder signed by the Offeror containing an offer to the other Shareholder (the "Offeree") to purchase all (but not less than all) of the Securities and Shareholder's Debt, if any, held by the Offeree at a purchase price set forth therein payable in cash and an offer to the Offeree to sell all

(but not less than all) of the Securities and Shareholder's Debt, if any, held by the Offeror at the same purchase price and on the same terms of payment (the "Shot-Gun Notice"). A Shot-Gun Notice shall not provide for any consideration other than cash consideration and shall stipulate a date for completion of the resulting sale or purchase.

8.5 **Manner of Acceptance of Offer** - The Offeree may accept one of the offers contained in the Shot-Gun Notice by delivering a notice in writing to the Offeror within forty-five (45) days after receipt of the Shot-Gun Notice.

8.6 **Acceptance of Offer to Purchase** - If the Offeree accepts the offer made by the Offeror to purchase all the Securities and Shareholder's Debt, if any, held by the Offeree or is deemed, under this Section 8.6, to have accepted such offer, the Offeree shall sell, and the Offeror shall purchase, all the Securities and Shareholder's Debt, if any, held by the Offeree at the price and on the terms of payment set out in the Shot-Gun Notice. If the Offeree does not accept either of the offers contained in the Shot-Gun Notice within the forty-five (45) day period referred to in Section 8.5, the Offeree shall be deemed to have accepted the offer made by the Offeror to purchase all the Securities and Shareholder's Debt, if any, held by the Offeree at the price and on the terms of payment set out in the Shot-Gun Notice.

8.7 **Acceptance of Offer to Sell** - If the Offeree accepts the offer made by the Offeror to sell all the Securities and Shareholder's Debt, if any, held by the Offeror, the Offeree shall purchase, and the Offeror shall sell, all the Securities and Shareholder's Debt, if any, held by the Offeror at the price and on the terms of payment set out in the Shot-Gun Notice.

8.8 **Further Restriction on Exercise of Shot-Gun** - After a Shareholder has delivered a Shot-Gun Notice pursuant to Section 8.4, the other Shareholder shall not be entitled to deliver a Shot-Gun Notice.

## ARTICLE 9

### CLOSING PROCEDURES

**Closing Procedures** - If a purchase and sale of Securities is made pursuant to this Agreement, the following provisions shall apply unless it is otherwise expressly provided herein:

9.1 **Payment of Purchase Price, etc.** - The purchase price shall be paid on closing by negotiable cheque certified by a Canadian chartered bank or trust company or official bank draft drawn on a Canadian chartered bank against receipt by the purchaser of the share certificate or certificates and other instruments representing the Securities being purchased, duly endorsed for transfer in blank with signatures guaranteed by a Canadian chartered bank or trust company, together with resignations by the vendor and his nominees, if any, as directors, officers and employees of the Corporation and releases in favour of the Corporation of all claims which such directors, officers and employees may have against the Corporation, other than in respect of any accrued and unpaid compensation to the closing date and accrued vacation pay.

9.2           **Closing Date and Time** - The date for completion of any transaction of purchase and sale shall be the completion date stipulated in the Third Party Offer or Shot-Gun Notice, as the case may be, or such other date that is agreed upon by the Shareholders. Closing shall take place at 11 AM on the date for completion at the registered office of the Corporation.

9.3           **Title** - The acceptance by the vendor of payment for the Securities, and Shareholder Debt, if applicable, being purchased and sold shall constitute a representation and warranty by the vendor that the vendor has good and marketable title to such Securities, and Shareholder Debt, if applicable, free and clear of any Encumbrance except under the terms of this Agreement. Notwithstanding the foregoing, the vendor shall deliver to the purchaser all such documents, instruments and releases and shall do all such acts and things as the purchaser may reasonably request, whether before or after completion of the transaction, to vest such title in the purchaser.

9.4           **Vendor Indebted to Corporation** - If, at the time of sale, the vendor is indebted to the Corporation, the purchaser shall have the right to satisfy such indebtedness out of the purchase price payable for the Securities and Shareholder Debt, if any.

9.5           **Assignment of Shareholder Debt** - If, at the time of sale, the Corporation is indebted to the vendor in respect of Shareholder Debt, the purchaser shall, concurrently with the completion of the sale, purchase such Shareholder Debt from the vendor and shall pay the price therefor to the vendor on closing in the manner provided in Section 9.1 against delivery of an assignment to the purchaser of such indebtedness, such assignment to be without recourse to the vendor and otherwise to be in form and substance satisfactory to the purchaser acting reasonably. Notwithstanding the foregoing, if the purchaser is the Corporation, the Corporation shall, concurrently with the completion of the sale, pay the amount of the Shareholder Debt owed to the vendor on closing in the manner provided in Section 9.1 against delivery of a release in favour of the Corporation of such indebtedness, such release to be in form and substance satisfactory to the Corporation, acting reasonably.

9.6           **Liability as Guarantor** - If, at the time of sale, the vendor is liable or responsible as a guarantor for any debts, liabilities or obligations of the Corporation, the purchaser shall use reasonable efforts to cause all such guarantees to be released at or before the time of sale and, if the purchaser is unable to effect the release of such guarantees, the purchaser shall execute and deliver in favour of the vendor an indemnity, in form and substance satisfactory to the vendor acting reasonably, whereby the purchaser agrees to indemnify and save harmless the vendor from all claims arising out of such guarantees. If the purchaser is the Corporation, the Shareholder whose Shares are not being purchased shall execute and deliver in favour of the vendor an indemnity in form and substance and to the same effect as provided in the immediately preceding sentence.

9.7           **Failure to Complete Sale** - If, at the time of closing, the vendor shall not complete the sale for any reason, the purchaser shall have the right to deposit the purchase price for the Securities and Shareholder Debt, if applicable, to be purchased and sold for the account of the vendor in an account with the bankers of the Corporation and such deposit shall constitute valid and effective payment of the purchase price to the vendor. Thereafter the purchaser shall have the right to execute and deliver any deeds, stock transfers, resignations, releases and other documents as

may, in the reasonable opinion of the purchaser, be necessary or desirable in order to complete the transaction. If payment of the purchase price is so deposited, then from and after the date of deposit, notwithstanding that certificates evidencing the Shares may not have been delivered to the purchaser, the records of the Corporation shall be amended accordingly and all right, title, benefit and interest, both at law and in equity, in and to the Securities, and Shareholder Debt, if applicable, shall be transferred and assigned to and become vested in the purchaser and all right, title, benefit and interest, both at law and in equity, of the vendor or of any transferee, assignee or any other Person having any interest therein, legal or equitable, in any capacity whatsoever shall cease.

9.8 **Purchaser Appointed as Attorney** - Each Shareholder hereby appoints, in the event that such Shareholder is a vendor of Securities or Shareholder Debt hereunder, the other Shareholder who may from time to time be a purchaser of Securities or Shareholder Debt hereunder, as the vendor's attorney, with full power of substitution, in the name of the vendor but on behalf of and at the expense of the purchaser, to execute and deliver all deeds, transfers, assignments and assurances necessary to effectively transfer the interest being sold to the purchaser or its nominees. Such appointment, being coupled with an interest, is irrevocable by each Shareholder and shall not be revoked by the insolvency, bankruptcy, death, incapacity, dissolution, liquidation or other termination of the existence of such Shareholder and each Shareholder agrees to ratify and confirm all that a purchaser may do or cause to be done pursuant to the foregoing. Each Shareholder consents to any transfer of Shares made pursuant to the foregoing.

9.9 **Taxes** - At the time of the sale, the vendor shall provide to the purchaser either: (a) a statutory declaration of the owner of the Securities being sold that such owner is not a non-resident of Canada for purposes of the Income Tax Act (Canada); or (b) a certificate from Revenue Canada under s.116 of such Act certifying that all taxes payable in connection with the transaction have been paid or that no taxes are payable in respect of the transaction; provided that if no declaration or certificate is delivered by the vendor, the purchaser shall be entitled to deduct from the purchase price payable to the vendor an amount equal to the amount of tax for which the purchaser may be liable (as determined solely by the purchaser) under the Income Tax Act (Canada).

9.10 **Extended Meaning of "Vendor"** - For the purposes of this Article, any reference to the vendor shall mean the registered holder or holders of the Securities being sold.

## ARTICLE 10

### MANAGEMENT CONTRACT AND DIVIDENDS

10.1 **Management Contract** - The Shareholders shall cause the Corporation and each of its Affiliates to enter into an agreement with • for the provision of consulting and/or management services by her to the Corporation and its Affiliates during her lifetime and for her to be paid salaries, management fees, bonuses and/or commissions in such amount as she and the Shareholders agree upon from time to time. Such agreement shall be in form and content approved by • from time to time, acting reasonably.

10.2 **Dividends, Salary, etc.** - The Shareholders, the Board and the Corporation shall, subject to the provisions of the Act, cause each of the Affiliates of the Corporation to declare and pay dividends annually in an amount equal to 75 per cent of the net earnings of each Affiliate, (the net earnings of each Affiliate shall be deemed to include all of the dividends received by it); and, in each year shall cause the Corporation to pay • salary, management fees, bonuses and/or commissions pursuant to the agreement referred to in Section 10.1 and dividends on the issued and outstanding special shares of the Corporation in an aggregate amount of not less than \$•; and, dividends of not less than \$• on the common shares of the Corporation.

## ARTICLE 11

### TERM AND TERMINATION OF THIS AGREEMENT

11.1 **Term of Agreement** - This Agreement and each Article thereof shall come into force and take effect on the following dates or at the following times (the “Effective Date”):

- (a) Articles One, Two, Seven, Nine, Eleven and Twelve on the date hereof; and
- (b) Articles Three, Four, Five, Six, Eight and Ten on the date that • becomes Mentally Incompetent or dies.

11.2 **Termination of Agreement** - This Agreement and each Article thereof shall terminate upon:

- (a) the agreement in writing of all the Shareholders;
- (b) one Shareholder becoming the beneficial owner of all of the Shares; or
- (c) when the Shares or any of them are listed on a national securities exchange or are regularly quoted in a market maintained by one or more members of a national or affiliated securities association. **[Discuss this provision]**

## ARTICLE 12

### ARBITRATION

12.1 **Arbitration** - In the event any dispute, claim, question or difference (a “dispute”) shall arise out of or relating to this Agreement or the breach, termination or invalidity thereof, the Parties hereto shall use their best endeavours to settle such dispute. They shall consult and negotiate with each other, in good faith and understanding of their mutual interests, to reach a just

and equitable solution satisfactory to all Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice by a Party to the other Parties the dispute shall be finally settled by arbitration in accordance with the provisions of the Arbitrations Act (Ontario) and the following provisions shall apply to the arbitration:

(a) the referral shall be to three arbitrators and in the case of any arbitrator to be selected by one or more other arbitrators or by a judge in accordance with such Act, such arbitrator shall be selected from the roster developed by the Canada-United States Trade Commission of individuals willing and able to serve as panellists in an arbitration under the United States-Canada Free Trade Agreement [Chapter 18];

(b) the UNCITRAL arbitration rules shall apply to the arbitration to the extent they are not inconsistent with the provisions of the Arbitrations Act (Ontario); and

(c) the dispute shall not be made the subject matter of any action in any court by any Party unless the dispute has been first submitted to arbitration and finally determined by the arbitrators. Any such action commenced thereafter shall only be for the purpose of enforcing the decision of the arbitrators and the costs incidental to the action. In any such action the decision of the arbitrators shall be conclusively deemed to determine the rights and liabilities as between the Parties to the arbitration in respect of the matter in dispute.

## ARTICLE 13

### GENERAL

13.1 **Endorsement on Certificates** - Share certificates of the Corporation shall bear the following language either as an endorsement or on the face thereof:

“The Shares represented by this certificate are subject to all the terms and conditions of an agreement dated •, 199•, made among the Shareholders of the Corporation and the Corporation, a copy of which is on file at the registered office of the Corporation.”

13.2 **Entire Agreement** - This Agreement constitutes the entire agreement between or among the Parties with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between or among the Parties with respect thereto. The execution of this Agreement has not been induced by nor do the Parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof; and there are no representations, warranties, terms, conditions, undertakings or

collateral agreements, express, implied or statutory, between or among the Parties other than as expressly set forth in this Agreement.

13.3           **Amendments and Waivers** - No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all of the Parties. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

13.4           **Subdivision, Consolidation, etc.** - The provisions of this Agreement shall apply to all Securities and to all Shares into which Securities or Shares may be converted or changed and to all shares resulting from a reclassification, subdivision or consolidation of any Securities or Shares and to all shares received as a dividend or on a merger, amalgamation, or combination, of the Corporation and to all Shares that may hereafter be issued by the Corporation.

13.5           **Assignment** - Neither this Agreement nor any part thereof shall be assignable by any Party.

13.6           **Severability** - If at any time subsequent to the date hereof, any provision of this Agreement shall be held by any court of competent jurisdiction to be illegal, void or unenforceable, such provision shall be of no force and effect and the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the enforceability of, any other provision of this Agreement and any provision held invalid shall be deemed to be revised and amended in such minimal manner as will under the revised terms be valid and legally effective consistent with the general tenor of the Agreement.

13.7           **Notices** - All notices and other communications required or permitted to be given hereunder shall be in writing and shall be given by prepaid first-class mail, by facsimile or other means of electronic communication or by delivery as hereafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, shall be deemed to have been received on the third Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications shall be delivered by hand or sent by facsimile or other means of electronic communication and shall be deemed to have been received in accordance with this Section. Notices and other communications shall be addressed as follows:

(a) If to • or •:  
•

(b) If to • and the Corporation:  
c/o •

Attention: President  
Telecopier No.:

With a copy to:

Sutts, Strosberg LLP  
Barristers and Solicitors  
600 Westcourt Place  
251 Goyeau Street  
Windsor, Ontario  
N9A 6V4  
Attention: •  
Telecopier No.: (519) 258-9527

(c) If to •:  
•

(d) If to •:  
•

13.8 **Time of the Essence** - Time shall be of the essence of this Agreement and every part thereof.

13.9 **Counterparts** - This Agreement may be executed by the Parties in separate counterparts each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

13.10 **Further Assurances** - The Parties shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated hereby, and each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

