



5. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise.  
*Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société.*

None.

6. The classes and any maximum number of shares that the corporation is authorized to issue:  
*Catégories et nombre maximal, s'il y a lieu, d'actions que la société est autorisée à émettre :*

An unlimited number of Class A Preferred Shares;  
An unlimited number of Class B Preferred Shares; and  
An unlimited number of Common Shares.

7. Rights, privileges, restrictions and conditions (if any) attaching to each class of shares and directors authority with respect to any class of shares which may be issued in series:  
*Droits, privilèges, restrictions et conditions, s'il y a lieu, rattachés à chaque catégorie d'actions et pouvoirs des administrateurs relatifs à chaque catégorie d'actions qui peut être émise en série :*

See Schedules A, B and C included in pages 3A - 3II of these Articles.

## SCHEDULE "A"

## CLASS A PREFERRED SHARE ATTRIBUTES

Subject to the provisions of the *Business Corporations Act* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced (the "Act"), the Class A Preferred Shares shall have the rights, privileges, restrictions and conditions set forth herein.

A.1 Dividends. The holders of the Common Shares, the holders of the Class A Preferred Shares and the holders of the Class B Preferred Shares will be entitled to receive dividends (whether in cash, shares or other property) if, as and when declared by the Board of Directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the Board may from time to time determine, on a pari passu basis according to the number of Common Shares held where each holder of Class A Preferred Shares and Class B Preferred Shares is to be treated for this purpose as holding the greatest whole number of Common Shares then issuable upon conversion of the Class A Preferred Shares and Class B Preferred Shares respectively, in the same form, at the same time and subject to the same terms and conditions, without distinction or preference between the Common Shares, the Class A Preferred Shares and the Class B Preferred Shares. Such dividends declared on the Class A Preferred Shares are hereafter referred to as "Class A Dividends". No dividends shall at any time be declared or paid or set apart for payment on: (i) the Common Shares, the Class A Preferred Shares or the Class B Preferred Shares other than in accordance with this Section A.1, or (ii) any other shares of the Corporation unless the holders of the Class A Preferred Shares participate in such dividends on terms substantially similar to those contained in this Section A.1.

A.2 Liquidation, Dissolution or Winding Up, Certain Mergers, Consolidations and Asset Sales.

(a) Class A Liquidation Preference Payment. Upon a Liquidation Event that is not a Mandatory Conversion Event (as defined in Section A.4(l)), on the payment date set forth in the Liquidation Notice (as defined in Section A.2(e)), the holders of the Class A Preferred Shares outstanding on the Record Date (as defined in Section A.2(e)) shall be paid the Liquidation Preference Payment (as defined in Section A.2(b)(i)), after payment in full of the liquidation preference payments to the holders of Class B Preferred Shares as set forth in Schedule B, Section B.2(a) and prior to and in preference to any payment to the holders of Common Shares and to the holders of Class B Preferred

Shares as set forth in Schedule B, Section B.2(b) and any other shares ranking junior to the Class A Preferred Shares ("**Junior Stock**") but subject to the rights of the holders of Class B Preferred Shares or of any other class of shares of the Corporation which entitle the holders thereof to receive assets of the Corporation upon distribution in priority to or on parity with the holders of the Class A Preferred Shares. If, upon any Liquidation Event that is not a Mandatory Conversion Event, the assets to be distributed to the holders of the Class A Preferred Shares shall be insufficient to permit payment to such holders of the full preferential amounts aforesaid, then all of the assets of the Corporation available for distribution to the holders of Class A Preferred Shares of the Corporation shall be distributed to such holders of the Class A Preferred Shares pro rata. After payment in full of the Liquidation Preference Payment, the holders of the Class A Preferred Shares shall not participate in any further distribution by the Corporation.

(b) Liquidation Preference Payments and Original Issue Price Defined.

- (i) "**Liquidation Preference Payment**" shall mean, subject to the terms set forth herein, an amount payable to each holder of Class A Preferred Shares equal to the greater of
- (A) the Original Issue Price (as hereafter defined) per Class A Preferred Share held by such holder (subject to appropriate adjustment to reflect any stock division, stock dividend, consolidation or similar corporate event affecting the Class A Preferred Shares), plus all declared but unpaid dividends in respect of such share; and
  - (B) the amount that would otherwise have been payable to the holder if such Class A Preferred Shares held had been converted into Common Shares immediately prior to the applicable Liquidation Event.
- (ii) Subject to the terms set forth herein, the term "**Original Issue Price**" shall mean CDN\$0.6297 per Class A Preferred Share.
- (iii) Whenever a Liquidation Preference Payment provided for in this Section A.2(b) is payable in property other than cash, the value of such distribution shall be the fair market value of such property as determined in good faith by the Board of Directors of the Corporation.

- (c) Priority of Payments. Upon the occurrence of a Liquidation Event that is not a Mandatory Conversion Event, the proceeds of such Liquidation Event which are paid in accordance with the terms thereof as Liquidation Preference Payments shall be applied first to the amount of declared but unpaid Class A Dividends payable at such time, and second to the payment of the Original Issue Price. For greater certainty, nothing in the immediately preceding sentence is intended to alter the priority of payment to the Class B Preferred Shares over the Class A Preferred Shares or the priority of payment to the Class A Preferred Shares over the Common Shares and Junior Stock upon a Liquidation Event. If two or more Liquidation Events occur that are not Mandatory Conversion Events, the holders of each Class A Preferred Share shall not be entitled to more than one full payment of the Liquidation Preference Payment applicable to such share.
- (d) A "**Liquidation Event**" means:
- (i) the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary;
  - (ii) the sale, license or transfer of all or substantially all the assets of the Corporation to a party other than a Subsidiary (as defined below) (an "**Asset Transaction**");
  - (iii) the exclusive, irrevocable licensing of all or substantially all of the intellectual property of the Corporation to any party other than a Subsidiary (a "**Licensing Transaction**").
  - (iv) the merger, amalgamation, consolidation, reorganization (or equivalent transactions in any foreign jurisdiction) of the Corporation into or with any other entity or entities (a "**Merger Transaction**") in which the holders of the Corporation's voting shares outstanding immediately prior to the transaction do not constitute the holders of a majority of the voting shares outstanding of the surviving entity immediately following the transaction; and
  - (v) the sale, exchange or transfer by the Corporation's shareholders in a single transaction or series of related transactions, of shares representing all or substantially all of the outstanding shares of the Corporation (except such a sale, exchange, or transfer with a Subsidiary of the Corporation) (a "**Share Transaction**"), except a Qualified Public Offering.

**"Subsidiary"** shall mean any corporation, partnership, trust or other entity where the Corporation and/or any of its other subsidiaries directly or indirectly owns a majority of the outstanding voting shares or other interests of such corporation, partnership, trust or other entity.

- (e) Liquidation Notice. Written notice of any Liquidation Event (the **"Liquidation Notice"**), stating a payment date and the place at which any Liquidation Preference Payments shall be made, shall be given by mail, postage prepaid, or by facsimile transmission, not less than 15 days prior to the Liquidation Event, which payment date shall be no later than 7 business days following a Liquidation Event, to the holders of record of Class A Preferred Shares, such notice to be addressed to each such holder at its address as shown by the records of the Corporation. The record date for any Liquidation Event (the **"Record Date"**) shall be the date that is 5 days prior to the Liquidation Event.

- A.3 Voting. The holders of outstanding Class A Preferred Shares shall be entitled to receive notice of and to attend all meetings of shareholders of the Corporation and shall be entitled to receive, concurrently with the holders of the Common Shares, all notices of meetings, information circulars and other written information from the Corporation that the holders of the Common Shares are entitled to receive pursuant to the provisions of the Act, these Articles or otherwise. Except as may be otherwise provided in the Act or these Articles, each holder of outstanding Class A Preferred Shares shall be entitled to that number of votes equal to the number of whole Common Shares into which the Class A Preferred Shares held by such holder are then convertible (as adjusted from time to time pursuant to Section 5 hereof) at each meeting of shareholders of the Corporation with respect to any and all matters presented to the shareholders of the Corporation for their action or consideration.

Except for matters where holders of Class A Preferred Shares are by law required to vote as a class, holders of Class A Preferred Shares shall vote together with the holders of the Common Shares and Class B Preferred Shares as a single class. The holders of Class A Preferred Shares shall not be entitled to vote separately as a class and are not entitled to dissent, upon a proposal to amend the articles of the Corporation to: (a) increase or decrease any maximum number of authorized Class A Preferred Shares, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the Class A Preferred Shares; (b) effect an exchange, reclassification or cancellation of the Class A Preferred Shares; or (c) subject to the exceptions contained in the Act, create a new class or series of shares having rights or privileges equal or superior to the Class B Preferred Shares.

A.4 **Conversion.** The holders of the Class A Preferred Shares shall have conversion rights as following.

- (f) Right to Convert. Subject to the terms and conditions of this Section A.4, each holder of Class A Preferred Shares shall have the right, at its option at any time, to convert any such Class A Preferred Shares (except that upon any Liquidation Event that is not a Mandatory Conversion Event, the right of conversion shall terminate at the close of business on the day prior to the Record Date) into such number of fully paid and non-assessable Common Shares as is obtained by (x) multiplying the number of Class A Preferred Shares to be converted by the Original Issue Price, and (y) dividing the result by the Class A Conversion Price (as defined in Section A.4).
- (g) Class A Conversion Price. The conversion price per Class A Preferred Share (the "Class A Conversion Price") shall be the Original Issue Price, provided, however that the Class A Conversion Price shall be subject to adjustment pursuant to the provisions of this Section A.4.
- (h) Mechanics of Conversion.
  - (i) Notice of Conversion. Each holder of Class A Preferred Shares who desires to exercise its right of conversion shall give written notice to the Corporation that the holder elects to convert a stated number of Class A Preferred Shares into Common Shares and shall surrender a certificate or certificates for the shares so to be converted or a certificate of loss in respect thereof and indemnity in favour of the Corporation to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of the Class A Preferred Shares) at any time during the Corporation's usual business hours, together with a statement of the name or names (with address) in which the certificate or certificates for Common Shares shall be issued. Notwithstanding any other provisions hereof, if a conversion of Class A Preferred Shares is to be made in connection with any transaction affecting the Corporation, the conversion of any Class A Preferred Shares may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion shall not be deemed to be effective until such transaction has been consummated, subject in all events to the terms applicable to such transaction.

- (ii) Reservation of Shares issuable Upon Conversion. The Corporation will at all times reserve and keep available out of its authorized but unissued Common Shares, solely for the purpose of effecting the conversion of the Class A Preferred Shares, such number of its Common Shares as will from time to time be sufficient to effect the conversion of all outstanding Class A Preferred Shares.
  - (iii) No Reissuance of Class A Preferred Shares. Class A Preferred Shares which are converted into Common Shares as provided herein shall not be reissued. Class A Preferred Shares which are surrendered or required to be surrendered for conversion in accordance with the provisions hereof shall, from and after the applicable conversion date, be deemed to have been retired and cancelled and the Class A Preferred Shares represented thereby converted into Common Shares for all purposes.
- (i) Issuance of Certificates; Time Conversion Effected. After the receipt of the written notice referred to in Section A.4(c)(i) and surrender of the certificate or certificates for the Class A Preferred Shares to be converted or a certificate of loss in respect thereof and indemnity in favour of the Corporation, the Corporation shall issue and deliver, or cause to be issued and delivered to the holder, registered in such name or names as such holder may direct, a certificate or certificates for the number of whole Common Shares issuable upon the conversion of such Class A Preferred Shares. To the extent permitted by law and subject to any conversion which is conditioned upon the consummation of a transaction in accordance with Section A.4(c)(i), such conversion shall be deemed to have been effected and the Class A Preferred Shares shall be retired and cancelled as of the close of business on the date on which such written notice shall have been received by the Corporation and the certificate or certificates for such share or shares or a certificate of loss and indemnity in respect thereof shall have been surrendered as aforesaid, and at such time the rights of the holder of such Class A Preferred Shares shall cease, and the person or persons in whose name or names any certificate or certificates for Common Shares shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares represented thereby.
- (j) Fractional Shares, Partial Conversion. No fractional shares shall be issued upon conversion of Class A Preferred Shares into Common Shares and no payment or adjustment shall be made upon any such conversion with respect to any cash dividends previously payable on

the Common Shares issued upon such conversion. In case the number of Class A Preferred Shares represented by the certificate or certificates surrendered pursuant to Section A.4(c) exceeds the number of shares converted, the Corporation shall, upon such conversion, execute and deliver to the holder, at the expense of the Corporation, a new certificate or certificates for the number of Class A Preferred Shares represented by the certificate or certificates surrendered which are not to be converted. If any fractional Common Share would, except for the provisions of the first sentence of this Section A.4, be delivered upon such conversion, the Corporation, in lieu of delivering such fractional share, shall pay to the holder surrendering the Class A Preferred Shares for conversion an amount in cash equal to the fair value of such fraction of a Common Share as determined in good faith by the Board of Directors of the Corporation.

- (k) Adjustment for Subdivisions and Consolidations. The term “**Class A Original Issue Date**” means the date the first Class A Preferred Share was issued by the Corporation. If the Corporation shall at any time or from time to time after the Class A Original Issue Date effect a subdivision of the outstanding Common Shares without a comparable subdivision of the Class A Preferred Shares, the Class A Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of Common Shares issuable on conversion of each Class A Preferred Share shall be increased in proportion to such increase in the aggregate number of Common Shares outstanding. If the Corporation shall at any time or from time to time after the Class A Original Issue Date consolidate the outstanding Common Shares without a comparable consolidation of the Class A Preferred Shares, the Class A Conversion Price in effect immediately before the consolidation shall be proportionately increased so that the number of Common Shares issuable on conversion of each Class A Preferred Share shall be decreased in proportion to such decrease in the aggregate number of Common Shares outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or consolidation becomes effective.
- (l) Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time, or from time to time, after the Class A Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Shares entitled to receive a dividend or other distribution payable in additional Common Shares, then and in each such event the Class A Conversion Price in effect

immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Class A Conversion Price then in effect by a fraction:

- (i) the numerator of which shall be the total number of Common Shares issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and
- (ii) the denominator of which shall be the total number of Common Shares issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of Common Shares issuable in payment of such dividend or distribution;

provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Class A Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Class A Conversion Price shall be adjusted pursuant to this paragraph as of the time of actual payment of such dividends or distributions; and provided further, however, that no such adjustment shall be made if the holders of Class A Preferred Shares simultaneously receive a dividend or other distribution of Common Shares in a number equal to the number of Common Shares they would have received if all outstanding Class A Preferred Shares had been converted into Common Shares on the date of such event.

- (m) Adjustment for Reclassification, Exchange, or Substitution. If the Common Shares shall be changed into the same or a different number of shares of any class, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or consolidation of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below or pursuant to a Liquidation Event), then and in each such event holders of Class A Preferred Shares shall have the right thereafter to convert such shares into the kind and amount of shares and other securities and property receivable upon such reorganization, reclassification, or other change, that would have otherwise been receivable by the holders of the number of Common Shares into which such Class A Preferred Shares would have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

(n) Adjustment for Merger or Reorganization, etc. In case of any merger, amalgamation, consolidation, reorganization or other business combination that is not a Liquidation Event involving the Corporation and any other corporation or other entity or person, each Class A Preferred Share shall thereafter be convertible (or shall be converted into a security which shall be convertible) into the kind and amount of shares or other securities or property to which a holder of the number of Common Shares of the Corporation that would have otherwise been deliverable upon conversion of such Class A Preferred Shares would have been entitled upon such event; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section A.4 set forth with respect to the rights and interests thereafter of the holders of the Class A Preferred Shares, to the end that the provisions set forth in this Section (including provisions with respect to changes in and other adjustments of the Class A Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares or other property thereafter deliverable upon the conversion of the Class A Preferred Shares.

(o) Adjustment of Class A Conversion Price.

(i) Issuance of Additional Shares. If at any time or from time to time after the Class A Original Issue Date, the Corporation issues or sells, or is deemed by the express provisions of this Section A.4 to have issued or sold, Additional Shares (as defined below), other than in connection with an event referred to in Sections A.5(f), A.5(g), A.5(h) or A.5(i) for an Effective Price (as defined below) less than the then effective Class A Conversion Price, then and in each such case the then existing Class A Conversion Price will be reduced as of the opening of business on the date of completion of such issue or sale, to a price (calculated to the nearest cent) determined in accordance with the following formula.

$$CP_2 \text{ Subscript} = [(CP_1 * A) + (NP * C)] \div (A + C)$$

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

(A) "CP<sub>2</sub>" shall mean the Class A Conversion Price in effect immediately after such issue of Additional Shares;

- (B) "CP<sub>1</sub>" shall mean the Class A Conversion Price in effect immediately prior to such issue of Additional Shares;
  - (C) "A" shall mean the number of Common Shares outstanding immediately prior to such issue of Additional Shares, (including, for such purpose (i) Common Shares issuable upon conversion of the Class A Preferred Shares and Class B Preferred Shares outstanding immediately prior to such issue of Additional Shares and (ii) Common Shares issuable upon the exercise, conversion or exchange of any other Convertible Securities or Options deemed to be issued pursuant to Section A.4(j)(iii));
  - (D) "C" shall mean the number of such Additional Shares issued in such transaction; and
  - (E) "NP" means the price at which such Additional Shares were issued.
- (ii) Determination of Consideration. For the purpose of making any adjustment required under this Section 1.4, the consideration received by the Corporation for any issue or sale of securities will (A) to the extent such consideration consists of cash, be computed at the net amount of cash received by the Corporation, (B) to the extent such consideration consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board of Directors of the Corporation, and (C) to the extent that Additional Shares, shares or other securities convertible into Common Shares (such convertible shares or securities being herein referred to as "**Convertible Securities**") or rights, warrants or options to purchase either Additional Shares or Convertible Securities (such rights, warrants or options being herein referred to as "**Options**") are issued or sold together with other shares or securities or other assets of the Corporation for a consideration which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board of Directors of the Corporation to be allocable to such Additional Shares, Convertible Securities or Options.
- (iii) Deemed Issue of Additional Shares. For the purpose of the adjustment required under this Section A.4(j), if the Corporation

issues or sells Convertible Securities or Options other than in connection with an event referred to in Section A.4(f), A.4(g), A.4(h) or A.4(i) above, and if the Effective Price of the Additional Shares issuable pursuant to such Convertible Securities or Options is less than the Class A Conversion Price then in effect, in each case the Corporation will be deemed to have issued at the time of the issuance of such Options or Convertible Securities the maximum number of Additional Shares issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of the Options or Convertible Securities, plus, in the case of Options, the minimum amounts of consideration, if any, payable to the Corporation upon the exercise of such Options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation upon the conversion thereof, provided that:

- (A) if, in the case of Convertible Securities, the minimum amounts of such consideration cannot be ascertained, but are a function of anti-dilution or similar protective clauses, the Corporation will be deemed to have received the minimum amounts of consideration without reference to such clauses;
- (B) if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of Options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by reason of anti-dilution adjustments, the Effective Price will be recalculated using the figure to which such minimum amount of consideration is reduced; and
- (C) if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of Options or Convertible Securities is subsequently increased, the Effective Price will be again recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise or conversion of such Options or Convertible Securities.

No further adjustment of the Class A Conversion Price as adjusted upon the issuance of Options or Convertible Securities will be made as

a result of the actual issuance of Additional Shares on the exercise of any Options or the conversion of any such Convertible Securities. If any such Options or the conversion privilege represented by any such Convertible Securities expires without having been exercised, the Class A Conversion Price as adjusted upon the issuance of the Options or Convertible Securities will be readjusted to the Class A Conversion Price which would have been in effect had an adjustment been made on the basis that the only Additional Shares so issued were the Additional Shares, if any, actually issued or sold on the exercise of such Options or rights of conversion of such Convertible Securities, and such Additional Shares, if any, were issued or sold for: (A) the consideration, if any, actually received by the Corporation upon the exercise of such Options or on the conversion of such Convertible Securities, plus (B) the consideration, if any, actually received by the Corporation for the granting of all such Options or the issue and sale of all such Convertible Securities, whether or not exercised or converted.

- (iv) **"Additional Shares"** will mean all Common Shares issued by the Corporation or deemed to be issued pursuant to this Section A.4 other than:
- (A) Common Shares issued, deemed issued, issuable or authorized for issuance to employees, consultants or directors pursuant to stock option, stock grant, share purchase or similar plans or arrangements approved by the Corporation's Board of Directors or a committee thereof, from time to time (including without limitation upon the exercise of Options outstanding as of the Class B Original Issue Date);
  - (B) any Common Shares issued upon the exercise of Convertible Securities or Options to purchase Common Shares outstanding as of the Class B Original Issue Date;
  - (C) any Common Shares issued upon conversion of the Class A Preferred Shares or Class B Preferred Shares, or as a result of an adjustment to the Class A Conversion Price or the Class B Conversion Price;
  - (D) any Common Shares issued in connection with a bona fide business acquisition of the Corporation which is approved by the Board of Directors of the Corporation;

- (E) any Common Shares issued pursuant to the warrant agreement between the Corporation and Her Majesty the Queen dated November 14, 2003 that entitles the warrant holder to acquire up to 619,280 Common Shares, subject to the adjustments set out in such warrant agreement; and
- (F) any Common Shares offered to the public pursuant to a Qualified Public Offering (as hereafter defined).

All references to Common Shares will mean all Common Shares issued by the Corporation or deemed to be issued pursuant to this Section 5(j).

- (v) The “Effective Price” of Additional Shares will mean the quotient determined by dividing the total number of Additional Shares issued or sold, or deemed to have been issued or sold by the Corporation under this Section A.4(j), into the aggregate consideration received, or deemed to have been received by the Corporation for such issue under this Section A.4(j), for such Additional Shares.
- (p) Certificate of Adjustment. In each case of an adjustment or readjustment of the Class A Conversion Price or the number of Common Shares or other securities issuable upon conversion of the Class A Preferred Shares, the Corporation, at its expense, will compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and will mail such certificate, by first class mail, postage prepaid, to each registered holder of Class A Preferred Shares at the holder's address as shown in the Corporation's books. The certificate will set forth such adjustment or readjustment, showing in reasonable detail the facts upon which such adjustment or readjustment is based.
- (q) Mandatory Conversion. All outstanding Class A Preferred Shares shall automatically be converted into Common Shares upon a Mandatory Conversion Event as that term is defined in Schedule B, Section B.4(l) (also hereafter referred to as a “Mandatory Conversion Event”).
- (r) Upon a Mandatory Conversion Event, the mandatory conversion shall be effected without any further action by the holders of the Class A Preferred Shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided however that the Corporation will not be required to issue

certificates evidencing the Common Shares issuable upon such conversion unless the certificates evidencing such Class A Preferred Shares are either delivered to the Corporation or its transfer agent or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an indemnity in favour of the Corporation indemnifying the Corporation against any loss incurred by it in connection with such certificates.

- (s) The Corporation will pay all taxes (other than taxes based upon income or withholding taxes) and other governmental charges that may be imposed with respect to the issue or delivery of Common Shares upon conversion of Class A Preferred Shares, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of Common Shares in a name other than that in which the Class A Preferred Shares so converted were registered and the Corporation shall not be required to issue or deliver such certificate unless the person or persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid or that the Corporation has not and will not have any liability in respect of such tax.

- A.5 **Notice of Record Date.** Except as set forth herein, upon the fixing by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive (i) any dividend or other distribution, or (ii) notice of and vote on any capital reorganization of the Corporation, any reclassification or recapitalization of the shares of the Corporation, or any merger or consolidation of the Corporation with or into any other corporation (other than a Liquidation Event), the Corporation will mail to each holder of Common Shares, Class A Preferred Shares and Class B Preferred Shares at least ten (10) days prior to the record date specified therein (or such shorter period approved, by vote or written consent, by holders of at least ninety percent (90%) of the outstanding Class B Preferred Shares) notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date of which any such reorganization, reclassification, recapitalization, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Shares, Class A Preferred Shares or Class B Preferred Shares will be entitled to exchange their Common Shares, Class A Preferred Shares or Class B Preferred Shares, as applicable, for securities or other property deliverable upon reorganization, reclassification, recapitalization, consolidation or merger.

## SCHEDULE "B"

### CLASS B PREFERRED SHARES ATTRIBUTES

Subject to the provisions of the Business Corporations Act (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced (the "Act"), the Class B Preferred Shares shall have the rights, privileges, restrictions and conditions set forth herein.

- B.1 Dividends. The holders of the Common Shares, the holders of the Class A Preferred Shares and the holders of the Class B Preferred Shares will be entitled to receive dividends (whether in cash, shares or other property) if, as and when declared by the Board of Directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the Board may from time to time determine, on a pari passu basis according to the number of Common Shares held where each holder of Class A Preferred Shares and Class B Preferred Shares is to be treated for this purpose as holding the greatest whole number of Common Shares then issuable upon conversion of the Class A Preferred Shares and Class B Preferred Shares respectively, in the same form, at the same time and subject to the same terms and conditions, without distinction or preference between the Common Shares, the Class A Preferred Shares and the Class B Preferred Shares. Such dividends declared on the Class B Preferred Shares are hereafter referred to as "Class B Dividends". No dividends shall at any time be declared or paid or set apart for payment on: (i) the Common Shares, the Class A Preferred Shares or the Class B Preferred Shares other than in accordance with this Section B.2, or (ii) any other shares of the Corporation unless the holders of the Class B Preferred Shares participate in such dividends on terms substantially similar to those contained in this Section B. 2.
- B.2 Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.
- (a) Class B Liquidation Preference Payment. Upon a Liquidation Event that is not a Mandatory Conversion Event (as defined in Section B.4(l)), on the payment date set forth in the Liquidation Notice (as defined in Section B.2(f)), the holders of the Class B Preferred Shares outstanding on the Record Date (as defined in Section B.2(f)) shall be paid the Liquidation Preference Payment (as defined in Section B.2(c)(i)), prior to and in preference to any payment to the holders of Class A Preferred Shares and Common Shares and any other shares ranking junior to the Class B Preferred Shares ("**Junior Stock**"). If, upon any

Liquidation Event that is not a Mandatory Conversion Event, the assets to be distributed to the holders of the Class B Preferred Shares shall be insufficient to permit payment to such holders of the full preferential amounts aforesaid, then all of the assets of the Corporation available for distribution to the holders of shares of the Corporation shall be distributed to such holders of the Class B Preferred Shares pro rata.

- (b) Distribution of Remaining Assets. Upon any Liquidation Event that is not a Mandatory Conversion Event, immediately after the holders of Class B Preferred Shares have received the Liquidation Preference Payment and the holders of Class A Preferred Shares have received any liquidation preference payable on the Class A Preferred Shares, the remaining assets of the Corporation available for distribution shall be distributed among the holders of the Class B Preferred Shares and Common Shares in an amount per Common Share calculated on a pari passu basis according to the number of Common Shares held, where each holder of Class B Preferred Shares is to be treated for this purpose as holding the greatest whole number of Common Shares then issuable upon conversion of the Class B Preferred Shares into Common Shares immediately prior to such Liquidation Event.
- (c) Liquidation Preference Payments and Original Issue Price Defined.
- (i) **“Liquidation Preference Payment”** shall mean, subject to the terms set forth herein, an amount per Class B Preferred Share equal to (i) the Original Issue Price (as hereinafter defined) per share (subject to appropriate adjustment to reflect any stock division, stock dividend, consolidation or similar corporate event affecting the Class B Preferred Shares) plus (ii) 8% of the Original Issue Price per annum accruing daily from the date of issuance of the applicable Class B Preferred Shares to the Record Date (the **“Additional Liquidation Preference”**) plus (iii) all declared but unpaid Class B Dividends.
- (i) Subject to the terms set forth herein, the terra **“Original Issue Price”** shall mean US\$0.5355 per Class B Preferred Share.
- (ii) Whenever a Liquidation Preference Payment provided for in this Section B.2(c) is payable in property other than cash, the value of such distribution shall be the fair market value of such property as determined in good faith by the Board of Directors of the Corporation.

- (d) Priority of Payments. Upon the occurrence of a Liquidation Event that is not a Mandatory Conversion Event, the proceeds of such Liquidation Event which are paid in accordance with the terms thereof as Liquidation Preference Payments shall be applied first to the Additional Liquidation Preference, second to the amount of declared but unpaid Class B Dividends payable at such time, and third to the payment of the Original Issue Price. For greater certainty, nothing in the immediately preceding sentence is intended to alter the priority of payment to the Class B Preferred Shares over the Class A Preferred Shares, the Common Shares and Junior Stock upon a Liquidation Event. If two or more Liquidation Events occur that are not Mandatory Conversion Events, the holders of each Class B Preferred Share shall not be entitled to more than one full payment of the Liquidation Preference Payment applicable to such share. After payment of the full Liquidation Preference Payment, each Class B Preferred Share shall only entitle the holder to participate in any distribution of assets of the Corporation available for distribution to holders of Common Shares in an amount per Common Share calculated on a pari passu basis according to the number of Common Shares held, where each holder of Class B Preferred Shares is to be treated for this purpose as holding the greatest whole number of Common Shares then issuable upon conversion of the Class B Preferred Shares into Common Shares immediately prior to such Liquidation Event.
- (e) A "**Liquidation Event**" means:
- (i) the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary;
  - (ii) the sale; license or transfer of all or substantially all the assets of the Corporation to a party other than a Subsidiary (as defined below) (an "**Asset Transaction**");
  - (iii) the exclusive, irrevocable licensing of all or substantially all of the intellectual property of the Corporation to any party other than a Subsidiary (a "**Licensing Transaction**").
  - (iv) The merger, amalgamation, consolidation, reorganization (or equivalent transactions in any foreign jurisdiction) of the Corporation into or with any other entity or entities (a "**Merger Transaction**") in which the holders of the Corporation's voting shares outstanding immediately prior to the transaction do not constitute the holders of a majority of the voting shares

outstanding of the surviving entity immediately following the transaction; and

- (v) the sale, exchange or transfer by the Corporation's shareholders in a single transaction or series of related transactions, of shares representing all or substantially all of the outstanding shares of the Corporation) except such a sale, exchange, or transfer with a Subsidiary of the Corporation) a "**Share Transaction**"), except a Qualified Public Offering.

"**Subsidiary**" shall mean any corporation, partnership, trust or other entity where the Corporation and/or any of its other subsidiaries directly or indirectly owns a majority of the outstanding voting shares or other interests of such corporation, partnership, trust or other entity.

- (f) Liquidation Notice. Written notice of any Liquidation Event (the "**Liquidation Notice**"), stating a payment date and the place at which any Liquidation Preference Payments shall be made, shall be given by mail, postage prepaid, or by facsimile transmission, not less than 15 days prior to the Liquidation Event, which payment date shall be no later than 7 business days following a Liquidation Event, to the holders of record of Class B Preferred Shares, such notice to be addressed to each such holder at its address as shown by the records of the Corporation. The record date for any Liquidation Event (the "**Record Date**") shall be the date that is 5 days prior to the Liquidation Event.

**B.2** Voting. The holders of outstanding Class B Preferred Shares shall be entitled to receive notice of and to attend all meetings of shareholders of the Corporation and shall be entitled to receive, concurrently with the holders of the Common Shares, all notices of meetings, information circulars and other written information from the Corporation that the holders of the Common Shares are entitled to receive pursuant to the provisions of the Act, these Articles or otherwise. Except as may be otherwise provided in the Act or these Articles, each holder of outstanding Class B Preferred Shares shall be entitled to that number of votes equal to the number of whole Common Shares into which the Class B Preferred Shares held by such holder are then convertible (as adjusted from time to time pursuant to Section 5 hereof) at each meeting of shareholders of the Corporation with respect to any and all matters presented to the shareholders of the Corporation for their action or consideration.

Except for matters where holders of Class B Preferred Shares are by law required to vote as a class, holders of Class B Preferred Shares shall vote together with the holders of the Common Shares and Class A Preferred

Shares as a single class. The holders of Class B Preferred Shares shall not be entitled to vote separately as a class and are not entitled to dissent, upon a proposal to amend the articles of the Corporation to: (a) increase or decrease any maximum number of authorized Class B Preferred Shares, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the Class B Preferred Shares; (b) effect an exchange, reclassification or cancellation of the Class B Preferred Shares; or (c) subject to the exceptions contained in the Act, create a new class or series of shares having rights or privileges equal or superior to the Class B Preferred Shares.

B.3 Conversion. The holders of the Class B Preferred Shares shall have conversion rights as follows:

- (a) Right to Convert. Subject to the terms and conditions of this Section B.4(c), each holder of Class B Preferred Shares shall have the right, at its option at any time, to convert any such Class B Preferred Shares (except that upon any Liquidation Event that is not a Mandatory Conversion Event, the right of conversion shall terminate at the close of business on the day prior to the Record Date) into such number of fully paid and non-assessable Common Shares as is obtained by (x) multiplying the number of Class B Preferred Shares to be converted by the Original Issue Price, and (y) dividing the result by the Class B Conversion Price (as defined in Section B.4(b)).
- (b) Class B Conversion Price. The conversion price per Class B Preferred Share (the "**Class B Conversion Price**") shall be the Original Issue Price, provided, however that the Class B Conversion Price shall be subject to adjustment pursuant to the provisions of this Section B.4.
- (c) Mechanics of Conversion.
  - (i) Notice of Conversion. Each holder of Class A Preferred Shares who desires to exercise its right of conversion shall give written notice to the Corporation that the holder elects to convert a stated number of Class B Preferred Shares into Common Shares and shall surrender a certificate or certificates for the shares so to be converted or a certificate of loss in respect thereof and indemnity in favour of the Corporation to the Corporation at its principal office (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of the Class B Preferred Shares) at any time during the Corporation's usual business hours, together with a statement of the name or names (with address) in which

the certificate or certificates for Common Shares shall be issued. Notwithstanding any other provisions hereof, if a conversion of Class B Preferred Shares is to be made in connection with any transaction affecting the Corporation, the conversion of any Class B Preferred Shares may, at the election of the holder thereof, be conditioned upon the consummation of such transaction, in which case such conversion shall not be deemed to be effective until such transaction has been consummated, subject in all events to the terms applicable to such transaction.

- (ii) Reservation of Shares Issuable Upon Conversion. The Corporation will at all times reserve and keep available out of its authorized but unissued Common Shares, solely for the purpose of effecting the conversion of the Class B Preferred Shares, such number of its Common Shares as will from time to time be sufficient to effect the conversion of all outstanding Class B Preferred Shares.
- (iii) No Reissuance of Class B Preferred Shares. Class B Preferred Shares which are converted into Common Shares as provided herein shall not be reissued. Class B Preferred Shares which are surrendered or required to be surrendered for conversion in accordance with the provisions hereof shall, from and after the applicable conversion date, be deemed to have been retired and cancelled and the Class B Preferred Shares represented thereby converted into Common Shares for all purposes.
- (d) Issuance of Certificates; Time Conversion Effected. After the receipt of the written notice referred to in Section B.4(c) and surrender of the certificate or certificates for the Class B Preferred Shares to be converted or a certificate of loss in respect thereof and indemnity in favour of the Corporation, the Corporation shall issue and deliver, or cause to be issued and delivered to the holder, registered in such name or names as such holder may direct, a certificate or certificates for the number of whole Common Shares issuable upon the conversion of such Class B Preferred Shares. To the extent permitted by law and subject to any conversion which is conditioned upon the consummation of a transaction in accordance with Section B.(c)(i), such conversion shall be deemed to have been effected and the Class B Preferred Shares shall be retired and cancelled as of the close of business on the date on which such written notice shall have been received by the Corporation and the certificate or certificates for such share or shares or certificate of loss and indemnity in respect thereof shall have been surrendered as aforesaid, and at such time the rights of

the holder of such Class B Preferred Shares shall cease, and the person or persons in whose name or names any certificate or certificates for Common Shares shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares represented thereby.

- (e) Fractional Shares: Partial Conversion. No fractional shares shall be issued upon conversion of Class B Preferred Shares into Common Shares and no payment or adjustment shall be made upon any such conversion with respect to any cash dividends previously payable on the Common Shares issued upon such conversion. In case the number of Class B Preferred Shares represented by the certificate or certificates surrendered pursuant to Section B.4(c) exceeds the number of shares converted, the Corporation shall, upon such conversion, execute and deliver to the holder, at the expense of the Corporation, a new certificate or certificates for the number of Class B Preferred Shares represented by the certificate or certificates surrendered which are not to be converted. If any fractional Common Share would, except for the provisions of the first sentence of this Section B.4(e), be delivered upon such conversion, the Corporation, in lieu of delivering such fractional share, shall pay to the holder surrendering the Class B Preferred Shares for conversion an amount in cash equal to the fair value of such fraction of a Common Share as determined in good faith by the Board of Directors of the Corporation.
- (f) Adjustment for Subdivisions and Consolidations. The term “**Class B Original Issue Date**” means the date the first Class B Preferred Share is issued by the Corporation. If the Corporation shall at any time or from time to time after the Class B Original Issue Date effect a subdivision of the outstanding Common Shares without a comparable subdivision of the Class B Preferred Shares, the Class B Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of Common Shares issuable on conversion of each Class B Preferred Share shall be increased in proportion to such increase in the aggregate number of Common Shares outstanding. If the Corporation shall at any time or from time to time after the Class B Original Issue Date consolidate the outstanding Common Shares without a comparable consolidation of the Class B Preferred Shares, the Class B Conversion Price in effect immediately before the consolidation shall be proportionately increased so that the number of Common Shares issuable on conversion of each Class B Preferred Share shall be decreased in proportion to such decrease in the aggregate number of Common

Shares outstanding. Any adjustment under this subsection shall become effective at the close of business on the date the subdivision or consolidation becomes effective.

- (g) Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time, or from time to time, after the Class B Original Issue Date shall make or issue, or fix a record date for the determination of holders of Common Shares entitled to receive a dividend or other distribution payable in additional Common Shares, then and in each such event the Class B Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying the Class B Conversion Price then in effect by a fraction:
- (i) the numerator of which shall be the total number of Common Shares issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, and
  - (ii) the denominator of which shall be the total number of Common Shares issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of Common Shares issuable in payment of such dividend or distribution;

provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Class B Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter the Class B Conversion Price shall be adjusted pursuant to this paragraph as of the time of actual payment of such dividends or distributions; and provided further, however, that no such adjustment shall be made if the holders of Class B Preferred Shares simultaneously receive a dividend or other distribution of Common Shares in a number equal to the number of Common Shares they would have received if all outstanding Class B Preferred Shares had been converted into Common Shares on the date of such event.

- (h) Adjustment for Reclassification, Exchange, or Substitution. If the Common Shares shall be changed into the same or a different number of shares of any class, whether by capital reorganization, reclassification, or otherwise (other than a subdivision or consolidation of shares or stock dividend provided for above, or a reorganization, merger, consolidation, or sale of assets provided for below or pursuant

to a Liquidation Event), then and in each such event holders of Class B Preferred Shares shall have the right thereafter to convert such shares into the kind and amount of shares and other securities and property receivable, upon such reorganization, reclassification, or other change that would have otherwise been receivable by the holders of the number of Common Shares into which such Class B Preferred Shares would have been converted immediately prior to such reorganization, reclassification, or change, all subject to further adjustment as provided herein.

- (i) Adjustment for Merger or Reorganization, etc. In case of any merger, amalgamation, consolidation, reorganization or other business combination that is not a Liquidation Event involving the Corporation and any other corporation or other entity or person, each Class B Preferred Share shall thereafter be convertible (or shall be converted into a security which shall be convertible) into the kind and amount of shares or other securities or property to which a holder of the number of Common Shares of the Corporation that would have otherwise been deliverable upon conversion of such Class B Preferred Shares would have been entitled upon such event; and, in such case, appropriate adjustment (as determined in good faith by the Board of Directors of the Corporation) shall be made in the application of the provisions in this Section B.4 set forth with respect to the rights and interests thereafter of the holders of the Class B Preferred Shares, to the end that the provisions set forth in this Section (including provisions with respect to changes in and other adjustments of the Class B Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any shares or other property thereafter deliverable upon the conversion of the Class B Preferred Shares.
- (j) Adjustment of Class B Conversion Price.
  - (i) Issuance of Additional Shares. If at any time or from time to time after the Class B Original Issue Date, the Corporation issues or sells, or is deemed by the express provisions of this Section B.4 to have issued or sold, Additional Shares (as defined below), other than in connection with an event referred to in Sections B.4(f), B.4(g), B.4(h) or B.4(i) for an Effective Price (as defined below) less than the then effective Class B Conversion Price, then and in each such case the then existing Class B Conversion Price will be reduced as of the opening of business on the date of completion of such issue or sale, to a price (calculated to the nearest cent) determined in accordance with the following formula:

$$CP_2 = [(CP_1 * A) + (NP * C)] \div (A + C)$$

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

- (A) "CP<sub>2</sub>" shall mean the Class B Conversion Price in effect immediately after such issue of Additional Shares;
  - (B) "CP<sub>1</sub>" shall mean the Class B Conversion Price in effect immediately prior to such issue of Additional Shares;
  - (C) "A" shall mean the number of Common Shares outstanding immediately prior to such issue of Additional Shares, including, for such purpose (i) Common Shares issuable upon conversion of the Class A Preferred Shares and Class B Preferred Shares outstanding immediately prior to such issue of Additional Shares and (ii) Common Shares issuable upon the exercise, conversion or exchange of any other Convertible Securities or Options deemed to be issued pursuant to Section B.4(j)(iii);
  - (D) "C" shall mean the number of such Additional Shares issued in such transaction; and
  - (E) "NP" means the price at which such Additional Shares were issued.
- (ii) Determination of Consideration. For the purpose of making any adjustment required under this Section B.4(j), the consideration received by the Corporation for any issue or sale of securities will (A) to the extent such consideration consists of cash, be computed at the net amount of cash received by the Corporation, (B) to the extent such consideration consists of property other than cash, be computed at the fair value of that property as determined in good faith by the Board of Directors of the Corporation, and (C) to the extent that Additional Shares, shares or other securities convertible into Common Shares (such convertible shares or securities being herein referred to as "**Convertible Securities**") or rights, warrants or options to purchase either Additional Shares or Convertible Securities (such rights, warrants or options being herein referred to as "**Options**") are issued or sold together with other shares or securities or other assets of the Corporation for a consideration

which covers both, be computed as the portion of the consideration so received that may be reasonably determined in good faith by the Board of Directors of the Corporation to be allocable to such Additional Shares, Convertible Securities or Options.

- (iii) Deemed Issue of Additional Shares. For the purpose of the adjustment required under this Section B.4), if the Corporation issues or sells Convertible Securities or Options other than in connection with an event referred to in Section B.4(f), B.4(g), B.4(h) or B.4(i) above, and if the Effective Price of the Additional Shares issuable pursuant to such Convertible Securities or Options is less than the Class B Conversion Price then in effect, in each case the Corporation will be deemed to have issued at the time of the issuance of such Options or Convertible Securities the maximum number of Additional Shares issuable upon exercise or conversion thereof and to have received as consideration for the issuance of such shares an amount equal to the total amount of the consideration, if any, received by the Corporation for the issuance of the Options or Convertible Securities, plus, in the case of Options, the minimum amounts of consideration, if any, payable to the Corporation upon the exercise of such Options, plus, in the case of Convertible Securities, the minimum amounts of consideration, if any, payable to the Corporation upon the conversion thereof; provided that:
- (A) if, in the case of Convertible Securities, the minimum amounts of such consideration cannot be ascertained, but are a function of anti-dilution or similar protective clauses, the Corporation will be deemed to have received the minimum amounts of consideration without reference to such clauses;
  - (B) if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of Options or Convertible Securities is reduced over time or on the occurrence or non-occurrence of specified events other than by reason of anti-dilution adjustments, the Effective Price will be recalculated using the figure to which such minimum amount of consideration is reduced; and
  - (C) if the minimum amount of consideration payable to the Corporation upon the exercise or conversion of Options

or Convertible Securities is subsequently increased, the Effective Price will be again recalculated using the increased minimum amount of consideration payable to the Corporation upon the exercise or conversion of such Options or Convertible Securities.

No further adjustment of the Class B Conversion Price as adjusted upon the issuance of Options or Convertible Securities will be made as a result of the actual issuance of Additional Shares on the exercise of any Options or the conversion of any such Convertible Securities. If any such Options or the conversion privilege represented by any such Convertible Securities expires without having been exercised, the Class B Conversion Price as adjusted upon the issuance of the Options or Convertible Securities will be readjusted to the Class B Conversion Price which would have been in effect had an adjustment been made on the basis that the only Additional Shares so issued were the Additional Shares, if any, actually issued or sold on the exercise of such Options or rights of conversion of such Convertible Securities, and such Additional Shares, if any, were issued or sold for: (A) the consideration, if any, actually received by the Corporation upon the exercise of such Options or on the conversion of such Convertible Securities, plus (B) the consideration, if any, actually received by the Corporation for the granting of all such Options or the issue and sale of such Convertible Securities, whether or not exercised or converted.

- (iv) **"Additional Shares"** will mean all Common Shares issued by the Corporation or deemed to be issued pursuant to this Section B.4(j) other than:
- (A) Common Shares issued, deemed issued, issuable or authorized for issuance to employees, consultants or directors pursuant to stock option, stock grant, share purchase or similar plans or arrangements approved by the Corporation's Board of Directors or a committee thereof, from time to time (including without limitation upon the exercise of Options outstanding as of the Class B Original Issue Date);
  - (B) any Common Shares issued upon the exercise of Convertible Securities or Options to purchase Common Shares outstanding as of the Class B Original Issue Date;

- (C) any Common Shares issued upon conversion of the Class B Preferred Shares or Class A Preferred Shares, or as a result of an adjustment to the Class B Conversion Price or Class A Conversion Price;
- (D) any Common Shares issued in connection with a bona fide business acquisition of the Corporation which is approved by the Board of Directors of the Corporation;
- (E) any Common Shares issued pursuant to the warrant agreement between the Corporation and Her Majesty the Queen dated November 14, 2003 that entitles the warrant holder to acquire up to 619,280 Common Shares, subject to the adjustments set out in such warrant agreement; and
- (F) any Common Shares offered to the public pursuant to a Qualified Public Offering (as hereafter defined).

All references to Common Shares will mean all Common Shares issued by the Corporation or deemed to be issued pursuant to this Section B.4(j).

- (v) The "Effective Price" of Additional Shares will mean the quotient determined by dividing the total number of Additional Shares issued or sold, or deemed to have been issued or sold by the Corporation under this Section B.4(j), into the aggregate consideration received, or deemed to have been received by the Corporation for such issue under this Section B.4(j), for such Additional Shares.
- (k) Certificate of Adjustment. In each case of an adjustment or readjustment of the Class B Conversion Price or the number of Common Shares or other securities issuable upon conversion of the Class B Preferred Shares, the Corporation, at its expense, will compute such adjustment or readjustment in accordance with the provisions hereof and prepare a certificate showing such adjustment or readjustment, and will mail such certificate, by first class mail, postage prepaid, to each registered holder of Class B Preferred Shares at the holder's address as shown in the Corporation's books. The certificate will set forth such adjustment or readjustment, showing in reasonable detail the facts upon which such adjustment or readjustment is based.

(l) Mandatory Conversion.

- (i) All outstanding Class B Preferred Shares shall automatically be converted into Common Shares if at any time the Corporation shall effect a fully underwritten public offering covering the offering or sale by the Corporation of its Common Shares pursuant to a registration statement under the United States *Securities Act* of 1933, as amended (the "**Securities Act**") (other than a transaction relating to Section 145 under the Securities Act or to an employee benefit plan of the Corporation) or pursuant to a prospectus filed under Canadian securities laws in a province of Canada acceptable to the Board of Directors in which (a) the aggregate gross proceeds (before underwriter's discounts and costs) from such offering to the Corporation shall be at least US\$30,000,000; (b) the price paid by the public for such Common Shares (before underwriter's discounts and costs) shall be at least US\$2.142 (as the same may be adjusted by reason of a stock dividend, stock division, subdivision of, consolidation of, or distribution on the Common Shares as determined in good faith by the Board of Directors) and (c) such Common Shares are listed or quoted for sale on the Toronto Stock Exchange or the Nasdaq National Market or other exchange approved by the Board of Directors (a "**Qualified Public Offering**"), upon the closing of the sale of such shares by the Corporation pursuant to such Qualified Public Offering.
- (ii) Outstanding Class B Preferred Shares that are first issued by the Corporation (the date of such issuance being referred to as the "**Original Issue Date**") and those Class B Preferred Shares issued within 34 days following the Original Issue Date shall automatically be converted into Common Shares immediately prior to the consummation of a Liquidation Event that results in (a) a price (in the form of cash or Liquid Marketable Securities) per Common Share (assuming the conversion of all Class B Preferred Shares and Class A Preferred Shares) equal to or greater than the applicable Designated Liquidation Price or (b) if the Liquidation Event involves a sale, license or transfer of assets of the Corporation, the proceeds (in the form of cash or Liquid Marketable Securities) available for distribution to the holders of Common Shares (assuming the conversion of all Class B Preferred Shares and Class A Preferred Shares) are equal to or greater than the applicable Designated Liquidation Price on a per share basis. For the purposes of this Section

B.4(l)(ii) "**Designated Liquidation Price**" means cash proceeds or Liquid Marketable Securities payable per Common Share (assuming the conversion of all Class B Preferred Shares and Class A Preferred Shares) equal to:

- (A) 1.6 times the Class B Conversion Price if the Liquidation Event occurs on or before the first anniversary of the Original Issue Date, or
  - (B) 2.7 times the Class B Conversion Price if the Liquidation Event occurs after the first anniversary of the Original Issue Date and on or before the second anniversary of the Original Issue Date, or
  - (C) 3.5 times the Class B Conversion Price if the Liquidation Event occurs after the second anniversary of the Original Issue Date and on or before the third anniversary of the Original Issue Date, or
  - (D) 3.9 times the Class B Conversion Price if the Liquidation Event occurs after the third anniversary of the Original Issue Date.
- (iii) Outstanding Class B Preferred Shares held by a holder that are issued after the date which is 30 days after the Original Issue Date shall automatically be converted into Common Shares immediately prior to the consummation of a Liquidation Event that results in (a) a price (in the form of cash or Liquid Marketable Securities) per Common Share (assuming the conversion of all Class B Preferred Shares and Class A Preferred Shares) equal to or greater than the applicable Designated Liquidation Price or (b) if the Liquidation Event involves a sale, license or transfer of assets of the Corporation, the proceeds (in the form of cash or Liquid Marketable Securities) available for distribution to the holders of Common Shares (assuming the conversion of all Class B Preferred Shares and Class A Preferred Shares) are equal to or greater than the applicable Designated Liquidation Price on a per share basis. For the purposes of this Section B.4(l)(iii) "**Designated Liquidation Price**" means cash proceeds or Liquid Marketable Securities payable per Common Share (assuming the conversion of all Class B Preferred Shares and Class A Preferred Shares) equal to:

- (A) 1.6 times the Class B Conversion Price if the Liquidation Event occurs on or before the first anniversary of the date the holder was issued the Class B Preferred Shares, or
- (B) 2.7 times the Class B Conversion Price if the Liquidation Event occurs after the first anniversary of the date the holder was issued the Class B Preferred Shares and on or before the second anniversary of such issuance, or
- (C) 3.5 times the Class B Conversion Price if the Liquidation Event occurs after the second anniversary of the date the holder was issued the Class B Preferred Shares and on or before the third anniversary of such issuance, or
- (D) 3.9 times the Class B Conversion Price if the Liquidation Event occurs after the third anniversary of the date the holder was issued the Class B Preference Shares.

For the purpose of determining the Designated Liquidation Price, the Asset Transaction, Merger Transaction, Licensing Transaction or Share Transaction (as the case may be and as defined in Section 2(e) hereof) shall be deemed to occur (subject to the closing of the Asset Transaction, Merger Transaction, Licensing Transaction or Share Transaction) on the date of acceptance by the Corporation of a bona fide arms length third party term sheet or letter of intent setting forth, in reasonable detail, the material terms and conditions (including price) of the Asset Transaction, Merger Transaction, Licensing Transaction or Share Transaction (as the case may be).

**"Mandatory Conversion Events"** shall be those events set forth in items (F), (ii) and (iii) above.

**"Liquid Marketable Securities"** means securities of an entity (i) that are listed or quoted for sale on or are, on a timely basis, exchangeable for securities listed or quoted for sale on the Toronto Stock Exchange, The New York Stock Exchange, or the Nasdaq National Market, or other exchange approved by the Board of Directors and (ii) that have an average trading volume for the thirty (30) day period prior to the applicable Liquidation Event of at least 2% of the number of issued and outstanding securities of such entity, excluding securities owned or controlled directly or indirectly by "insiders" of such entity.

- (m) Upon a Mandatory Conversion Event, the mandatory conversion shall be effected without any further action by the holders of the Class B

Preferred Shares and whether or not the certificates representing such shares are surrendered to the Corporation or its transfer agent; provided however that the Corporation will not be required to issue certificates evidencing the Common Shares issuable upon such conversion unless the certificates evidencing such Class B Preferred Shares are either delivered to the Corporation or its transfer agent or the holder notifies the Corporation or its transfer agent that such certificates have been lost, stolen or destroyed and executes an indemnity in favour of the Corporation indemnifying the Corporation against any loss incurred by it in connection with such certificates.

- (n) The Corporation will pay all taxes (other than taxes based upon income or withholding taxes) and other governmental charges that may be imposed with respect to the issue or delivery of Common Shares upon conversion of Class B Preferred Shares, excluding any tax or other charge imposed in connection with any transfer involved in the issue and delivery of Common Shares in a name other than that in which the Class B Preferred Shares so converted were registered and the Corporation shall not be required to issue or deliver such certificate unless the person or persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid or that the Corporation has not and will not have any liability in respect of such tax.

B.3 **Notice of Record Date.** Except as set forth herein, upon the fixing by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive (i) any dividend or other distribution, or (ii) notice of and vote on any capital reorganization of the Corporation, any reclassification or recapitalization of the shares of the Corporation, or any merger or consolidation of the Corporation with or into any other corporation (other than a Liquidation Event), the Corporation will mail to each holder of Common Shares, Class A Preferred Shares and Class B Preferred Shares at least ten (10) days prior to the record date specified therein (or such shorter period approved, by vote or written consent, by holders of at least ninety percent (90%) of the outstanding Class B Preferred Shares) notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend or distribution and a description of such dividend or distribution, (B) the date of which any such reorganization, reclassification, recapitalization, consolidation, merger, dissolution, liquidation or winding up is expected to become effective, and (C) the date, if any, that is to be fixed as to when the holders of record of Common Shares, Class A Preferred Shares or Class B Preferred Shares will be entitled to exchange their Common Shares, Class A Preferred Shares or Class B Preferred Shares, as applicable, for securities or other property deliverable upon such reorganization, reclassification, recapitalization, consolidation or merger.

## SCHEDULE "C"

### COMMON SHARE ATTRIBUTES

Subject to the provisions of the *Business Corporation Act* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced (the "Act"), the Common Shares shall have the following rights, privileges, restrictions and conditions:

- C.1 **Payment of Dividends.** The holders of the Common Shares shall be entitled to receive dividends if, as, and when declared by the Board of Directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the Board may from time to time determine. Subject to the rights of the holders of any other class of shares of the Corporation entitled to receive dividends in priority to or rateably with the holders of the Common Shares (including without limitation the Class A Preferred Shares and the Class B Preferred Shares), the Board of Directors may, in their sole discretion, declare dividends on the Common Shares to the exclusion of any other class of shares of the Corporation.
- C.2 **Participation upon Liquidation, Dissolution or Winding-Up:** In the event of the 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, the holders of Common Shares shall, subject to the rights of the holders of any other class of shares of the Corporation entitled to receive the assets of the Corporation upon such a distribution in priority to the holders of the Common Shares (including without limitation, the priority rights of the Class A Preferred Shares and the Class B Preferred Shares), be entitled to participate rateably among holders of Common Shares and the Class B Preferred Shares (as set forth in Schedule B, Section B.2(b)) in any distribution of the assets of the Corporation.
- C.3 **Voting Rights.** The holders of Common Shares shall be entitled to receive notice of and to attend all annual and special meetings of the shareholders of the Corporation and to one (1) vote in respect of each Common Share held at all such meetings. Except for matters where holders of Common Shares are by law required to vote as a class, holders of Common Shares shall vote together with the holders of the Class A Preferred Shares and Class B Preferred Shares as a single class. The holders of Common Shares shall not be entitled to vote separately as a class and are not entitled to dissent, upon a proposal to amend the articles of the Corporation to: (a) increase or decrease any maximum number of authorized Common Shares, or increase any

maximum number of authorized shares of a class having rights or privileges equal or superior to the Common Shares; (b) effect an exchange, reclassification or cancellation of the Common Shares; or (c) subject to the exceptions contained in the Act, create a new class or series of shares having rights or privileges equal or superior to the Common Shares.

8. The issue, transfer or ownership of shares is/is not restricted and the restrictions (if any) are as follows:  
*L'émission, le transfert ou la propriété d'actions est/n'est pas restreint. Les restrictions, s'il y a lieu, sont les suivantes :*

Securities of the Corporation, other than non-convertible debt securities, may not be transferred unless:

- (a) the consent of the directors of the Corporation is obtained;
- (b) in the case of securities, other than shares, which are subject to restrictions on transfer contained in a security holders' agreement, such restrictions on transfer are complied with.

The consent of the directors in this paragraph is evidenced by a resolution of the directors or by an instrument or instruments in writing signed by all of the directors.

9. Other provisions if any:  
*Autres dispositions, s'il y a lieu :*

None.

10. The names and addresses of the incorporators are:  
*Noms et adresses des fondateurs :*

First name, middle names and surname or corporate name  
*Prénom, autres prénoms et nom de famille ou dénomination sociale*

Full address for service or address of registered office or of principal place of business giving street & No. or R.R. No., municipality and postal code  
*Domicile élu au complet, adresse du siège social ou adresse de l'établissement principal, y compris la rue et le numéro ou le numéro de la R.R., le nom de la municipalité et le code postal*

Martin R. Langlois

199 Bay Street  
Toronto, Ontario M5L 1B9

These articles are signed in duplicate.  
*Les présents statuts sont signés en double exemplaire.*

Signatures of incorporator(s) /  
*Signatures des fondateurs*



Martin R. Langlois