

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM487900

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	CHANGE OF NAME		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Inocucor Technologies, Inc.		06/12/2018	Corporation: CANADA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Concentric Agriculture Inc.		
<b>Street Address:</b>	7220 Frederick-Banting, Suite 100		
<b>City:</b>	Montreal, Quebec		
<b>State/Country:</b>	CANADA		
<b>Postal Code:</b>	H4S2A1		
<b>Entity Type:</b>	Corporation: CANADA		
<b>PROPERTY NUMBERS Total: 9</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	5139949	INOCUCOR	
<b>Serial Number:</b>	86832381	POWERED BY INOCUCOR	
<b>Registration Number:</b>	5139951	INOCUL-M	
<b>Registration Number:</b>	5135468	INOCUCOR GARDEN SOLUTION	
<b>Registration Number:</b>	5135467	INOCUCOR: THE PHYTO-MICROBIOME COMPANY	
<b>Registration Number:</b>	5139952		
<b>Registration Number:</b>	5253657	SYNERGRO	
<b>Serial Number:</b>	87603868	SYNERGRO FREE	
<b>Serial Number:</b>	87707512	MICROBIAL MATTERS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	3126095005		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Email:</b>	hmilller@vedderprice.com		
<b>Correspondent Name:</b>	Holly Miller		
<b>Address Line 1:</b>	222 North LaSalle Street - 24th Floor		
<b>Address Line 2:</b>	Vedder Price P.C.		
<b>Address Line 4:</b>	Chicago, ILLINOIS 60601		
<b>ATTORNEY DOCKET NUMBER:</b>	48888000011		

CH \$240.00 5139949

<b>NAME OF SUBMITTER:</b>	Holly Miller
<b>SIGNATURE:</b>	/Holly Miller/
<b>DATE SIGNED:</b>	08/29/2018

**Total Attachments: 41**

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# Certificat de modification

Loi sur les sociétés par actions (RLRQ, chapitre S-31.1)

J'atteste que la société par actions

TECHNOLOGIES INOCUCOR INC.

et sa version

INOCUCOR TECHNOLOGIES INC.

a modifié ses statuts en vertu de la Loi sur les sociétés par actions afin de changer son nom  
et sa version pour

Agriculture Concentric Inc.

et sa version

Concentric Agriculture Inc.

et d'y intégrer les autres modifications mentionnées dans les statuts de modification ci-joints.

Le 12 juin 2018

Déposé au registre le 13 juin 2018 sous le  
numéro d'entreprise du Québec 1168000983.

*Yves Lapierre*  
Registraire des entreprises



## Statuts de modification

Numéro d'entreprise  
du Québec (NEQ) : **1168000983**

Loi sur les sociétés par actions, RLRQ, chapitre S-31.1

### 1 Identification de la société

#### Nom de la société par actions

TECHNOLOGIES INOCUCOR INC.

Version(s) du nom de la société dans une autre langue que le français, s'il y a lieu

INOCUCOR TECHNOLOGIES INC.

### 2 Modification des statuts

#### 2.1 Modification relative au nom

Nom de la société par actions

Agriculture Concentric Inc.

#### 2.2 Autres modifications

Voir Schedule ci-joint

#### 2.3 Date et heure à attribuer au certificat, s'il y a lieu

Date      Heure

### 3 Correction des statuts

### 4 Signature

Nom de l'administrateur ou du dirigeant autorisé

Donald R. Marvin

Signature électronique de

Donald R. Marvin

#### Réservé à l'administration

Numéro de référence de la demande : 020200058925611

Désignation numérique :

## Déclaration relative au nom

Nom de la société par actions : TECHNOLOGIES INOCUCOR INC.

Je, soussigné(e), Donald R. Marvin, déclare que des moyens raisonnables ont été pris afin de s'assurer que le nom choisi est conforme à la loi, et que je suis la personne autorisée à signer la présente déclaration.

Signature électronique de Donald R. Marvin

## **SCHEDULE**

The Schedule relating to the share capital of the Corporation attached to the Articles of amendment of the Corporation, for which a Certificate of amendment was issued on April 5, 2018, is repealed and replaced with the attached Schedule 2018-2 in order to provide for certain protective provisions in respect of the holders of Class B1 Exchangeable Shares.

The issued and outstanding shares, in the capital of the Corporation, immediately prior to the issuance of a Certificate of Amendment in respect of these articles, shall remain the same.

## SCHEDULE 2018-2

### DESCRIPTION OF SHARE CAPITAL

The authorized share capital of the Corporation consists of an unlimited number of Common Exchangeable Shares, an unlimited number of Common Special Voting Shares, an unlimited number of Non-Voting Common Shares, an unlimited number of Class A Exchangeable Shares, an unlimited number of Class A Special Voting Shares, an unlimited number of Class B Exchangeable Shares, an unlimited number of Class B Special Voting Shares, an unlimited number of Class B1 Exchangeable Shares and an unlimited number of Class B1 Special Voting Shares all without par value, having the following rights, privileges, conditions and restrictions:

#### PART A

#### PROVISIONS ATTACHING TO THE EXCHANGEABLE SHARES

The Common Exchangeable Shares, the Class A Exchangeable Shares, the Class B Exchangeable Shares and Class B1 Exchangeable Shares have the rights, privileges, restrictions and conditions as follows:

#### ARTICLE 1 INTERPRETATION

**1.1 For the purposes of these share provisions, the share provisions attaching to the Special Voting Shares (Part B) and the share provisions attaching to the Non-Voting Common Shares (Part C):**

“**Act**” means the *Business Corporations Act* (Québec), as now enacted or as the same may from time to time be amended, re-enacted or replaced.

“**Affiliate**” of any Person means any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, “**control**”, as applied to any Person, means the possession by another Person, directly or indirectly, of the power to direct or cause the direction of the management and policies of that first mentioned Person, whether through the ownership of voting securities, by contract or otherwise, but for greater certainty a director or officer shall not be considered to be an Affiliate of a Person merely by acting in such capacity.

“**Articles**” means these articles of the Corporation, as amended and/or restated from time to time.

“**As Converted Basis**” means that, for the purpose of determining a number, percentage or proportion of outstanding shares in the capital of the U.S. Company, (i) all Exchangeable Shares in the capital of the Corporation are deemed to have been exchanged for shares of Corresponding U.S. Company Stock and (ii) all shares of U.S. Company Stock (other than shares of U.S. Company Common Stock), including those deemed to have resulted from the exchanges contemplated in clause (i), are deemed to have been converted to shares of U.S. Company Common Stock, in each case in accordance with their terms and related agreements as the same may be amended, supplemented or restated from time to time.

“**Board of Directors**” means the board of directors of the Corporation.

“**Business Day**” means any day, except a Saturday or Sunday, on which the commercial banks in each of Montréal, Québec and the State of New York, are open for commercial banking business during normal banking hours.

“**Canadian Dollar Equivalent**” means, in respect of an amount expressed in a foreign currency (the “**Foreign Currency Amount**”) at any date, the product obtained by multiplying:

- (a) the Foreign Currency Amount by,
- (b) the noon spot exchange rate on such date for such foreign currency expressed in Canadian dollars as reported by the Bank of Canada or, if such spot exchange rate is not available, such spot exchange rate on the immediately preceding date on which such spot exchange rate is available.

“**Change of Control Event**” means:

- (a) any acquisition of the U.S. Company, by means of any transaction or series of related transactions to which the U.S. Company is a party (including, without limitation, any stock acquisition, reorganization, merger or consolidation but excluding any sale of stock for capital raising purposes) other than a transaction or series of related transactions in which the holders of voting securities of the U.S. Company outstanding immediately prior to such transaction or series of related transactions continue to retain (either by such voting securities remaining outstanding or by such voting securities being converted into voting securities of the surviving entity), as a result of shares in the U.S. Company held by such holders prior to such transaction or series of related transactions, at least 50% of the total voting power represented by the voting securities of the U.S. Company or such surviving entity outstanding immediately after such transaction or series of related transactions;
- (b) any issuance, sale or other disposition (or series of related sales or dispositions) of the stock of the U.S. Company in which the stockholders immediately prior to such event do not hold a majority of the outstanding stock of the U.S. Company immediately after such event, except where such issuance is for the purposes of an equity financing of U.S. Company;
- (c) any sale, lease, exclusive and irrevocable license, disposition, transfer or other conveyance in any transaction or series of related transactions, by the U.S. Company or any subsidiary of the U.S. Company of all or substantially all of the assets of the U.S. Company and its subsidiaries taken as a whole or the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the U.S. Company if substantially all of the assets of the U.S. Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, exclusive and irrevocable license, disposition, transfer or other conveyance is to a wholly owned subsidiary of the U.S. Company; or



- (d) any similar transaction or series of related transactions as described in clauses (a) through (c) above as to the Corporation, other than an internal corporate reorganization whereby the voting power, shares or assets, as the case may be, are held by U.S. Company, the Corporation or one of their respective wholly-owned Subsidiaries;

except where a Preferred Shareholder Approval have determined that an event referred to in any of clauses (a), (b), (c) or (d) above will be deemed not to constitute a Change of Control Event for the purposes of these share provisions;

**“Class A Exchangeable Conversion Rate”**, at a particular time, in respect of a Class A Exchangeable Share, means the number of Common Exchangeable Shares into which such Class A Exchangeable Share is then convertible, which number shall be equal to the number of shares of U.S. Company Common Stock as would be at such time issued to the holder of such Class A Exchangeable Share upon (i) the exchange of such Class A Exchangeable Share for shares of U.S. Company Series A Preferred Stock and (ii) the conversion of such shares of U.S. Company Series A Preferred Stock resulting from the exchange referred to in clause (i) into shares of U.S. Company Common Stock.

**“Class A Exchangeable Shares”** means the Class A Exchangeable Shares in the capital of the Corporation.

**“Class A Special Voting Shares”** means the Class A Special Voting Shares in the capital of the Corporation.

**“Class B Exchangeable Conversion Rate”**, at a particular time, in respect of a Class B Exchangeable Share, means the number of Common Exchangeable Shares into which such Class B Exchangeable Share is then convertible, which number shall be equal to the number of shares of U.S. Company Common Stock as would be at such time issued to the holder of such Class B Exchangeable Share upon (i) the exchange of such Class B Exchangeable Share for shares of U.S. Company Series B Preferred Stock and (ii) the conversion of such shares of U.S. Company Series B Preferred Stock resulting from the exchange referred to in clause (i) into shares of U.S. Company Common Stock.

**“Class B1 Exchangeable Conversion Rate”** at a particular time, in respect of a Class B1 Exchangeable Share, means the number of Common Exchangeable Shares into which such Class B1 Exchangeable Share is then convertible, which number shall be equal to the number of shares of U.S. Company Common Stock as would be at such time issued to the holder of such Class B1 Exchangeable Share upon (i) the exchange of such Class B1 Exchangeable Share for shares of U.S. Company Series B1 Preferred Stock and (ii) the conversion of such shares of U.S. Company Series B1 Preferred Stock resulting from the exchange referred to in clause (i) into shares of U.S. Company Common Stock.

**“Class B Exchangeable Shares”** means the Class B Exchangeable Shares in the capital of the Corporation.

**“Class B1 Exchangeable Shares”** means the Class B1 Exchangeable Shares in the capital of the Corporation.

“**Class B Special Voting Shares**” means the Class B Special Voting Shares in the capital of the Corporation.

“**Class B1 Special Voting Shares**” means the Class B1 Special Voting Shares in the capital of the Corporation.

“**Closing Date**” means the date of the filing of the Articles of Amendment of the Corporation pursuant to which the Common Exchangeable Shares, Class A Exchangeable Shares and Class B Exchangeable Shares were first created.

“**Closing Documents**” means the duly endorsed certificates representing the Exchangeable Shares to be exchanged for the Liquidation Consideration, the Retraction Consideration or the Redemption Consideration, as the case may be, together with such other documents and instruments as may be required to effect a transfer of such Exchangeable Shares under the Act and the by-laws of the Corporation and such additional documents and instruments as the Corporation may reasonably require.

“**Common Exchangeable Shares**” means the Common Exchangeable Shares in the capital of the Corporation.

“**Common Special Voting Shares**” means the Common Special Voting Shares in the capital of the Corporation.

“**Corporation**” means Inocucor Technologies Inc., a corporation existing under the Act.

“**Corresponding Exchangeable Shares**” means, with respect to a class or series of U.S. Company Stock, the class or series of Exchangeable Shares set out opposite such class or series of U.S. Company Stock in the list immediately below :

<u>Class of U.S. Company Stock</u>	<u>Class of Exchangeable Shares</u>
U.S. Company Common Stock	Common Exchangeable Shares
U.S. Company Series A Preferred Stock	Class A Exchangeable Shares
U.S. Company Series B Preferred Stock	Class B Exchangeable Shares
U.S. Company Series B1 Preferred Stock	Class B1 Exchangeable Shares

and “**Corresponding U.S. Company Stock**” has correlative meanings.

“**Current Market Price**” means, in respect of a U.S. Company Share on any date, the Canadian Dollar Equivalent of the average of the closing bid and ask prices of such U.S. Company Share during a period of 30 consecutive trading days ending on the third trading day before such date on NASDAQ or, if such class of U.S. Company Shares are not then quoted on NASDAQ, on such other stock exchange or automated quotation system on which the U.S. Company Shares are listed or quoted, as the case may be, as may be selected by the U.S. Company Board of Directors for such purpose; provided, however, that if in the opinion of the U.S. Company Board of Directors the public distribution or trading activity of such U.S. Company Shares during such period does not create a market which reflects the fair market value of a U.S. Company Share or, if the relevant class of U.S. Company Shares are not then listed or quoted on a stock exchange or automated quotation system,

then the Current Market Price of such U.S. Company Share shall be the fair market value of such share as determined by the U.S. Company Board of Directors, in good faith and in its sole discretion (subject to review and approval by the Board of Directors), provided such decision has been made in good faith and constitutes a reasonable approximation of the fair market value of such share and provided further that any such selection, opinion or determination by the U.S. Company Board of Directors and the Board of Directors shall be conclusive and binding.

**“Designated Shareholder”** means either:

- (i) a holder of Special Voting Shares representing more than 5% of all Special Voting Shares then issued and outstanding; or
- (ii) a holder of Special Voting Shares who hold, alone or together with any Affiliate or Person related to such holder within the meaning of the ITA, more than 5% of the Special Voting Shares then issued and outstanding;

provided that, for the purposes of the ITA, any such holder is a resident of Canada and is not controlled, directly or indirectly in any manner whatsoever, by a non-resident of Canada or required to exercise its rights with respect to such Special Voting Shares pursuant to the direction of a non-resident of Canada or a public corporation, and further provided that any such holder is not a public corporation and is not controlled, directly or indirectly in any manner whatsoever, by a public corporation. In this definition, a Canadian Partnership within the meaning of the ITA shall be considered to be a resident of Canada (for the purposes of the ITA) and any other partnership shall be considered to be a non-resident of Canada (for purposes of the ITA), to the extent its members are non-residents of Canada, public corporations or controlled by any of them.

**“Exchange Agreement”** means the exchange agreement between the U.S. Company, the Corporation and each of the shareholders of the U.S. Company and/or the Corporation dated on or about the Closing Date, as the same may be amended, supplemented or restated from time to time.

**“Exchange Amount”** means, in respect of an Exchangeable Share, at any particular time, the Current Market Price of one share (subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment affecting such shares) of Corresponding U.S. Company Stock at that time, except in the circumstances specified in Section 5.5 in which case the Exchange Amount shall be determined as specified therein.

**“Exchange Notice”** has the meaning ascribed thereto in Section 6.4.

**“Exchange Right”** has the meaning ascribed thereto in the Exchange Agreement.

**“Exchangeable Conversion Rate”** means either the Class A Exchangeable Conversion Rate, Class B Exchangeable Conversion Rate or Class B1 Exchangeable Conversion Rate as applicable.

“**Exchangeable Shares**” means, collectively, the Common Exchangeable Shares, Class A Exchangeable Shares, Class B Exchangeable Shares and Class B1 Exchangeable Shares.

“**Holder Exchange**” has the meaning ascribed thereto in Section 8.1.

“**Holder Exchange Consideration**” has the meaning ascribed thereto in Section 8.1.

“**Holder Exchange Date**” has the meaning ascribed thereto in Section 8.1.

“**IPO**” has the meaning ascribed thereto in paragraph (c) of the definition of Redemption Date.

“**ITA**” means *the Income Tax Act (Canada)* and the regulations thereunder, as amended from time to time.

“**Liquidation Consideration**” has the meaning ascribed thereto in Section 5.1.

“**Liquidation Date**” has the meaning ascribed thereto in Section 5.1.

“**Liquidation Event**” means the voluntary or involuntary liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs.

“**Liquidation Mandatory Exchange Right**” has the meaning ascribed thereto in Section 5.2.

“**Mandatory Exchange Consideration**” has the meaning ascribed thereto in Section 8.1.

“**Mandatory Exchange Date**” has the meaning ascribed thereto in Section 8.1.

“**Mandatory Exchange Rights**” has the meaning ascribed thereto in Section 8.1.

“**Marketable Securities**” means equity securities that are (i) actively traded on NASDAQ or a national securities exchange and (ii) freely tradable without restriction. The value of Marketable Securities will be determined as set forth in the definitive acquisition agreement giving rise to their issuance, or, if no such methodology exists in such definitive acquisition agreement, the value will be deemed to be the average of the closing prices of such securities on such exchange over the 20-day period ending one business day prior to the date of issuance.

“**NASDAQ**” means the National Association of Securities Dealers Automated Quotation National Market System.

“**Non-Voting Common Shares**” means the Non-Voting Common Shares in the capital of the Corporation.

“**Outstanding Dividend Amount**” means, in respect of an Exchangeable Share, an amount equivalent to the full value of all declared and unpaid dividends on such share on the applicable date, provided that the Outstanding Dividend Amount shall not include the

amount of any declared and unpaid dividends for which the record date with respect thereto has not occurred as of the applicable date.

**“Permitted Subsidiary”** means a Subsidiary of U.S. Company designated by U.S. Company to assume the obligations or exercise the rights of U.S. Company in connection with the exercise by a holder of Exchangeable Shares of the Liquidation Mandatory Exchange Right, the Retraction Mandatory Exchange Right or the Redemption Mandatory Exchange Right.

**“Person”** includes any individual, firm, partnership, limited liability company, joint venture, venture capital fund, association, trust, trustee, executor, administrator, legal personal representative, estate, group, body corporate, corporation, unincorporated association or organization, government body, syndicate or other entity, whether or not having legal status.

**“Preferred Shareholder Approval”** means the approval (by way of vote or written consent) of holders of at least 65% of an aggregate of the outstanding Class A Special Voting Shares and Class B Special Voting Shares, voting together as a single class.

**“Qualified IPO”** means an IPO that (a) results in aggregate gross proceeds to the U.S. Company and/or its stockholders of not less than US\$30,000,000 and (b) at a price of at least five times the Series B Preferred Stock Initial Price (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization with respect to U.S. Company Common Stock);

**“Redemption Consideration”** has the meaning ascribed thereto in Section 7.1.

**“Redemption Date”** means the date for the redemption by the Corporation of all but not less than all of the outstanding Exchangeable Shares pursuant to Article 7 which date shall be the earliest of:

- (a) the effective date in respect of a Change of Control Event, provided that if the U.S. Company Board of Directors (subject to review and approval by the Board of Directors) may in good faith accelerate such redemption date to such date prior to the Change of Control Event as the U.S. Company Board of Directors may determine (subject to review and approval by the Board of Directors), upon such number of days (not to be less than five Business Days in any event) prior written notice to the registered holders of the Exchangeable Shares as the U.S. Company Board of Directors (subject to review and approval by the Board of Directors) may determine to be reasonably practicable in such circumstances, provided that U.S. Company and the U.S. Company Board of Directors shall use all commercially reasonable efforts to ensure that any such redemption will be effective only upon, and will be conditional upon, the closing of the Change of Control Event;
- (b) the date of the closing of a sale of shares of U.S. Company Common Stock in a firm commitment underwritten public offering either pursuant to a registration statement under the United States Securities Act of 1933, as amended (the **“Securities Act”**), together with the rules and regulations promulgated thereunder, or any successor United States federal statute, together with any applicable state securities laws, all as the same shall be in effect from time to time (the **“Securities Law”**) (other than

a registration relating solely to a transaction under Rule 145 under the Securities Act (or any successor thereto) or a registration relating solely to an employee benefit plan of the U.S. Company) or pursuant to a prospectus under the securities laws of one or more provinces of Canada (an “**IPO**”);

- (c) upon receipt of a Preferred Shareholder Approval, given at any time after the date on which the shares of U.S. Company Common Stock issuable upon the exchange of the then outstanding Exchangeable Shares represent less than two percent of the shares of U.S. Company Common Stock outstanding on a fully-diluted and As Converted Basis; and
- (d) the date that is at least seven days prior to the record date or other relevant date for determining the eligibility of holders of shares of U.S. Company Stock to participate as shareholders in respect of a U.S. Company Liquidation Event.

“**Redemption Mandatory Exchange Right**” has the meaning ascribed thereto in Section 7.4.

“**Retracted Shares**” has the meaning ascribed thereto in Section 6.2(a).

“**Retraction Consideration**” has the meaning ascribed thereto in Section 6.1.

“**Retraction Date**” has the meaning ascribed thereto in Section 6.2(b).

“**Retraction Mandatory Exchange Right**” has the meaning ascribed thereto in Section 6.3.

“**Retraction Request**” has the meaning ascribed thereto in Section 6.2.

“**Securities**” means any shares in the share capital of the Corporation and any securities, options, warrants, rights or similar instruments convertible into or exercisable or exchangeable for shares.

“**Securities Act**” means the *United States Securities Act of 1933*, as amended as now entered or as the same may be from time to time amended, re-enacted or replaced.

“**Series B Preferred Stock Initial Price**” means US\$9.7217, subject to equitable adjustment from time to time to reflect any stock splits, subdivisions, recapitalizations or the like with respect to a share of U.S. Company Series B Preferred Stock.

“**Special Voting Shares**” means the Common Special Voting Shares, Class A Special Voting Shares and Class B Special Voting Shares and Class B1 Special Voting Shares.

“**Subsidiary**” has the meaning set forth in the Act and includes all indirect subsidiaries.

“**Support Agreement**” means the support agreement between the U.S. Company and the Corporation dated on or about the Closing Date, as the same may be amended, supplemented or restated from time to time.

“**Unissued Class**” has the meaning ascribed thereto in Section 3.1(b).

“**U.S. Company**” means Inocucor Corporation, a corporation existing under the laws of the State of Delaware, and any successor corporation thereto.

“**U.S. Company Board of Directors**” means the board of directors of the U.S. Company.

“**U.S. Company Certificate**” means the Certificate of Incorporation in respect of U.S. Company, as same may be amended, supplemented or restated from time to time.

“**U.S. Company Common Special Voting Stock**” means the Common Special Voting Stock in the capital of U.S. Company.

“**U.S. Company Common Stock**” means the Common Stock in the capital of U.S. Company and any other securities into which such shares may be changed.

“**U.S. Company Declared Shares**” has the meaning ascribed thereto in Section 3.1.

“**U.S. Company Dividend Declaration Date**” means the date on which the U.S. Company Board of Directors declares any dividend on the U.S. Company Declared Shares.

“**U.S. Company Group**” means the U.S. Company together with its direct and its indirect Subsidiaries.

“**U.S. Company Liquidation Event**” means

- (a) any determination by the U.S. Company Board of Directors to institute voluntary liquidation, dissolution or winding-up proceedings with respect to the U.S. Company or to effect any other distribution of assets of the U.S. Company among its stockholders for the purpose of winding up its affairs; and
- (b) the earlier of (A) the receipt by the U.S. Company of notice of, and (B) the U.S. Company otherwise becoming aware of, any instituted claim, suit, petition or other proceedings with respect to the involuntary liquidation, dissolution or winding up of the U.S. Company or to effect any other distribution of assets of the U.S. Company among its stockholders for the purpose of winding up its affairs.

“**U.S. Company Preferred Stock**” means, collectively, the U.S. Company Series A Preferred Stock, U.S. Company Series B Preferred Stock and U.S. Company Series B1 Preferred Stock.

“**U.S. Company Series A Preferred Stock**” means the Series A Preferred Stock in the capital of U.S. Company and any other securities into which such shares may be changed.

“**U.S. Company Series A Special Voting Stock**” means the Series A Special Voting Stock in the capital of U.S. Company and any other securities into which such shares may be changed.

“**U.S. Company Series B Special Voting Stock**” means the Series B Special Voting Stock in the capital of U.S. Company.

“**U.S. Company Series B1 Special Voting Stock**” means the Series B1 Special Voting Stock in the capital of U.S. Company.

“**U.S. Company Series B Preferred Stock**” means the Series B Preferred Stock in the capital of U.S. Company and any other securities into which such shares may be changed.

“**U.S. Company Series B1 Preferred Stock**” means the Series B1 Preferred Stock in the capital of U.S. Company and any other securities into which such shares may be changes.

“**U.S. Company Shares**” means, collectively, the shares of U.S. Company Common Stock, U.S. Company Common Special Voting Stock, U.S. Company Series A Preferred Stock, U.S. Company Series A Special Voting Stock, U.S. Company Series B Preferred Stock, U.S. Company Series B Special Voting Stock, U.S. Company Series B1 Preferred Stock and U.S. and Company Series B1 Special Voting Stock.

“**U.S. Company Special Voting Stock**” means, collectively, the U.S. Company Common Special Voting Stock, U.S. Company Series A Special Voting Stock, U.S. Company Series B Special Voting Stock and U.S. Company Series B1 Special Voting Stock.

“**U.S. Company Stock**” means, collectively, the U.S. Company Common Stock, U.S. Company Common Special Voting Stock, U.S. Company Series A Preferred Stock, U.S. Company Series A Special Voting Stock, U.S. Company Series B Preferred Stock, U.S. Company Series B Special Voting Stock, U.S. Company Series B1 Preferred Stock and U.S. Company Series B1 Special Voting Stock.

“**US Stock Option Plan**” means any stock option and incentive plan for employees of the U.S. Company or the Corporation.

## **ARTICLE 2 RANKING OF EXCHANGEABLE SHARES ON LIQUIDATION**

### **2.1 Preference on Liquidation**

After payment in full of the liquidation preference to the holders of any class of shares of the Corporation which are senior to the Exchangeable Shares and Non-Voting Common Shares upon a Liquidation Event, each class of Exchangeable Shares will rank in priority to or *pari passu* with the other classes of Exchangeable Shares and Non-Voting Common Shares in the order in which it appears in the list which follows as well as over the Common Special Voting Shares, Class A Special Voting Shares, and Class B Special Voting Shares, and any other shares ranking junior to the Exchangeable Shares, with respect to the distribution of assets upon a Liquidation Event:

- (i) Class B Exchangeable Shares and Class B1 Exchangeable Shares;
- (ii) Class A Exchangeable Shares; and
- (iii) Common Exchangeable Shares and Non-Voting Common Shares,

in each case, up to an amount per share determined in accordance with Section 5.1.



**ARTICLE 3  
DIVIDENDS**

**3.1 Dividends on U.S. Company Stock**

- (a) Should a dividend be declared on a class or series of U.S. Company Shares, such class or series being referred to herein as the “**U.S. Company Declared Shares**”, subject to the prior rights of the holders of Non-Voting Common Shares, each holder of the Corresponding Exchangeable Shares will be entitled to receive and the Board of Directors shall, subject to applicable law, on the U.S. Company Dividend Declaration Date, declare a dividend on each Corresponding Exchangeable Share:
- (i) in the case of a cash dividend declared on the U.S. Company Declared Shares, in an amount in cash for each such Corresponding Exchangeable Share in U.S. dollars, or the Canadian Dollar Equivalent thereof (at the discretion of the Board of Directors) on the U.S. Company Dividend Declaration Date, in each case, subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment, to the cash dividend declared on each U.S. Company Declared Share;
  - (ii) in the case of a stock dividend declared on the U.S. Company Declared Shares to be paid in shares of U.S. Company Stock, by the issue or transfer by the Corporation of such number of Corresponding Exchangeable Shares for each Corresponding Exchangeable Share as is equivalent, subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment, to the number of shares of U.S. Company Stock to be paid on each U.S. Company Declared Share as a result of such stock dividend unless in lieu of such stock dividend the Corporation elects to effect a corresponding and contemporaneous and economically equivalent (at the discretion of the Board of Directors in accordance with the Exchange Agreement and the Support Agreement) subdivision of the outstanding Corresponding Exchangeable Shares; and
  - (iii) in the case of a dividend declared on the U.S. Company Declared Shares in property other than cash or shares of U.S. Company Stock, in such type and amount of property or shares for each such Corresponding Exchangeable Share as is the same as or economically equivalent to the type and amount of property or shares declared as a dividend on each U.S. Company Declared Share as determined by the Board of Directors in good faith.
- (b) If, at the time of the declaration of a dividend on the U.S. Company Declared Shares, there is any one or more other class or series of U.S. Company Shares of which no stock is then outstanding but on which a dividend would be required pursuant to the U.S. Company Certificate to be declared or paid if stock of such class or series were outstanding at such time (the “**Unissued Class**”) and, at such time, there are outstanding any shares of the Corresponding Exchangeable Shares of the Unissued Class, then each holder of such Corresponding Exchangeable Shares will be entitled to receive and the Board of Directors shall, subject to applicable law, on the U.S.

Company Dividend Declaration Date, declare a dividend on each such Corresponding Exchangeable Share:

- (i) in the case of a cash dividend declared on the U.S. Company Declared Shares, in an amount in cash for each such Corresponding Exchangeable Share in U.S. dollars, or the Canadian Dollar Equivalent thereof (at the discretion of the Board of Directors) on the U.S. Company Dividend Declaration Date, in each case equivalent, subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment, to the cash dividend that would have been required to be declared or paid to holders of each share of the Unissued Class if such shares were outstanding;
  - (ii) in the case of a stock dividend declared on the U.S. Company Declared Shares to be paid in shares of U.S. Company Stock, by the issue or transfer by the Corporation of such number of Corresponding Exchangeable Shares for each Corresponding Exchangeable Share as is equivalent, subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment, to the number of shares of U.S. Company Stock that would have been required to be declared or paid, (as a result of the stock dividend declared on the U.S. Company Declared Shares to be paid in shares of U.S. Company Stock) to holders of each share of the Unissued Class if such shares were outstanding, unless in lieu of such stock dividend the Corporation elects to effect a corresponding and contemporaneous and economically equivalent (at the discretion of the Board of Directors in accordance with the Exchange Agreement and the Support Agreement) subdivision of the outstanding Corresponding Exchangeable Shares; and
  - (iii) in the case of a dividend declared on the U.S. Company Declared Shares in property other than cash or shares of U.S. Company Stock, in such type and amount of property or shares for each such Corresponding Exchangeable Share as is the same as or economically equivalent to the type and amount of property or shares that would have been required to be paid to holders of each share of the Unissued Class if such shares were outstanding as determined by the Board of Directors acting in good faith.
- (c) The dividends referred to in clauses (a) and (b) above shall be paid out of money, assets or property of the Corporation properly available for the payment of dividends, or out of authorized but unissued shares of the Corporation, as applicable. For greater certainty, clauses (a) and (b) above will not be construed as requiring more than one dividend to be declared and paid on any particular class of Exchangeable Shares as a result of the declaration or payment of the dividend on the U.S. Company Declared Shares.

### **3.2 Payment**

Cheques of the Corporation payable at par at any branch of the bankers of the Corporation shall be issued in respect of any cash dividends contemplated by Section 3.1(a)(i) or 3.1(b)(i) and the

sending of such a cheque to each holder of a Corresponding Exchangeable Share will satisfy the cash dividend represented thereby unless the cheque is not paid on presentation. Such other type and amount of property or shares in respect of any dividends contemplated by Section 3.1(a)(ii), 3.1(a)(iii), 3.1(b)(ii) or 3.1(b)(iii) shall be issued, distributed or transferred by the Corporation in such manner as it will determine and the issuance, distribution or transfer thereof by the Corporation to each holder of a Corresponding Exchangeable Share will satisfy the dividend represented thereby. No holder of a Corresponding Exchangeable Share will be entitled to recover by action or other legal process against the Corporation any dividend that is represented by a cheque that has not been duly presented to the Corporation's bankers for payment or that otherwise remains unclaimed for a period of six years from the date on which such dividend was payable.

### **3.3 Record Date**

The record date for the determination of the holders of Corresponding Exchangeable Shares entitled to receive payment of, and the payment date for, any dividend declared on the Corresponding Exchangeable Shares under Section 3.1 will be the same dates as the record date and payment date, respectively, for the corresponding dividend declared on the U.S. Company Declared Shares.

### **3.4 Subsequent Payment**

If on any payment date for any dividends declared on the Corresponding Exchangeable Shares under Section 3.1 the dividends are not paid in full on all of the Corresponding Exchangeable Shares then outstanding, any such dividends that remain unpaid will be paid on a subsequent date or dates determined by the Board of Directors on which the Corporation will have sufficient moneys, assets or property properly applicable to the payment of such dividends.

## **ARTICLE 4 CERTAIN RESTRICTIONS**

### **4.1 [INTENTIONALLY OMITTED]**

## **ARTICLE 5 DISTRIBUTION ON LIQUIDATION**

### **5.1 Rights on Liquidation**

Upon a Liquidation Event, a holder of Exchangeable Shares shall, subject to applicable law and the Liquidation Mandatory Exchange Right, receive from the assets of the Corporation in respect of each Exchangeable Share held by such holder on the effective date (the "**Liquidation Date**") of such Liquidation Event, before any distribution of any part of the assets of the Corporation among the holders of shares ranking junior to the Exchangeable Shares, an amount per share equal to the Exchange Amount on the last Business Day prior to the Liquidation Date, which will, subject to Section 5.5, be paid and satisfied in full by the Corporation causing to be delivered to such holder (a) one share of Corresponding U.S. Company Stock (subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment affecting such shares), plus (b) an amount equal to any Outstanding Dividend Amount (collectively, the "**Liquidation Consideration**") on the Liquidation Date.

## **5.2 Method of Distribution; Liquidation Mandatory Exchange Right**

On or before the Liquidation Date, and subject to the exercise by a Designated Shareholder of the Liquidation Mandatory Exchange Right, the Corporation shall cause to be delivered to the holders of Exchangeable Shares the Liquidation Consideration for each such Exchangeable Share upon presentation and surrender of the Closing Documents pursuant to Article 8. In the event of a Liquidation Event, each Designated Shareholder will have the overriding right (the “**Liquidation Mandatory Exchange Right**”) to require all but not less than all of the holders (other than the U.S. Company Group) of Exchangeable Shares to exchange, on the Liquidation Date, all but not less than all of the Exchangeable Shares held by each such holder of Exchangeable Shares with the U.S. Company or, at the option of the U.S. Company, a Permitted Subsidiary for the Liquidation Consideration for each such Exchangeable Share. Such right will be for the exclusive benefit of the Designated Shareholders and may not be exercised by any other Person, including U.S. Company. The Corporation will notify each Designated Shareholder of any Liquidation Event at least 30 days before the Liquidation Date, provided that any failure by the Corporation to give such notice will not restrict the rights of the holders of Exchangeable Shares to receive the Liquidation Consideration on the Liquidation Date.

## **5.3 Exercise of Liquidation Mandatory Exchange Right**

To exercise the Liquidation Mandatory Exchange Right, a Designated Shareholder must notify the Corporation of its intention to exercise such right at least 20 days before the Liquidation Date. The Corporation shall notify the holders of Exchangeable Shares as to whether or not a Designated Shareholder has exercised the Liquidation Mandatory Exchange Right forthwith after the expiry of the date by which the same may be exercised by the Designated Shareholders. If a Designated Shareholder exercises the Liquidation Mandatory Exchange Right, then on the Liquidation Date all holders of Exchangeable Shares shall transfer to U.S. Company or a Permitted Subsidiary if so designated by the U.S. Company, all of the Exchangeable Shares then outstanding for consideration equal to the Liquidation Consideration for each such Exchangeable Share against presentation and surrender of the Closing Documents pursuant to Article 8.

## **5.4 No Further Entitlement**

After the Corporation has satisfied its obligation to pay to the holders of Exchangeable Shares the Liquidation Consideration pursuant to Section 5.1 or the consideration payable to such holders upon exchange of their shares under Section 5.3, such holders will not be entitled to share in any further distribution of the assets of the Corporation.

## **5.5 Events Resulting in Cross-Border Distributions to Shareholders**

If, in connection with a Liquidation Event or a Redemption Date (involving the sale of all or substantially all of the assets of the Corporation), it is intended that all or substantially all of the assets of the Corporation and the U.S. Company be distributed among their respective shareholders, then for purposes of Section 5.1 or 7.1, the Exchange Amount payable to the holder of Exchangeable Shares will be equal to the amount that a holder of a share of Corresponding U.S. Company Stock would be entitled to receive on a distribution of the assets of the U.S. Company among its shareholders assuming that no withholding taxes were applicable to any distributions made by the Corporation, U.S. Company or a Permitted Subsidiary in connection with such Liquidation Event or Redemption Date, and the amount to be received from the assets of the Corporation by the holder of Exchangeable Shares pursuant to Section 5.1 or 7.1, as the case may

be, may be paid in the form of money or property other than U.S. Company Stock, provided however that if the application of this Section 5.5 would result in a reduction in the consideration that would be payable on a per share basis to shareholders of the U.S. Company if this Section 5.5 did not apply, then the Exchange Amount will be adjusted such that there is no such reduction in the consideration payable to the shareholders of the U.S. Company.

## **ARTICLE 6 RETRACTION OF EXCHANGEABLE SHARES BY HOLDER**

### **6.1 Retraction Right**

A holder of Exchangeable Shares will be entitled at any time, subject to the exercise by a Designated Shareholder of the Retraction Mandatory Exchange Right and otherwise upon compliance with the provisions of Article 6, to require the Corporation to redeem any or all of the Exchangeable Shares registered in the name of such holder for an amount per Exchangeable Share equal to the Exchange Amount on the last Business Day prior to the Retraction Date, which shall be paid and satisfied in full by the Corporation causing to be delivered to such holder (a) one share of Corresponding U.S. Company Stock (subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment affecting such shares) for each Exchangeable Share, plus (b) an amount equal to any Outstanding Dividend Amount on each such Exchangeable Share (collectively, the **“Retraction Consideration”**) on the Retraction Date.

### **6.2 Retraction Request**

To effect the retraction, the holder shall deliver to the Corporation, in accordance with Article 8, the Closing Documents together with a duly executed statement (the **“Retraction Request”**) for each separate class or series of Exchangeable Shares in the form of Exhibit A to this Appendix “A”, or in such other form as may be acceptable to the Corporation:

- (a) specifying that the holder desires to have all or any number specified therein of the Exchangeable Shares represented by such certificate or certificates (the **“Retracted Shares”**) redeemed by the Corporation;
- (b) stating the Business Day on which the holder desires to have the Corporation redeem the Retracted Shares (the **“Retraction Date”**), provided that the Retraction Date will be not less than five Business Days nor more than 15 Business Days after the date on which the Retraction Request is received by the Corporation and further provided that, in the event that no such Business Day is specified by the holder in the Retraction Request, the Retraction Date will be deemed to be the 15<sup>th</sup> Business Day after the date on which the Retraction Request is received by the Corporation; and
- (c) acknowledging, subject to the holder revoking the Retraction Request in the manner specified in Section 6.8, the Retraction Mandatory Exchange Right of Designated Shareholders.

### **6.3 Retraction Mandatory Exchange Right**

In the event that a holder of Exchangeable Shares delivers a Retraction Request to the Corporation, each Designated Shareholder will have the overriding right (the **“Retraction Mandatory**

**Exchange Right**”) to require such holder to exchange with the U.S. Company, or, at the option of the U.S. Company, a Permitted Subsidiary, all but not less than all the Retracted Shares held by the holder for the Retraction Consideration per share on the terms and conditions set out in Section 6.4. Such right shall be for the exclusive benefit of the Designated Shareholders and may not be exercised by any other Person, including U.S. Company. The Corporation shall notify each Designated Shareholder of any Retraction Request received by the Corporation, provided that any failure by the Corporation to give such notice will not restrict the rights of the holders of Exchangeable Shares to receive the Retraction Consideration on the Retraction Date.

#### **6.4 Exercise of Retraction Mandatory Exchange Right**

Upon receipt by the Corporation of a Retraction Request, the Corporation shall immediately notify all Designated Shareholders, the U.S. Company and any Permitted Subsidiary thereof. In order to exercise the Retraction Mandatory Exchange Right, a Designated Shareholder shall notify the Corporation of its determination to do so (the “**Exchange Notice**”) within five Business Days of the Corporation having advised the Designated Shareholder, the U.S. Company and any Permitted Subsidiary of the Corporation’s receipt of the Retraction Request. If no Designated Shareholder so notifies the Corporation within such five Business Day period, the Corporation shall notify the holder of Exchangeable Shares as soon as possible thereafter that no Designated Shareholder has exercised the Retraction Mandatory Exchange Right. If a Designated Shareholder delivers an Exchange Notice within such five Business Day period, and provided that the Retraction Request is not revoked by such holder of Exchangeable Shares in the manner specified in Section 6.8, the Retraction Request will thereupon be considered to be only a notice by the holder to sell the Retracted Shares to U.S. Company or Permitted Subsidiary in accordance with the Retraction Mandatory Exchange Right. In such event, the Corporation will not redeem the Retracted Shares and such holder shall sell to U.S. Company or Permitted Subsidiary, as applicable, on the Retraction Date, the Retracted Shares for the Retraction Consideration against presentation and surrender of Closing Documents pursuant to Article 8.

#### **6.5 Redemption by Corporation**

If no Designated Shareholder delivers an Exchange Notice within such five Business Day period, and provided the Retraction Request is not revoked by the holder in the manner specified in Section 6.8, the Corporation shall cause to be delivered on the Retraction Date to the holder of the Exchangeable Shares to be redeemed the Retraction Consideration for each such Exchangeable Share against presentation and surrender of the Closing Documents in accordance with Article 8.

#### **6.6 Solvency Restrictions**

Notwithstanding any other provision of Article 6, the Corporation will not be obligated to redeem Retracted Shares specified by a holder in a Retraction Request to the extent that such redemption of Retracted Shares would be contrary to solvency requirements or any other provision of applicable law. If the Corporation believes that on any Retraction Date it would be prohibited by any of such provisions to redeem the Retracted Shares tendered for redemption on the Retraction Date, and provided that a Designated Shareholder has not exercised the Retraction Mandatory Exchange Right with respect to the Retracted Shares, the Corporation will only be obligated to redeem Retracted Shares specified by a holder in a Retraction Request to the extent of the maximum number that may be so redeemed (rounded down to a whole number of shares) as would not be contrary to such provisions and shall notify the holder at least two Business Days prior to

the Retraction Date as to the number of Retracted Shares which will not be redeemed by the Corporation. In any case in which the redemption by the Corporation of Retracted Shares would be contrary to solvency requirements or other provisions of applicable law, the Corporation shall redeem Retracted Shares in accordance with these share provisions on a *pro rata* basis and shall issue to each holder of Retracted Shares a new certificate, at the expense of the Corporation, representing the Retracted Shares not redeemed by the Corporation.

### **6.7 Exchange Right**

Provided that the Retraction Request is not revoked by the holder in the manner specified in Section 6.8, the holder of any Retracted Shares not redeemed by the Corporation pursuant to Section 6.6 as a result of solvency requirements or other provisions of applicable law will be deemed, by the giving of the Retraction Request, to require U.S. Company or Permitted Subsidiary, as applicable, to purchase such Retracted Shares from such holder on the Retraction Date or as soon as practicable thereafter by delivery by U.S. Company or Permitted Subsidiary, as applicable, to such holder of the Retraction Consideration for each Retracted Share, all as more specifically provided in the Exchange Agreement.

### **6.8 Revocability**

A holder of Retracted Shares may, by notice in writing given by the holder to the Corporation before the close of business on the Business Day immediately preceding the Retraction Date, withdraw its Retraction Request, in which event such Retraction Request will be null and void and, for greater certainty, the revocable offer constituted by the Retraction Request to sell the Retracted Shares to U.S. Company or Permitted Subsidiary, as applicable, will be deemed to have been revoked.

## **ARTICLE 7 REDEMPTION OF EXCHANGEABLE SHARES BY THE CORPORATION**

### **7.1 Redemption**

Subject to applicable law, and provided that no Designated Shareholder has exercised the Redemption Mandatory Exchange Right, the Corporation shall on the Redemption Date redeem all but not less than all of the then outstanding Exchangeable Shares (other than those held by U.S. Company Group) for an amount per Exchangeable Share equal to the Exchange Amount for such Exchangeable Share on the last Business Day prior to the Redemption Date, which shall, subject to Section 5.5, be paid and satisfied in full by the Corporation causing to be delivered to each holder of Exchangeable Shares (i) one share of Corresponding U.S. Company Stock (subject to proportional adjustment in the event of any split, combination, stock dividend, recapitalization or other adjustment affecting such shares) for each such Exchangeable Share, plus (ii) an amount equal to any Outstanding Dividend Amount on such Exchangeable Share (collectively the "**Redemption Consideration**") on the Redemption Date.

### **7.2 Notice**

If the Corporation exercises its right of redemption pursuant to Section 7.1, the Corporation shall, at least 15 Business Days before the Redemption Date (or such other date established in connection with a Change of Control Event), send or cause to be sent to each holder of Exchangeable Shares and to the Designated Shareholders a notice in writing of the redemption by the Corporation or the

required sale to U.S. Company or Permitted Subsidiary, as applicable, pursuant to the Redemption Mandatory Exchange Right, as the case may be, of the Exchangeable Shares held by such holder. Notwithstanding the foregoing, in the case of a Redemption Date established in connection with a Change of Control Event, the written notice of redemption by the Corporation or the required sale to U.S. Company or Permitted Subsidiary, as applicable, pursuant to the Redemption Mandatory Exchange Right will be sent on or before the Redemption Date, on as many days prior written notice as may be determined by the Board of Directors to be reasonably practicable in the circumstances. In any such case, such notice will set out the Redemption Consideration, the Redemption Date and, if applicable, particulars of the Redemption Mandatory Exchange Right.

### **7.3 Delivery of Redemption Consideration**

On the Redemption Date, subject to the exercise by a Designated Shareholder of the Redemption Mandatory Exchange Right and subject to Section 5.5, the Corporation shall cause to be delivered to the holders of the Exchangeable Shares to be redeemed the Redemption Consideration for each such Exchangeable Share, and each holder of Exchangeable Shares shall present and surrender the Closing Documents pursuant to Article 8.

### **7.4 Redemption Mandatory Exchange Right**

Each Designated Shareholder will have the overriding right (the “**Redemption Mandatory Exchange Right**”), notwithstanding the proposed redemption of the Exchangeable Shares by the Corporation pursuant to Article 7, to require all but not less than all of the holders (other than a member of the U.S. Company Group) of Exchangeable Shares to exchange with the U.S. Company or, at the option of U.S. Company, a Permitted Subsidiary, all but not less than all of the Exchangeable Shares held by each such holder for the Redemption Consideration. In the event of the exercise of the Redemption Mandatory Exchange Right by a Designated Shareholder, each holder of Exchangeable Shares will be obligated to exchange all the Exchangeable Shares held by the holder with U.S. Company or Permitted Subsidiary on the Redemption Date for the Redemption Consideration for each such share.

### **7.5 Exercise of Redemption Mandatory Exchange Right**

To exercise the Redemption Mandatory Exchange Right, a Designated Shareholder shall notify the Corporation of its intention to exercise such right at least five Business Days before the Redemption Date (except in respect of a Redemption Date established in connection with a Change of Control Event, in which case the Designated Shareholders shall so notify the Corporation with as much prior notice as is determined by the Board of Directors to be reasonably practicable in the circumstances). The Corporation shall notify the holders of Exchangeable Shares as to whether or not any Designated Shareholder has exercised the Redemption Mandatory Exchange Right forthwith after the expiration of the date by which the same may be exercised by a Designated Shareholder. If any Designated Shareholder exercises the Redemption Mandatory Exchange Right, then, effective as of 12:01 a.m. Montreal local time on the Redemption Date, U.S. Company or Permitted Subsidiary, as applicable, shall purchase (and will be deemed to have purchased) and the holders of Exchangeable Shares shall sell (and will be deemed to have sold) to U.S. Company or Permitted Subsidiary, as applicable, all of the Exchangeable Shares then outstanding for an amount per share equal to the Redemption Consideration for each such Exchangeable Share, provided that if such Redemption Date results from a Change of Control Event or IPO, such exchange will be deemed to be effective immediately prior to the closing of the transaction constituting the Change



of Control Event or IPO and will be conditional thereon. Upon such exchange becoming effective, each holder will be deemed to have transferred to the U.S. Company or Permitted Subsidiary, as the case may be, all of the holder's right, title and interest in and to such Exchangeable Shares and will cease to be a holder of such Exchangeable Shares and U.S. Company or the Permitted Subsidiary shall deliver to the holder the Redemption Consideration. Concurrently with such holder ceasing to be a holder of Exchangeable Shares, the holder will be considered and deemed for all purposes to be the holder of the U.S. Company Shares delivered to it pursuant to the Mandatory Exchange Rights and the certificates held by the holder previously representing the Exchangeable Shares exchanged by the holder with U.S. Company or a Permitted Subsidiary pursuant to Mandatory Exchange Rights will thereafter be deemed to represent the U.S. Company Shares delivered to the holder by U.S. Company or the Permitted Subsidiary pursuant to such Mandatory Exchange Rights. Upon the request of a holder and the surrender by the holder of the Closing Documents, U.S. Company or the Permitted Subsidiary shall deliver or cause to be delivered to the holder certificates representing the U.S. Company Shares representing the Exchange Right Consideration in respect of such Exchangeable Shares.

## ARTICLE 8 CLOSING PROCEDURE

### 8.1 Definitions

In Article 8:

- (a) with respect to any acquisition by the Corporation of Exchangeable Shares pursuant to Sections 5.1, 6.1 or 7.1 (a "**Holder Exchange**"), "**Holder Exchange Consideration**" means Liquidation Consideration, Retraction Consideration or Redemption Consideration, as applicable, and "**Holder Exchange Date**" means Liquidation Date, Retraction Date or Redemption Date, as applicable; and
- (b) with respect to any exchange by U.S. Company or Permitted Subsidiary of shares of Corresponding U.S. Company Stock for Exchangeable Shares pursuant to the exercise of the Liquidation Mandatory Exchange Right, the Retraction Mandatory Exchange Right or the Redemption Mandatory Exchange Right (each a "**Mandatory Exchange Right**" and, collectively, the "**Mandatory Exchange Rights**"), "**Mandatory Exchange Consideration**" means Liquidation Consideration, Retraction Consideration or Redemption Consideration, as applicable, and "**Mandatory Exchange Date**" means Liquidation Date, Retraction Date or Redemption Date, as applicable.

### 8.2 Delivery of Closing Documents

For purposes of completing an exchange of the Exchangeable Shares pursuant to a Holder Exchange, the Corporation shall cause to be delivered to the holder of Exchangeable Shares subject to the Holder Exchange, the Holder Exchange Consideration against delivery, presentation and surrender of the Closing Documents. Satisfaction by the Corporation of the aggregate Holder Exchange Consideration shall be made by delivery to each holder, at the address of the holder recorded in the securities register of the Corporation or by holding for pick up by the holder at the registered office of the Corporation, certificates representing the shares of the Corresponding U.S. Company Stock or other securities constituting the Holder Exchange Consideration (which shares will be duly issued as fully paid and non-assessable and will be free and clear of any lien, claim,

encumbrance, security interest or adverse claim) and, if applicable, a cheque of the Corporation payable at par at any branch of the bankers of the Corporation totalling the cash portion of any Outstanding Dividend Amount (less any tax required to be deducted and withheld from the total Holder Exchange Consideration by the Corporation) without interest. On and after the Holder Exchange Date, holders of the Exchangeable Shares will cease to be holders of Exchangeable Shares and will not be entitled to exercise any of the rights of holders in respect thereof, other than the right to receive their proportionate part of the total Holder Exchange Consideration, unless delivery of the total Holder Exchange Consideration for such Exchangeable Shares will not be made upon presentation and surrender of Closing Documents in accordance with the foregoing provisions, in which case the rights of the holders will remain unaffected until the total Holder Exchange Consideration has been paid in the manner hereinbefore provided.

### **8.3 U.S. Company Shares**

All shares of U.S. Company Stock issued in exchange for the Exchangeable Shares will (i) be “**restricted securities**” under the Securities Act; (ii) be subject to restrictions on transfer such that the shares may not be resold unless in accordance with Regulation S under the Securities Act or pursuant to an available exemption from registration under the Securities Act, and (iii) bear a legend evidencing transfer restrictions attaching to such shares.

### **8.4 Deposit into Custodial Account**

The Corporation will have the right at any time on or after the Holder Exchange Date to deposit or cause to be deposited the total Holder Exchange Consideration in respect of the Exchangeable Shares represented by certificates that have not, at the Holder Exchange Date, been surrendered by the holders thereof in a custodial account with any chartered bank or trust company in Canada. The rights of the holders of such Exchangeable Shares after such deposit will be limited to receiving their proportionate part of the total Holder Exchange Consideration (less any tax required to be deducted and withheld therefrom) without interest for such Exchangeable Shares, against delivery, presentation and surrender of the said Closing Documents in accordance with the foregoing provisions, and such holders will thereafter be considered and deemed for all purposes to be holders of the shares of Corresponding U.S. Company Stock.

### **8.5 Delivery of Consideration**

For the purposes of completing an exchange of the Exchangeable Shares pursuant to the Mandatory Exchange Rights, the Designated Shareholders shall cause U.S. Company or at the option of the U.S. Company, a Permitted Subsidiary to deliver to the holders of the Exchangeable Shares subject to the Mandatory Exchange Rights, the Mandatory Exchange Consideration against presentation and surrender of the Closing Documents. Satisfaction by U.S. Company or Permitted Subsidiary of payment of the Mandatory Exchange Consideration for such Exchangeable Shares shall be made by delivery to each holder, at the address of the holder recorded in the securities register of the Corporation or by holding for pick up by the holder at the registered office of the Corporation, certificates representing the shares of Corresponding U.S. Company Stock or other securities constituting the Mandatory Exchange Consideration (which shares will be duly issued as fully paid and non-assessable and will be free and clear of any lien, claim, encumbrance, security interest or adverse claim) and, if applicable, a cheque of U.S. Company or Permitted Subsidiary payable at par at any branch of the bankers of U.S. Company or Permitted Subsidiary, as applicable, totalling any Outstanding Dividend Amount (less any tax required to be withheld from the total Mandatory

Exchange Consideration by U.S. Company or Permitted Subsidiary). On and after the Mandatory Exchange Date, the holders of the Exchangeable Shares will cease to be holders of such Exchangeable Shares and will not be entitled to exercise any of the rights of holders in respect thereof, other than the right to receive their proportionate part of the total Mandatory Exchange Consideration, unless U.S. Company or Permitted Subsidiary does not execute the Mandatory Exchange Rights in the manner described above, in which case the holders of the Exchangeable Shares will be entitled to receive from the Corporation and the Corporation shall pay therefore the Holder Exchange Consideration in the manner set forth in Section 8.2, failing which the rights of the holders shall remain unaffected until the total Mandatory Exchange Consideration (without duplication) has been paid in the manner hereinbefore provided.

#### **8.6 No Further Interest**

The Designated Shareholders will have the right at any time on or after the Mandatory Exchange Date to have U.S. Company or a Permitted Subsidiary deposit the total Mandatory Exchange Consideration in respect of the Exchangeable Shares represented by certificates that have not at the Mandatory Exchange Date been surrendered by the holders thereof in a custodial account with any chartered bank or trust company in Canada. The right of the holders of such Exchangeable Shares after such deposit will be limited to receiving their proportionate part of the total Mandatory Exchange Consideration (less any tax required to be deducted and withheld therefrom) without interest for such Exchangeable Shares, against presentation and surrender of the said Closing Documents in accordance with the foregoing provisions, and such holders will thereafter be considered and deemed for all purposes to be holders of the shares of Corresponding U.S. Company Stock.

#### **8.7 Redemption Right of Corporation**

Subject to applicable law, the Corporation may, at any time, redeem any or all of the then outstanding Exchangeable Shares that have been acquired by U.S. Company Group pursuant to the Mandatory Exchange Rights for an amount per Exchangeable Share equal to the Exchange Amount for such Exchangeable Share on the last Business Day prior to the date on which the Corporation notifies in writing the U.S. Company Group of its intention to redeem such shares pursuant to Section 7.2. The Exchange Amount may be paid and satisfied in full by the Corporation causing to be delivered to U.S. Company Group such number of Non-Voting Common Shares or other securities of the Corporation as the Board of Directors determines in good faith, provided that the Non-Voting Common Shares or other securities shall not have a value in excess of the fair equivalent of the Exchange Amount.

### **ARTICLE 9 VOTING RIGHTS**

#### **9.1 Non-Voting**

Except as required by applicable law, the holders of Exchangeable Shares will not be entitled as such to receive notice of or to attend any meeting of the shareholders of the Corporation or to vote at any such meeting. In circumstances that the Act prescribes that the holders of a class or classes of Exchangeable Shares have the right to vote whether or not such shares otherwise have the right to vote, the holders of such class or classes of Exchangeable Shares entitled to vote with respect thereto will vote together as a single class to the extent permitted by applicable law. Except as

otherwise explicitly provided in the Act, the holders of Exchangeable Shares will not be entitled to vote separately, or to dissent, in respect of a proposal to amend the articles of the Corporation.

**ARTICLE 10**  
**ACTIONS BY THE CORPORATION UNDER**  
**SUPPORT AGREEMENT AND EXCHANGE AGREEMENT**

**10.1 Compliance with Support Agreement and Exchange Agreement**

The Corporation will take all such actions and do all such things as shall be necessary or advisable to perform and comply with and to ensure performance and compliance by the Designated Shareholder, the U.S. Company and the Corporation with all provisions of the Support Agreement and the Exchange Agreement applicable to the U.S. Company and the Corporation, respectively, in accordance with the terms thereof, if applicable, including, without limitation, taking all such actions and doing all such things as will be necessary or advisable to enforce to the fullest extent possible for the direct benefit of the Corporation all rights and benefits in favour of the Corporation under or pursuant to such agreements.

**10.2 Required Approval**

The Support Agreement or the Exchange Agreement may be amended and any breach or potential breach of these agreements may be waived, and any such amendment or waiver will be effective and binding on all the parties hereto and thereto by written approval of at least (1) the Corporation, (2) the U.S. Company, and (3) a Preferred Shareholder Approval.

**ARTICLE 11**  
**LEGEND AND MANDATORY EXCHANGE RIGHTS**

**11.1 Appropriate Legends**

The certificates evidencing the Exchangeable Shares will contain or have affixed thereto a legend in form and on terms approved by the Board of Directors, with respect to the Support Agreement, the provisions relating to the Mandatory Exchange Rights (as applicable) and the Exchange Agreement (including the provisions with respect to the exchange rights thereunder).

**11.2 Acknowledgement of Mandatory Exchange Rights**

Each holder of an Exchangeable Share, whether of record or beneficial, by virtue of becoming and being such a holder will be deemed to acknowledge each of the Liquidation Mandatory Exchange Right, the Retraction Mandatory Exchange Right and the Redemption Mandatory Exchange Right, in each case, in favour of the Designated Shareholders, and the overriding nature thereof in connection with any Liquidation Event or the retraction or redemption of Exchangeable Shares in accordance therewith, as the case may be, and to be bound thereby in favour of the Designated Shareholders.

**ARTICLE 12  
NOTICES**

**12.1 Method of Delivery**

Any notice, request or other communication to be given to the Designated Shareholders, the Corporation, the U.S. Company or a Permitted Subsidiary by a holder of Exchangeable Shares will be in writing and will be valid and effective if given by ordinary mail (postage prepaid) or by electronic transmission or by delivery care of the Corporation to the registered office of the Corporation and addressed to the attention of the President. Any such notice, request or other communication, if given by mail, electronic transmission or delivery, will only be deemed to have been given and received upon actual receipt thereof by the Corporation or, if the date of receipt is not a Business Day, on the next Business Day after the date of receipt.

**12.2 Presentation and Surrender**

Any presentation and surrender by a holder of Exchangeable Shares to the Corporation of certificates representing Exchangeable Shares in connection with any Liquidation Event or the retraction or redemption of Exchangeable Shares shall be made by ordinary mail (postage prepaid) or by delivery to the registered office of the Corporation, addressed to the attention of the President of the Corporation. Any such presentation and surrender of certificates will be deemed to have been made and to be effective only upon actual receipt thereof by the Corporation. Any such presentation and surrender of certificates made by ordinary mail shall be at the sole risk of the holder mailing the same.

**12.3 Delivery of Notices, etc.**

Any notice, request or other communication to be given to a holder of Exchangeable Shares by or on behalf of the Corporation will be in writing and will be valid and effective if given by electronic transmission or by delivery to the address of the holder recorded in the securities register of the Corporation or, in the event of the address of any such holder not being so recorded, then at the last known address of such holder. Any such notice, request or other communication will be deemed to have been given and received on the date of electronic transmission or delivery or, if the date of electronic transmission or delivery is not a Business Day or the time of electronic transmission or delivery is not before or during regular business hours on a Business Day, on the next Business Day after the date of electronic transmission or delivery.

**ARTICLE 13  
CONVERSION OF EXCHANGEABLE SHARES**

**13.1 Optional Conversion into Common Exchangeable Shares**

Each issued share of a class of Exchangeable Shares (other than Common Exchangeable Shares) may at any time, at the option of the holder, be converted into issued and fully paid Common Exchangeable Shares, at the applicable Exchangeable Conversion Rate. Such conversion privilege may be exercised by notice in writing given to the Corporation accompanied by the certificate or certificates representing such Exchangeable Shares in respect of which the holder thereof desires to exercise such conversion privilege together with such other documents the Corporation may reasonably require in connection with such conversion. Such notice will be signed by the Person or Persons registered on the books of the Corporation as the holder of such Exchangeable Shares

in respect of which such privilege is being exercised or by such Person's duly authorized attorney and will specify the number and class of Exchangeable Shares which the holder desires to have converted. Upon receipt of such notice and the certificate or certificates representing such Exchangeable Shares, together with such other documents the Corporation may reasonably require in connection with such conversion, the Corporation shall issue a certificate or certificates representing fully paid Common Exchangeable Shares on the above basis to the holder of such Exchangeable Shares represented by the certificate or certificates accompanying such notice. If less than all of the Exchangeable Shares (other than Common Exchangeable Shares) represented by any certificate are to be converted, the holder of the shares represented thereby will be entitled to receive free of charge a new certificate for the shares represented thereby which are not converted. All shares resulting from any conversion of such issued Exchangeable Shares into Common Exchangeable Shares as aforesaid shall be validly issued, fully paid and non-assessable.

### **13.2 Mandatory Conversion Events**

Notwithstanding any other provisions of the articles of the Corporation, upon the occurrence of any event whereby the shares of U.S. Company Series A Preferred Stock, U.S. Company Series B Preferred Stock or Company Series B1 Preferred Stock are cancelled or where, pursuant to the U.S. Company Certificate, all shares of U.S. Company Series A Preferred Stock, U.S. Company Series B Preferred Stock, or U.S. Company Series B1 Preferred Stock are automatically converted to shares of U.S. Company Common Stock (whether or not any such shares have been issued), then all Class A Exchangeable Shares, Class B Exchangeable Shares or Class B1 Exchangeable Shares, as applicable, will automatically be converted into issued and fully paid Common Exchangeable Shares, at the then applicable Exchangeable Conversion Rate unless upon the occurrence of such event such Class A Exchangeable Shares, Class B Exchangeable Shares or Class B1 Exchangeable Shares, as applicable, are required to be redeemed or exchanged for shares of U.S. Company Series A Preferred Stock, U.S. Company Series B Preferred Stock or U.S. Company Series B1 Preferred Stock, as applicable, pursuant to Article 5 or Article 7, in which case such Class A Exchangeable Shares, Class B Exchangeable Shares and Class B1 Exchangeable Shares will be redeemed or exchanged and then immediately converted into shares of U.S. Company Common Stock.

### **13.3 Conversion Mechanics**

Conversions of Exchangeable Shares under Section 13.2 will be exercised by notice in writing given to the Person or Persons registered on the books of the Corporation as the holder of the Exchangeable Shares in respect of which such conversion is being required. Such notice will be signed by the Corporation and will confirm the number and type of Exchangeable Shares which the Corporation requires to be converted. For greater certainty, such mandatory conversion will be effected whether or not a holder of Exchangeable Shares surrenders certificates representing Exchangeable Shares as described below. After receipt by the holder of such notice, the holder shall surrender to the Corporation such certificate or certificates representing the Exchangeable Shares in respect of which the Corporation requires such conversion. Upon receipt of such certificate or certificates, the Corporation shall issue a certificate or certificates representing fully paid Common Exchangeable Shares to the holder of such shares. All Common Exchangeable Shares resulting from any conversion of Exchangeable Shares into Common Exchangeable Shares as aforesaid will be validly issued, fully paid and non-assessable.

### **13.4 No Adjustment For Dividends**

The registered holder of any Exchangeable Share on the record date for any dividend declared payable on such shares will be entitled to such dividend notwithstanding that such share is converted after such record date and before the payment date of such dividend. The Corporation will be entitled to elect to pay any unpaid dividend to the registered holder of any Exchangeable Share in cash or by way of stock dividend paid in Exchangeable Shares of the same class and series of Exchangeable Shares on which the dividend is being paid, in which case, if any such shares of the class or series of Exchangeable Shares in which the stock dividend would otherwise be payable are to be converted in accordance with Sections 13.1, 13.2 or 13.3, the Corporation may convert such shares at the Exchangeable Conversion Rate and pay the stock dividend in the Common Exchangeable Shares resulting from such conversion. The registered holder of any Common Exchangeable Share resulting from any conversion will be entitled to rank equally with the registered holders of all other Common Exchangeable Shares in respect of all dividends declared payable to holders of Common Exchangeable Shares of record on any date after the date of conversion. Subject as aforesaid, upon the conversion of any Exchangeable Shares, the Corporation will make no payment or adjustment on account of any dividends on the Exchangeable Shares so converted or on account of any dividends on the Common Exchangeable Shares issuable upon such conversion.

### **13.5 Rights under other Agreements**

Upon conversion of Exchangeable Shares in accordance with Sections 13.1, 13.2 or 13.3, a holder of Exchangeable Shares will concurrently take the benefit of and be subject to the voting, exchange and other rights and restrictions attaching to the Exchangeable Shares under the Exchange Agreement.

## **ARTICLE 14 WITHHOLDING**

### **14.1 Right to Withhold**

U.S. Company, Permitted Subsidiary and the Corporation will be entitled to deduct and withhold from any dividend or any other amount of any kind whatever otherwise payable (or deemed payable) to any holder of Exchangeable Shares (or any other shares issued by the Corporation) such amounts as U.S. Company, Permitted Subsidiary or the Corporation is required or permitted to deduct and withhold with respect to such payment under the ITA, the United States Internal Revenue Code of 1986 or any provision of provincial, state, local or foreign tax law, in each case as amended or succeeded. To the extent that amounts are so withheld, such withheld amounts will be treated for all purposes as having been paid to the holder of the shares in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate taxing authority. To the extent that the amount so required or permitted to be deducted or withheld from any payment to a holder exceeds the cash portion of the amount otherwise payable to the holder, the holder will be notified in writing thereof by U.S. Company, Permitted Subsidiary or the Corporation (as applicable) and the holder shall be obligated to pay the difference (up to the amount required to be withheld by U.S. Company, Permitted Subsidiary or the Corporation) in cash to such withholding party; failing payment of such difference within five Business Days after notice is provided to the holder, U.S. Company, Permitted Subsidiary and the Corporation are hereby authorized to withhold, sell or otherwise dispose of such portion of the

amount otherwise payable as is necessary to provide sufficient funds to U.S. Company, Permitted Subsidiary or the Corporation, as the case may be, to enable it to comply with such deduction, withholding and remittance obligations and U.S. Company, Permitted Subsidiary or the Corporation shall notify the holder thereof and remit to such holder the amount of the net proceeds of such sale not required to be remitted to the tax authorities.

#### **14.2 Section 116 Clearance Certificate for Non Resident Holders Prior to Disposition**

For greater clarification and without limiting the generality of Section 14.1 above, U.S. Company, Permitted Subsidiary and the Corporation will be entitled to deduct and withhold from any consideration otherwise payable to a holder of Exchangeable Shares that is a non-resident of Canada for purposes of the ITA and to whom the Exchangeable Shares are “taxable Canadian property” and not “excluded property” for purposes of Section 116 ITA (“**Non Resident Exchangeable Holder**”), such amount to which the U.S. Company, Permitted Subsidiary and the Corporation may be liable to pay pursuant to subsection 116(5) ITA (and any amount to which the U.S. Company, Permitted Subsidiary and the Corporation may be liable to pay pursuant to the corresponding provisions of provincial legislation, if applicable), unless clearance certificates issued pursuant to subsection 116(2) ITA (and a corresponding certificate under provincial legislation, if applicable) in form and content satisfactory to the U.S. Company, Permitted Subsidiary and the Corporation, and indicating a certificate limit equal to the cost to the U.S. Company, the Permitted Subsidiary or the Corporation, as the case may be, of such shares, are delivered to the U.S. Company, Permitted Subsidiary and the Corporation prior to a disposition of such shares or confirmation from the Canada Revenue Agency that the Exchangeable Shares are not “taxable Canadian property” (and equivalent confirmation from other provincial taxing authority, if applicable) in form and content satisfactory to the U.S. Company, Permitted Subsidiary and the Corporation, as the case may be.

#### **14.3 Remittance of Amount Withheld**

The U.S. Company, Permitted Subsidiary and the Corporation shall remit the amount withheld in accordance with Section 14.1 above to the Receiver General for Canada in accordance with subsection 116(5) ITA on the 30<sup>th</sup> day after the end of the month in which the U.S. Company, Permitted Subsidiary and the Corporation acquired such shares (and to the appropriate provincial tax collector pursuant to the corresponding provisions of provincial legislation, if applicable), unless (i) comfort letters from the Canada Revenue Agency (and from the appropriate provincial taxing authorities, if applicable) indicating that such remittance is to be deferred to a later date, (ii) clearance certificates issued pursuant to subsection 116(2) ITA or subsection 116(4) ITA (and a corresponding certificate under provincial legislation, if applicable) in form and content satisfactory to the U.S. Company, Permitted Subsidiary and the Corporation, and indicating a certificate limit, if any, equal to the cost to the U.S. Company, the Permitted Subsidiary or the Corporation, as the case may be, of such shares, or (iii) confirmation from the Canada Revenue Agency that the Exchangeable Shares are not “taxable Canadian property” (and equivalent confirmation from other provincial taxing authority, if applicable) in form and content satisfactory to the U.S. Company, Permitted Subsidiary and the Corporation, as the case may be, are delivered to the U.S. Company, Permitted Subsidiary and the Corporation prior to the expiry of said delay.



#### **14.4 Section 116 Clearance Certificate for Non Resident Holders After Disposition**

The U.S. Company, Permitted Subsidiary and the Corporation shall forthwith remit to the Non-Resident Exchangeable Holder the amount withheld in accordance with Section 14.1, if clearance certificates issued pursuant to subsection 116(2) ITA or subsection 116(4) ITA (and a corresponding certificate under provincial legislation, if applicable) in form and content satisfactory to the U.S. Company, Permitted Subsidiary and the Corporation, and indicating a certificate limit, if any, equal to the cost to the U.S. Company, the Permitted Subsidiary or the Corporation, as the case may be, of such shares or, confirmation from the Canada Revenue Agency that the Exchangeable Shares are not “taxable Canadian property” (and equivalent confirmation from other provincial taxing authority, if applicable) in form and content satisfactory to the U.S. Company, Permitted Subsidiary and the Corporation, as the case may be, are delivered to the U.S. Company, Permitted Subsidiary and the Corporation prior to the time when such amounts are remitted in accordance with this Article 14.

### **ARTICLE 15 GENERAL**

#### **15.1 Delivery of Shares**

For greater certainty, whenever these share provisions require the Corporation to deliver, or cause to be delivered, U.S. Company Shares, the Corporation may direct U.S. Company to deliver such shares to the appropriate holder of Exchangeable Shares or such shareholder’s legal representative.

#### **15.2 Compliance with Applicable Securities Laws**

The obligations of the Corporation under these share provisions to issue, transfer or deliver to holders of shares of the Corporation any other shares of the Corporation or U.S. Company Shares are subject to applicable Canadian, U.S. and other applicable securities laws. Notwithstanding any provision of these share provisions, the Corporation may not be obligated to issue, transfer or deliver any shares hereunder unless an exemption from applicable registration and prospectus requirements under applicable securities laws is available in respect of such issuance, transfer or delivery or such registration and prospectus requirements otherwise do not apply.

#### **15.3 Determination of Economic Equivalence and other adjustments**

The U.S. Company Board of Directors and the Board of Directors will have the right to determine, in good faith (with the assistance of such reputable and qualified independent financial advisors and/or other experts as the U.S. Company Board of Directors Board of Directors may require): (i) economic equivalence for the purposes of these Articles, and (ii) the basis and calculation of any proportional or other adjustments (such as rounding-up or down share numbers or other entitlements) to any share number or amount or other entitlement contemplated by these Articles, taking into account such factors as the U.S. Company Board of Directors or the Board of Directors considers relevant (including, without limitation, whether a corresponding and economically equivalent adjustment has already been effected so as not to warrant a further adjustment), and any such determination shall be conclusive and binding on the Corporation and each of the holders of the Exchangeable Shares.

#### **15.4 U.S. Tax Treatment**

It is the intention of the Corporation and the U.S. Company that the Exchangeable Shares are treated as shares of the Corporation for U.S. federal income tax purposes and the provisions of these Articles shall be interpreted in a manner consistent with the foregoing. The Corporation shall not take any position for U.S. federal income tax purposes that is inconsistent with the foregoing except to the extent otherwise required by a change in law (it being understood that this Section 15.4 shall not prevent the Corporation from taking any action that is explicitly contemplated in these Articles).

**EXHIBIT A**

**NOTICE OF RETRACTION**

**To:** INOCUCOR TECHNOLOGIES INC. (the "Corporation")

**And to:** INOCUCOR CORPORATION and, if applicable, its Permitted Subsidiary

This notice is given pursuant to Article 6 of the share provisions (the "Share Provisions") attaching to the Exchangeable Shares represented by this certificate and all capitalized words and expressions used in this notice that are defined in the Share Provisions have the meanings ascribed to such words and expressions in such Share Provisions.

The undersigned hereby notifies the Corporation that, subject to applicable law, the Share Provisions and the Retraction Mandatory Exchange Right referred to below, the undersigned desires to have the Corporation redeem the following shares (the "Retracted Shares") in accordance with Article 6 of the Share Provisions:

- all share(s) represented by this certificate; or
- \_\_\_\_share(s) only.

The undersigned hereby notifies the Corporation that the Retraction Date shall be \_\_\_\_\_.

**NOTE:**

A separate notice must be provided for each class of Exchangeable Shares.

The Retraction Date must be a Business Day and must not be less than five Business Days nor more than 15 Business Days after the date upon which this notice is received by the Corporation. If no such Business Day is specified above, the Retraction Date will be deemed to be the 15<sup>th</sup> Business Day after the date on which this notice is received by the Corporation.

The undersigned acknowledges the overriding Retraction Mandatory Exchange Right of the Designated Shareholders to have U.S. Company or Permitted Subsidiary purchase all but not less than all the Retracted Shares from the undersigned and that this notice is and will be deemed to be a revocable offer by the undersigned to sell the Retracted Shares to U.S. Company or Permitted Subsidiary, as the case may be, in accordance with the Retraction Mandatory Exchange Right on the Retraction Date for the Retraction Consideration and on the other terms and conditions set out in Section 6.4 of the Share Provisions. This notice of retraction, and this offer to sell the Retracted Shares to U.S. Company or Permitted Subsidiary, as applicable, may be revoked and withdrawn by the undersigned only by notice in writing given to the Corporation at any time before the close of business on the Business Day immediately preceding the Retraction Date.

The undersigned acknowledges that if, as a result of solvency provisions of applicable law, the Corporation is unable to redeem all Retracted Shares, and provided that no Designated Shareholder has exercised the Retraction Mandatory Exchange Right with respect to the Retracted Shares, the undersigned will be deemed to have exercised the Exchange Right (as defined in the Exchange Agreement) so as to require U.S. Company or Permitted Subsidiary, as the case may be, to purchase the unredeemed Retracted Shares.

The undersigned hereby represents and warrants to the Designated Shareholders, the U.S. Company, the Permitted Subsidiary and the Corporation that the undersigned:

is  
(select one)

is not

a non-resident of Canada for purposes of the *Income Tax Act* (Canada). The undersigned acknowledges that in the absence of an indication that the undersigned is not a non-resident of Canada, withholding on account of Canadian tax may be made from amounts payable to the undersigned on the redemption or purchase of the Retracted Shares.

The undersigned hereby represents and warrants to the Designated Shareholders, U.S. Company, Permitted Subsidiary and the Corporation that the undersigned has good title to, and owns, the share(s) represented by this certificate to be acquired by U.S. Company, Permitted Subsidiary or the Corporation, as the case may be, free and clear of all liens, claims and encumbrances.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Shareholder

\_\_\_\_\_  
Guarantee of Signature

\_\_\_\_\_  
Name of Shareholder

Please check box if the securities and any cheque(s) resulting from the retraction or purchase of the Retracted Shares are to be held for pick-up by the shareholder from the Corporation, failing which the securities and any cheque(s) will be mailed to the last address of the shareholder as it appears on the register.

NOTE: The information below must be completed and this certificate, together with such additional documents as the Corporation may require, must be deposited with the Corporation at its registered office in Québec. The securities and any cheque(s) resulting from the retraction or exchange of the Retracted Shares will be issued and registered in, and made payable to, respectively, the name of the shareholder as it appears on the register of the Corporation and the securities and cheque(s) resulting from such retraction or exchange will be delivered to such shareholder as indicated above, unless the form appearing immediately below is duly completed.

\_\_\_\_\_  
Name of person in whose name securities  
or cheque(s) are to be registered, issued  
or delivered (please print)

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Street Address or P.O. Box

\_\_\_\_\_  
Signature of Shareholder

\_\_\_\_\_  
City, Province

NOTE: If the notice of retraction is for less than all of the share(s) represented by this certificate, a certificate representing the remaining shares of the Corporation represented by this certificate will be issued and registered in the name of the shareholder as it appears on the register of the Corporation, unless the share transfer power on the share certificate is duly completed in respect of such shares.

## PART B

### PROVISIONS ATTACHING TO THE SPECIAL VOTING SHARES

The Common Special Voting Shares, Class A Special Voting Shares, Class B Special Voting Shares and Class B1 Special Voting Shares (the “**Special Voting Shares**”) of the Corporation shall have the following rights, privileges, restrictions and conditions:

#### 1. **Voting Rights**

The holders of the Special Voting Shares will be entitled to receive notice of and attend (in person or by proxy) all meetings of shareholders of the Corporation and will be entitled to one vote in respect of each Special Voting Share held at such meetings except at a meeting of holders of a particular class or series of shares other than the Special Voting Shares who are entitled to vote separately as a class at such meeting. The holders of Special Voting Shares will vote together as a single class to the extent permitted by applicable law.

#### 2. **Dividends**

A holder of Special Voting Shares will not be entitled to receive any dividends.

#### 3. **Liquidation, Dissolution or Winding up of the Corporation**

Upon the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or any other distribution of the assets of the Corporation among its shareholders for the purposes of winding up its affairs (a “**Liquidation Event**”), the holders of Special Voting Shares then outstanding will be entitled to be paid out of the assets of the Corporation available for distribution to its shareholders, subject to the prior rights of the holders of Non-Voting Common Shares (as described in Part C of these share provisions) and the holders of Exchangeable Shares (as set out in Part A of these share provisions) and all other classes or series of shares ranking upon a Liquidation Event senior to the Special Voting Shares, an amount equal to the SVS Redemption Price (as defined hereinafter) per share (subject to appropriate adjustment in the event of any stock dividend, stock split, combination or other similar recapitalization affecting such shares). After the SVS Redemption Price has been paid, the holders of Special Voting Shares will not be entitled to any further distribution of the assets of the Corporation. If upon any such event the remaining assets of the Corporation available for distribution to its shareholders are insufficient to pay the holders of Special Voting Shares the full amount to which they are entitled, the holders of Special Voting Shares and any class or series of shares ranking on liquidation on a parity with the holders of Special Voting Shares will share rateably in any distribution of the remaining assets and funds of the Corporation in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

#### 4. **Class Voting**

Except as otherwise explicitly provided in the Act, the holders of Special Voting Shares will not be entitled to vote separately, or to dissent, in respect of a proposal to amend the Articles of the Corporation.

## 5. Redemption – General

- (a) Subject to applicable law, the Corporation may on or after the date on which (i) there are no Exchangeable Shares issued and outstanding or (ii) all Exchangeable Shares are owned by U.S. Company or a Permitted Subsidiary or a combination of both, whichever is earlier (the “**SVS Redemption Date**”), redeem all of the then outstanding Special Voting Shares for an amount for each Special Voting Share equal to CAN \$0.000001 (the “**SVS Redemption Price**”) in accordance with Section 5(c).
- (b) In any case of redemption of the Special Voting Shares, unless all the holders of the Special Voting Shares to be redeemed shall have waived notice of such redemption, the Corporation shall mail written notice to each person who, at the date of mailing, is a registered holder of Special Voting Shares to be redeemed of the intention of the Corporation to redeem such Special Voting Shares. Such notice will set out the total SVS Redemption Price for the shares to be redeemed and the SVS Redemption Date and, if part only of the Special Voting Shares held by the person to whom notice is given is to be redeemed, the number thereof so to be redeemed.
- (c) On or after the SVS Redemption Date, the Corporation shall pay or cause to be paid to or to the order of the registered holders of the Special Voting Shares to be redeemed the SVS Redemption Price in respect of each Special Voting Share then held which, in respect of each holder’s entitlement, will be rounded down to the nearest cent. Such payment shall be made by cheque payable at par at any branch of the Corporation’s bankers.
- (d) From and after the SVS Redemption Date specified for redemption in any such notice, the Special Voting Shares called for redemption will cease to be entitled to exercise any of the rights of shareholders in respect thereof, unless payment of the SVS Redemption Price of the Special Voting Shares are not made upon presentation of the certificate in accordance with the foregoing provisions, in which case the rights of the holders shall remain unaffected.

The Corporation will have the right, at any time after the mailing of notice of its intention to redeem any of the Special Voting Shares, to deposit the SVS Redemption Price of Special Voting Shares called for redemption or of such of the said Special Voting Shares represented by certificates which have not at the date of such deposit been surrendered by the holder thereof in connection with any such redemption, in a special account in any chartered bank or trust company in Canada named in such notice, to be paid without interest to or to the order of the respective holders of such Special Voting Shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing the same and, on such deposit being made or upon the SVS Redemption Date, whichever is the later, the Special Voting Shares in respect of which such deposit shall have been made will be redeemed and the holders thereof after such deposit or such SVS Redemption Date, as the case may be, will be limited to receiving without interest their proportionate part of the total SVS Redemption Price of the Special Voting Shares so deposited, against presentation and surrender of the said certificates held by them respectively, and interest allowed on any such deposit shall belong to the Corporation.

The provisions of this Section 5 will not apply where there cease to be any Exchangeable Shares issued and outstanding as a result of an automatic exchange of Exchangeable Shares pursuant to the Exchange Agreement due to the occurrence of the following events:

- (i) determination of the Board of Directors made upon or following any determination by the board of directors of U.S. Company to institute voluntary liquidation, dissolution or winding-up proceedings with respect to U.S. Company or to effect any other distribution of assets of U.S. Company among its stockholders for the purpose of winding up its affairs; or
- (ii) determination of the Board of Directors made upon or following, the earlier of (A) receipt by U.S. Company of notice of and (B) U.S. Company otherwise becoming aware of, any instituted claim, suit, petition or other proceedings with respect to the involuntary liquidation, dissolution or winding up of U.S. Company or to effect any other distribution of assets of U.S. Company among its stockholders for the purpose of winding up its affairs.

## 6. Protective Provisions

### 6.1 Preferred Shareholder Approval Required.

Except as otherwise required pursuant to the Support Agreement, the Exchange Agreement, these Articles or the U.S. Company Certificate, the Corporation will not commit to or incur any obligation, make any decision or take any action with respect to any of the following (whether directly or indirectly, by merger, amalgamation, reorganization, reclassification, consolidation or otherwise), without a Preferred Shareholder Approval and any such actions shall be null and void, *ab initio*, and of no force and effect without such Preferred Shareholder Majority Approval:

- (a) amend, alter or repeal any provision of these Articles to alter or change, or otherwise alter or change, the rights, preferences or privileges of any Class A Exchangeable Share or Class A Special Voting; provided that holders of a majority of the Class A Special Voting then outstanding shall also have approved any such alteration, amendment, change or repeal to the extent required under applicable law;
- (b) amend, alter or repeal any provision of these Articles to alter or change, or otherwise alter or change, the rights, preferences or privileges of any Class B Exchangeable Share or Class B Special Voting; provided that holders of a majority of the Class B Special Voting then outstanding shall also have approved any such alteration, amendment, change or repeal to the extent required under applicable law;
- (c) repurchase, redeem or otherwise acquire, or apply any of the assets of the Corporation to repurchase, redeem or acquire, any shares of capital stock of the Corporation (including, without limitation, Exchangeable Shares, Non-Voting Shares or Special Voting Shares) other than (i) redemptions of or dividends or distributions on the Exchangeable Shares as expressly authorized herein or in the Exchange Agreement or Support Agreement or (ii) redemptions or repurchases

pursuant to equity incentive agreements with service providers giving the Corporation the right to repurchase shares upon the termination of services at no greater than cost and except for the exercise by the Corporation of contractual rights of first refusal on transfer of any such shares;

- (d) any issuance or sale of shares by any subsidiary of the Corporation other than (i) to the Corporation, U.S. Company or a direct or indirect wholly-owned subsidiary of the Corporation or U.S. Company or (ii) in accordance with the Exchange Agreement or Support Agreement;
- (e) declare or pay any dividend or make any distribution on any shares in the capital of the Corporation (including, without limitation, Exchangeable Shares, Non-Voting Shares or Special Voting Shares), other than a redemptions of or dividends or distributions as expressly provided in or required by these Articles, the Exchange Agreement or Support Agreement;
- (f) increase or decrease the authorized size of the Board of Directors of the Corporation;
- (g) create, authorize or issue (by reclassification or otherwise) any new class or series of shares of stock having any rights, preferences or privileges senior to or on a parity with the Class A Exchangeable Share, Class B Exchangeable Share or Class B1 Exchangeable Share, including, without limitation, as to dividends, liquidation preference or redemption rights;
- (h) any IPO recapitalization or reclassification of the capital of the Corporation;
- (i) any Change of Control Event or Liquidation Event;
- (j) amend or waive any provision in these Articles or by-laws of the Corporation in a manner that affects any Class A Exchangeable Shares, Class A Special Voting Shares, Class B Exchangeable Shares, Class B Special Voting Shares, Class B1 exchangeable Shares or Class B1 Special Voting Shares;
- (k) any issuance of Special Voting Shares without an issuance of U.S. Company Preferred Stock;
- (l) the grant of any security interest, lien or encumbrance over the assets of the Corporation, U.S. Company and/or any of their respective subsidiaries; or
- (m) cause or permit any direct or indirect wholly-owned subsidiary of the Corporation or U.S. Company to take any of the actions described in clauses (a) through (m) above (as applicable to any such subsidiary).

## **6.2 *Class B1 Exchangeable Shares Protective Provisions***

Except as otherwise required pursuant to the Support Agreement, the Exchange Agreement, these Articles or the U.S. Company Certificate, the Corporation will not commit to or incur any obligation, make any decision or take any action to amend, alter or repeal any provision of these Articles to alter or change the rights, preferences or privileges of the Class B1 Exchangeable Shares



without the approval (by way of vote or written consent) of the holders of at least 65% of the Class B1 Special Voting Shares, and any such action shall be null and void *ab initio* and of no force and effect without such approval. Notwithstanding anything to the contrary, the approval referred to in this Section 6.2 shall not be required if:

- (i) such decision to amend, alter or repeal any provision is necessary in the opinion of the Board of Directors, acting reasonably, to complete a A) “Qualified Financing” (defined below) or B) a Change of Control Event; and
- (ii) a corresponding amendment is made concurrently to the rights, privileges, conditions or restrictions of the Class B Exchangeable Shares; and
- (iii) the holders of 65% or more of the Class B Exchangeable Shares or shares of U. S. Company Series B Preferred Stock do not receive an amount of additional shares or subscription rights in a new series of equity senior in preference to the Class B Exchangeable Shares or shares of U.S. Company Series B Preferred Stock in exchange for the amendments made concurrently to the rights, privileges, conditions or restrictions of the Class B Exchangeable Shares which is greater than the amount of Class B Exchangeable Shares or shares of U.S. Company Series B Preferred Stock currently held by such holders.

For the purposes of this provision, “**Qualified Financing**” means a financing (loan or equity) of the Corporation or U.S. Company, whether in a single transaction, or in a series of related transactions, with aggregate gross proceeds of at least US\$7,000,000 from investors including at least one investor which is not already a holders of shares in the share capital of the Corporation or U.S. Company.

For purposes of this provision, (i) the creation of new classes of shares having rights, privileges, conditions or restrictions superior to the Class B1 Exchangeable Shares or U.S. Company Series B1 Preferred Stock or (ii) the issuance of additional shares of Class B Exchangeable Shares or shares of Series B Preferred Stock shall not be deemed to be amendment to the rights, privileges, conditions or restrictions of the Class B1 Exchangeable Shares.

## PART C

### PROVISIONS ATTACHING TO THE NON-VOTING COMMON SHARES

#### 1. **Non-Voting**

Except as required by law, the holders of Non-Voting Common Shares will not be entitled as such to receive notice of or to attend any meeting of the shareholders of the Corporation or to vote at any such meetings.

#### 2. **Dividends**

Subject to the prior rights of the holders of any other shares of the Corporation, if any, ranking senior to the Non-Voting Common Shares with respect to priority in the payment of dividends but prior to the holders of any class of Exchangeable Shares, the holders of Non-Voting Common Shares will be entitled to receive dividends and the Corporation shall pay dividends thereon, as and when declared by the Board of Directors out of the assets of the Corporation properly applicable to the payment of dividends, in such amount and in such form as the Board of Directors may from time to time determine and all dividends that the Board of Directors may declare on the Non-Voting Common Shares shall be declared and paid in equal amounts per share on all Non-Voting Common Shares at the time outstanding.

#### 3. **Liquidation, Dissolution or Winding up of the Corporation**

Upon a Liquidation Event, after payment in full of the liquidation preference to the holders of Class A Exchangeable Shares, Class B Exchangeable Shares and Class B1 Exchangeable Shares and any other shares ranking senior to the Non-Voting Common Shares, if any, the holders of the Non-Voting Common Shares will be entitled to participate rateably with the holders of the Common Exchangeable Shares in any distribution of the assets upon a Liquidation Event.

**PART D**

**PROVISIONS ATTACHING TO ALL NON-VOTING SHARES**

If the only shares issued and outstanding in the capital of the Corporation are non-voting shares, all of the issued and outstanding shares in the capital of the Corporation will become voting shares.