**PARTICIPATING AND CONVERTIBLE DEBENTURE**

**[SPECIFY]**

**(Company incorporated under the [SPECIFY COMPANY ACT])**

**[SPECIFY AMOUNT] No.: [SPECIFY NUMBER]**

1. **PROMISE TO PAY**
   1. [SPECIFY]. (the “Company”), for value received, hereby recognises owing and promises to pay to [SPECIFY] (“[SPECIFY] “) or its authorised assignee, at the head office of [SPECIFY] or any other place which [SPECIFY] may communicate in writing from time to time to the Company:
      1. the principal amount of [AMOUNT SPECIFY CURRENCY] in [COUNTRY] legal currency (the “Principal Amount”) upon presentation and remittance of this Debenture which Principal Amount shall be calculated as set forth in Section 2.2 hereof and which is repayable following the terms and conditions set forth in this Debenture;
      2. for as long as [SPECIFY] holds this Debenture, the interest on the Principal Amount equals to a percentage of the aggregate dividends and other distributions declared on the [SPECIFY] shares of the share capital of the Company (the “[NUMBER] Shares”), calculated by dividing [SPECIFY] Shares by the total number of issued and outstanding [NUMBER] shares on a fully diluted basis (the “Interest”). Such Interest is payable on the date where the dividends declared on [SPECIFY] shares of the Company are payable. If no dividends are declared, then no interest shall be payable for a given year.
      3. For the purposes of this Debenture “fully diluted basis” means, when determining the issued and outstanding [SPECIFY Shares of the Company, the aggregate of all issued and outstanding [SPECIFY] Shares and the number of [SPECIFY] Shares that would be issued on the full exercise of all convertible debentures, options, warrants and other rights of any kind and whether or not contingent, to acquire [SPECIFY] Shares or to have [SPECIFY] Shares issued from treasury.
2. **REPAYMENT OF THE DEBENTURE**
   1. Unless [SPECIFY] (i) has previously requested the redemption of the aggregate of the Debenture in accordance with the provisions of Article 3, or (ii) has previously requested the conversion of the Debenture in accordance with Article 4, the Principal Amount is repayable concurrently with the exercise by [SPECIFY] of its Put Option described in Article [NUMBER] of the Unanimous Shareholders’ Agreement of the Company entered into as of the date hereof (the “Shareholders’ Agreement”). [SPECIFY] may request the repayment of this Debenture in [SPECIFY]‘s Put Notice, as defined in Article [NUMBER] of the Shareholders’ Agreement (the “Put Notice”) (the “Date of Repayment”***)***.
   2. The Principal Amount payable on the Date of Repayment pursuant to section 2.1 hereof shall be equal the Fair Market Value (as hereinafter defined) of [NUMBER] Shares of the Company on the Date of Repayment as if such shares were issued and outstanding on the Date of Repayment, even though such amount is less then the [AMOUNT] amount disbursed by [SPECIFY] as of the date hereof.
   3. For the purposes of this Debenture, Fair Market Value means: the fair market value of the shares of the Company, as determined by an independent evaluator, who must be an auditor with expertise in business evaluations, jointly designated by the Company and [SPECIFY]; in determining such fair market value; (i) no diminution or accretion in value shall be attributed to any majority or minority interest; in the event of failure to agree upon such an evaluator within [NUMBER] days of the date of the event by reason of which the evaluation is required to act hereunder, the Company and/or [SPECIFY] may apply to the arbitration as contemplated in the Shareholders Agreement; the evaluator shall deliver his report within [NUMBER] days of this appointment and his decision shall be final and binding upon all parties; all expenses incurred *in re*lation with the determination of the fair market value will be borne by the Company.
   4. Concurrently with the payment of the Principal Amount as set forth in paragraph 2.2, the Company shall pay [SPECIFY] any unpaid Interest, as of the Date of Repayment.
   5. The Company may not repay by anticipation all or any portion of the Principal Amount hereunder, without the prior written consent of [SPECIFY].
   6. Once the Debenture has been repaid in full, the Company shall be relieved of any and all obligations hereunder.
3. **REDEMPTION OF THE DEBENTURE AT THE OPTION OF [SPECIFY]**
   1. [SPECIFY] may request the Company to redeem the Debenture by remitting to the Company a written notice in accordance with Article 11 hereof at any time following the occurrence of an event of default as provided under Article 8 or a special event as provided under Article 9. (The date of the written notice is the “Date of Redemption”.)
   2. In the event of a default or a special event, the redemption price of the Debenture will be payable without delay by the Company to [SPECIFY] and shall be equal to the aggregate of (i) the Principal Amount as set forth in section 2.2 hereof (ii) the unpaid Interest, if any, as of the Date of Redemption.
   3. Once the Debenture has been redeemed in full, the Company shall be relieved of any and all obligations hereunder.
4. **RIGHT OF CONVERSION**
   1. [SPECIFY] shall have the right at its option, and at any time, to convert in full this Debenture into [SPECIFY] shares of the Company (the “Shares”) (or any other shares following the redesignation or reclassification of the Shares), by remitting the Debenture to the Company together with a notice of conversion in the form of the one attached hereto (the “Date of Conversion”) in the manner set forth under Article 11 hereof.
   2. Upon compliance by [SPECIFY] with the provisions of section 4.1, the [SPECIFY] Shares to be issued at the time of the exercise of the right of conversion conferred by this Debenture is deemed to have been issued and [SPECIFY] is deemed to become the registered holder of these Shares as of the Date of Conversion and the Company must make the necessary inscriptions in its registers.
   3. The Company must as soon as possible following the Date of Conversion but within a maximum period of [NUMBER] days remit to [SPECIFY] a share certificate registered in the name of [SPECIFY] for the [SPECIFY] Shares to which [SPECIFY] is entitled.
   4. At the time of the conversion of the Debenture, [SPECIFY] shall also be entitled, at its sole discretion, to receive in cash the unpaid Interest thereon, as the case may be, at the Date of Conversion.
   5. The Company shall pay all costs incurred in connection with the issue of the Shares arising from the exercise of the right of conversion.
   6. The Company undertakes towards [SPECIFY], as long as a right of conversion pertaining to the Debenture may be exercised, to:
      1. make all necessary steps and see to it that a sufficient number of Shares is authorised at all times for the purposes of issue in order to satisfy the terms of the right of conversion pertaining to the Debenture;
      2. ensure that all the Shares issued at the time of the exercise of the right of conversion are duly and validly issued as fully paid.
5. **REPRESENTATIONS AND WARRANTIES**
   1. In addition to the representations and warranties made pursuant to the Subscription Agreement entered into as of the date hereof which are hereby reiterated and repeated herein in favour of [SPECIFY], the Company represents and warrants to [SPECIFY] the following additional representations and warranties:
      1. the Company has all corporate powers and legal capacity required in order to execute and deliver this Debenture and to perform and satisfy all the conditions herein stipulated;
      2. all actions, steps and corporate proceedings of the Company necessary to approve and authorise it to execute and deliver this Debenture and perform all of its obligations hereunder have been duly and validly authorised and taken by the Company, its directors and, if required, its shareholders and no further actions, approvals or authorizations are required;
      3. the obligations of the Company pursuant to this Debenture are valid and binding obligations of the Company enforceable in accordance with its terms;
      4. the execution and delivery of this Debenture by the Company and the performance of its obligations hereunder will not result in the violation or default under any law, statute or regulation or under any of the terms and provisions of any agreement to which the Company is a party or by which it is bound and will not result in the loss of a right of a Company or the reduction of any right to which it is entitled; and
      5. without limiting the effect of other provisions of this Debenture, there is no fact or event, real or potential, which could materially adversely affect the assets, the financial situation or the business of the Company or that would be required to be disclosed so that [SPECIFY] shall not be mislead by the representations and warranties stipulated herein, such representations and warranties being true, accurate and complete as of the date hereof.
6. **UNDERTAKINGS OF THE COMPANY**
   1. For as long as this Debenture shall not have been completely repaid, redeemed or converted, the parties hereby undertake that there shall be no by-law, resolution or act of directors, shareholders or officers of the Company having any of the following objects or purposes without the prior written consent of [SPECIFY], namely:
      1. the issuance, distribution, transfer or redemption or shares (or other securities, including, without limitation, warrants and conversion rights) in the share capital of the Company;
      2. the filing of articles of amendment or any other change in the legal or corporate structure of the Company and any change, subdivision, consolidation, conversion, reclassification, or modification of any kind of outstanding shares of the Company;
      3. any reorganisation and any amalgamation, arrangement, merger or association of the Company with another person;
      4. any revocation, modification, adoption or re-enactment of any by-law of the Company;
      5. the declaration and payment of dividends provided that as long as the Convertible Debenture in outstanding, no dividends payable by the issuance of [NUMBER] Shares (stock dividend) shall be declared by the Company;
      6. the granting of any right or option to acquire shares in the share capital of the Company of any class (from treasury or otherwise) or security or commercial paper issuable as or convertible or exchangeable into shares;
      7. the creation or sale of any subsidiary;
      8. any change or proposed change in the nature or orientation of the Company’s business;
      9. the voluntary winding up, liquidation, dissolution or other modification of the corporate status of the Company and the renunciation of any contractual payments;
      10. the general assignment of property of the Company for the benefit of its creditors or the filing of a petition or proposal under the ([SPECIFY YOUR COUNTRY BANKRUPTCY ACT]);
      11. the acquisition of securities or any investment and the acquisition of other enterprises or assets outside the normal course of business of the Company;
      12. any decisions outside the normal course of business of the Company;
      13. the approval of the annual operating budget and any derogations or [%] per cent per item or [%] per cent in the aggregate therefrom and any operations not included in such budgets;
      14. any borrowing or lending of money or assumption or securing of an indebtedness (including from any third party) on the credit of the Company or the granting of any guarantee, mortgage, hypothec, prior claim, lien or other encumbrance on all or part of the assets or property of the Company;
      15. the hiring and firing of officers, and salaries, bonuses and other means of remuneration or any form of advance of money payable to the shareholders, directors and officers of the Company;
      16. transactions with directors, shareholders and related parties, including the reimbursement of advances;
      17. the institutions and settling of legal proceedings by the Company.
   2. [SPECIFY] agrees to respond to any written request with the appropriate supporting documentation for consent or approval hereinabove referred to as promptly as may be reasonably practicable. If [SPECIFY] does not respond to a written request for consent or approval within [NUMBER] Business Days (as defined in section 11.3) or receiving such written request, it shall be deemed to have refused the proposed action.
   3. The Company undertakes to insure its business and assets and shall keep its business and assets at all times insured against all risks of loss or damage caused by theft or fire and against any other risk that is customary to insure against or that a prudent administrator would insure against, the whole for the full insurable value of its business and assets. The Company shall provide [NUMBER] with a certificate of insurance or a copy of each policy and shall deliver a copy of its renewal or replacement or a certificate of insurance thereof at least [NUMBER] days before the expiry or termination of a policy.
   4. The Company shall protect, use and keep in good order its assets and shall carry out its activities in a way to preserve the value of its business and assets. The Company shall comply with the requirements of laws and regulations applicable to the carrying on of its business and the possession of its assets, including laws and regulations *in re*spect of the environment.
   5. The Company shall maintain such accounting books and records that a prudent administrator would maintain *in re*lation to its business and assets and it will permit [SPECIFY] to examine them and obtain copies of them.
   6. The Company shall provide [SPECIFY] with any information that it may reasonably require with respect to the Company’s operations or its assets to verify if the Company is in compliance with its undertakings and obligations provided hereunder. The Company shall immediately advise [SPECIFY] of any fact or occurrence, which may materially adversely affect its financial situation or the value of its assets.
7. **RIGHTS OF [SPECIFY]**
   1. In the event that the Company fails to observe or perform any of its obligations or undertakings under this Debenture, [SPECIFY] may, but shall not be obliged to, perform same and any costs or fees or expenses incurred in doing so or in exercising its rights arising under or pursuant to this Debenture, shall be forthwith due and payable by the Company to [SPECIFY], with interest at the annual rate of [%] per cent.
   2. In the event that the Company fails to observe or perform any of its obligations or undertakings under this Debenture, the Company hereby constitutes [SPECIFY] its irrevocable agent with power of substitution for the purposes of accomplishing any act or signing any document necessary or useful to the exercise of the rights conferred to [SPECIFY] hereunder.
   3. The rights conferred to [SPECIFY] pursuant to this Article 7 may also be exercised by [SPECIFY] after an event of default as described the Article 8 herein, by the Company under the terms of this Debenture (including the provisions relating to notices).
8. **DEFAULT**
   1. An event of default arises if:
      1. the Company does not pay the Interest provided herein in accordance with the provisions of paragraph 1.1.2 herein and that this default continues for a period of [SPECIFY] days following the receipt by the Company of a notice by [SPECIFY] to this effect;
      2. the Company fails to execute or observe any other undertaking, obligation or condition provided herein and that default continues for a period of [NUMBER] days following the receipt by the Company of a notice by [SPECIFY] to this effect;
   2. When an event of default occurs, [SPECIFY] may, at its option, exercise its rights by any action, recourse or proceeding authorised or permitted by law and may file its proof and other documents necessary or desirable in order for [SPECIFY]‘s request to be considered in any proceeding of liquidation or other *in re*lation with the Company.
   3. No recourse of [SPECIFY] to exercise its rights is subject to any other recourse, and the recourses of [SPECIFY] may be exercised independently or together.
   4. A delay or omission by [SPECIFY] to exercise one of its recourses does not invalidate such recourse and may not be interpreted as a waiver to the default.
   5. In each of the cases provided for this Article 8, unless a notice is provided for, the Company shall be in default by the mere lapse of time, without any notice putting the Company in default being required.
9. **SPECIAL EVENT**
   1. For the purposes of this Article 9:
      1. “Special event” means the sale by [SPECIFY] of part or all of its Shares following which [SPECIFY] would hold less than [%] per cent of all the outstanding Shares of the Company.
      2. “Offer” means an offer which [SPECIFY] has expressed his intention to accept regarding the [SPECIFY] shares of the Company and resulting in a special event.
   2. Within [NUMBER] days following an Offer, the secretary of the Company and [SPECIFY] shall notify [SPECIFY] that an Offer has been made by attaching to this notice a copy of the Offer as well as any other document that the Company or the secretary deems, at its discretion, useful or necessary in order to allow [SPECIFY] to exercise fully its rights pursuant to this Debenture.
10. **REPLACEMENT**
    1. If the Debenture is defaced, lost, destroyed or stolen, the Company must, subject to section 10.2, issue, sign and deliver a new Debenture bearing the same date, the same Principal Amount and the same contents as the defaced, lost, destroyed or stolen Debenture in exchange and *in re*placement of the latter and its cancellation.
    2. [SPECIFY] will assume the cost of issuance and shall also, as a condition of the issuance of the new Debenture, provide the Company with a solemn declaration of an officer of [SPECIFY] attesting that the Debenture was defaced, lost, destroyed or stolen, which declaration is to be deemed acceptable by the Company.
11. **NOTICE**
    1. Any notice or other communication which is required or permitted to be given hereunder shall be given in writing and shall be deemed properly given when delivered to its recipient, by either messenger, by mail, or by fax in which case said notice shall immediately thereafter be confirmed by mailed copy, when sent to the following addresses:

to:

[SPECIFY]

Telecopier: [SPECIFY]

Attention: [NAME]

to the Company:

[SPECIFY]

Telecopier: [SPECIFY]

Attention: [SPECIFY]

* 1. Any notice sent in accordance with this Debenture shall be deemed to be received by its recipient at the time of its delivery, if delivered by messenger, on the [NUMBER] Business Day following its sending by mail, or the Business Day after its sending by fax. However, if ordinary postal service or fax service is interrupted and such interruption is by reason of force majeure, the party sending said notice must use a service that has not been interrupted or send said notice by messenger to ensure prompt delivery of same. Any change of address may be given in the manner above described.
  2. For the purpose of this Debenture, “Business Day” means a day other than a [SPECIFY] Saturday, Sunday, statutory holiday in [STATE/PROVINCE] or [STATE/PROVINCE] or a day where banks are not opened for business in [STATE/PROVINCE] or [STATE/PROVINCE] and in the event that any action to be taken hereunder falls on a day which is not a Business Day, then such action shall be taken on the next succeeding Business Day.

1. **OTHER PROVISIONS**
   1. This Debenture will inure to the benefit of and be binding upon the successors and permitted assigns of [SPEFIFY].
   2. The rights and obligations arising hereunder may not be assigned by the Company.
   3. No party hereto may be obliged to receive any partial payment of the obligations of another party; but the acceptance of such partial payment shall not constitute a waiver of the remaining obligations.
   4. The division of this Debenture into articles and the insertion of headings are for ease of reference only and shall not affect its interpretation.
   5. The invalidity of all or any part of any provision of this Debenture shall not render invalid the remainder of that provision or of this Debenture. If any provision of this Debenture is so broad as to be unenforceable, such provision shall be interpreted and enforced only to the extent that such provision is enforceable.
   6. The renunciation by a party hereto to the breach of any provision of this Debenture by one or several parties shall not prevent said party from exercising any of its rights as a result of a subsequent breach of the said provision or of any other provision of this Debenture. A renunciation by a party to any provision of this Debenture shall be in writing; otherwise it shall not be deemed to be a renunciation.
   7. The Debenture is governed and interpreted in accordance with the laws in force in the Province of [STATE/PROVINCE] and any action or legal proceedings arising from it will be instituted before the courts of [STATE/PROVINCE], which will have exclusive competence to hear them.

IN WITNESS WHEREOF, the Debenture has been duly signed in the City of [CITY], Province of [STATE/PROVINCE], by the Company on [SPECIFY]

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

[NAME, TITLE]

**SCHEDULE**

**NOTICE OF CONVERSION**

**([YEAR, MONTH] Debenture No. [NUMBER] of [SPECIFY])**

The undersigned hereby elects to convert [AMOUNT] into [SPECIFY] shares under the conditions provided in the [SPECIFY] Debenture No. [SPECIFY].

On

[SPECIFY]

Per:

Witness: