

COURT FILE NUMBER 1601-11552  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
APPLICANT NATIONAL BANK OF CANADA, IN ITS  
CAPACITY AS ADMINISTRATIVE AGENT  
RESPONDENTS **TWIN BUTTE ENERGY LTD.**  
DOCUMENT **EIGHTH REPORT OF FTI CONSULTING  
CANADA INC., IN ITS CAPACITY AS  
COURT APPOINTED RECEIVER AND  
MANAGER OF TWIN BUTTE ENERGY LTD.**

**June 6, 2017**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

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## INTRODUCTION

1. On September 1, 2016 (the “**Date of Appointment**”), FTI Consulting Canada Inc. was appointed as receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties (the “**Property**”) of Twin Butte Energy Ltd. (“**Twin Butte**” or the “**Company**”) pursuant to an Order of the Honourable Madam Justice Romaine (the “**Receivership Order**”).
2. The Receiver recovered sufficient funds from operations and the sale of the assets to pay the secured banking syndicate in full with additional funds being available for distribution as described herein.
3. On May 1, 2017, an order (“**Claims Procedures Order**”) was granted directing the Receiver to implement a claims process (“**Claims Process**”) in order to determine the amount, classification and validity of claims against Twin Butte.
4. The Ad Hoc Group (“**Ad Hoc Group**”) of debenture holders have scheduled an application for June 30, 2017 (“**Subordination Application**”) to present arguments supporting the position that the debenture holders claim (“**Debenture Holders’ Claim**”) should rank pari passu with all other unsecured creditors of Twin Butte as opposed to the Debenture Holders’ Claim ranking subordinated to the other unsecured creditors (the “**Subordination Issue**”).
5. The Debenture Holders’ Claim arises from the convertible debenture indenture (the “**Indenture**”) dated December 13, 2013 between Twin Butte and Valiant Trust Company (now known as Computershare Trust Company of Canada) that provided for the issuance of \$85 million in 6.25% convertible unsecured subordinate debentures (“**Debentures**”). The holders of the Debentures shall be referred to as the debenture holders (“**Debenture Holders**”).

6. The purpose of this report (“**Eighth Report**”) is to provide this Honourable Court with the following:
- (a) A summary of receipts and disbursements from the Date of Appointment to June 2, 2017;
  - (b) A summary of the claims received through the Claims Process and status thereof;
  - (c) An update with respect to ongoing discussions with counsel to the Ad Hoc Group leading up to the Subordination Application;
  - (d) A copy of the amended proof of claim submitted by Computershare Trust Company of Canada on behalf of the Debenture Holders (“**Debenture Holders’ Amended POC**”) setting out the basis of the Debenture Holders’ Claim;
  - (e) A summary highlighting certain documents and provisions from the Indenture and the prospectus issued by Twin Butte in relation to the issuance of the Debentures on December 6, 2013, that in the Receiver’s view, are relevant for this Honourable Court and other stakeholders to review in relation to the Subordination Application and Subordination Issue; and
  - (f) An estimated recovery analysis to creditors based on the claims received through the Claims Process and current information available to the Receiver. In order to demonstrate the effect of the Subordination Issue on various creditor groups, the Receiver has presented the estimated recovery analysis under two scenarios:
    - i. Scenario 1 - Assumes the Debenture Holders’ Claim ranks pari passu with all other unsecured creditors; and

- ii. Scenario 2 –Assumes the Debenture Holders’ Claim ranks subordinate to all other unsecured creditors.
7. The Receiver’s reports and other publically available information in respect of these proceedings (the “**Receivership Proceedings**”) are posted on the Receiver’s website at <http://cfcanada.fticonsulting.com/twinbutte> (the “**Receiver’s Website**”).

## **TERMS OF REFERENCE**

8. In preparing this Eighth Report, the Receiver has relied upon unaudited financial information, other information available to the Receiver and, where appropriate, the Company’s books and records and discussions with various parties (collectively, the “**Information**”).

Except as described in this Eighth Report:

- (a) the Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook; and
  - (b) the Receiver has not examined or reviewed financial forecasts and projections referred to in this Eighth Report in a manner that would comply with the procedures described in the Canadian Institute of Chartered Accountants Handbook.
9. Future oriented financial information reported or relied on in preparing this Eighth Report is based on assumptions regarding future events. Actual results may vary from forecasts and such variations may be material.

10. The Receiver has prepared this Eighth Report in connection with the Ad Hoc Group's Subordination Application scheduled to be heard at 9:00 am on June 30, 2017. This Eighth Report should not be relied on for other purposes.
11. Information and advice described in this Eighth Report that has been provided to the Receiver by its legal counsel, Norton Rose Fulbright Canada LLP (the "**Receiver's Counsel**"), was provided to assist the Receiver in considering its course of action, is not intended as legal or other advice to, and may not be relied upon by, any other person.
12. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

## SUMMARY OF RECEIPTS AND DISBURSEMENT

13. Receipts and Disbursements from the Date of Appointment to June 2, 2017, are summarized as follows:

Schedule of Receipts and Disbursements	
As at June 2, 2017	
CAD	
<b>Operating Receipts</b>	
Receiver's Borrowings	8,800,000
Proceeds from Sale to HOC	262,805,729
Revenue	107,655,658
Royalty & Misc Revenue	1,703,289
Interest Income	137,861
GST Collected	5,023,898
<b>Total - Operating Receipts</b>	<b>386,126,435</b>
<b>Operating Disbursements</b>	
Repayments of Receiver's Borrowings	8,800,000
Royalty Expense	8,704,017
Operating Expense	53,623,158
Capital Maintenance & Expenditures	6,161,424
Contract Operators	5,323,712
Occupation Rent (G&A)	1,290,730
Payroll - Employee Related Obligations	6,047,570
Insurance	1,712,763
GST/HST/PST Paid	2,515,087
GST Remitted	2,111,242
Bank & Interest Charges	204,593
Receiver's Fees & Legal Council	2,190,253
Distribution to Syndicate & Legal Council	202,357,332
Selling Agents & Other Professional Fees	2,429,380
<b>Total - Operating Disbursements</b>	<b>303,471,261</b>
<b>Net Cash on Hand from Operations</b>	<b>82,655,174</b>

- (a) “Receiver’s Borrowings” means borrowings under the Receiver’s certificate in order to provide working capital to fund ongoing operations. The Receiver’s Borrowings were originally incurred to fund initial working capital requirements required immediately following the granting of the Receivership Order;
- (b) “Proceeds from sale to HOC” relates to the proceeds received upon closing the HOC PSA net of the statement of adjustments;
- (c) “Revenue” means funds collected by the Receiver in respect of the revenue from the Company’s producing oil and gas assets and collection of pre-filing accounts receivable;
- (d) “Royalty and miscellaneous revenue” relate mainly to revenue received from Twin Butte’s gross overriding and freehold royalty interests in various non-operated properties;
- (e) “Interest Income” arise from interest on the cash balance held by the Receiver;
- (f) “GST Collected” arise from tax credits collected on the revenue generated throughout the receivership period;
- (g) “Repayments of Receiver Borrowings” relate to the repayment of funds borrowed by the Receiver (see (a) above);
- (h) “Royalty” means royalties paid to the Crown, freehold and gross overriding royalty owners related to ongoing oil and gas production;
- (i) “Operating Expenses” arise from the payments of ongoing operating costs;

- (j) “Capital and Maintenance expenditures” arise from various maintenance and capital projects completed to maximize ongoing production and to preserve various mineral interest;
- (k) “Contract Operators” arise from amounts paid to third party field operators who operate the properties;
- (l) “Occupation rent” comprises rent paid related to the Company’s head office and various field locations;
- (m) “Payroll” means amounts paid to Twin Butte employees who are assisting the Receiver in running the operations;
- (n) “Insurance” means amounts disbursed in respect of insurance for employees as well as operating insurance for field properties;
- (o) “GST/HST paid” comprises sales taxes paid on goods and services provided to the Receiver;
- (p) “GST remitted” means amounts paid to the Canada Revenue Agency for monthly GST filings;
- (q) “Bank interest and charges” means interest and fees paid on the Receiver’s borrowings;
- (r) “Receiver’s Fees & Legal Counsel” includes professional fees paid to the Receiver and the Receiver’s Counsel relating to administration of these receivership proceedings;
- (s) “Distribution and fees for Banking Syndicate” – is the Court approved distribution to the Banking Syndicate to repay the bank debt and accrued interest and fees in full; and

- (t) “Selling Agents and other Professional Fees” includes success and work fees paid to the Selling Agents and other professional consultants in respect of the receivership proceedings.

14. Cash on Hand – at June 2, 2017 the Receiver held \$82,655,174 in cash.

## SUMMARY OF CLAIMS PROCESS

15. The claims bar date of June 1, 2017 has now passed and the Receiver continues to review and reconcile claims. The table presented below provides a summary of the proof of claims received and current status of the Receiver’s review and reconciliation of these claims. Note the Receiver is currently waiting on one additional proof of claim from a landlord of one of the office leases that was disclaimed by the Receiver; however was inadvertently not notified of the Claims Process until June 6, 2017. The Receiver understands that the claim will be received by June 9, 2017. The claim has not yet been received and accordingly the Receiver has included an estimate for the claim in the schedule below, this estimate is included in the unsecured general and under review category below.

	a+b+c	d+e+f	a	d	b	e	c	f
	Total # of Claims		Accepted		Under Review		Disallow	
	#	\$	#	\$	#	\$	#	\$
Trust	2	828,869	-	-	2	828,869	-	-
Secured	13	961,383	7	735,840	5	199,579	1	25,964
Unsecured General	342	27,280,767	201	4,359,153	114	12,394,148	27	10,527,467
Unsecured Debentures	1	92,671,925		-	1	92,671,925	-	-
<b>Total</b>	<b>358</b>	<b>121,742,944</b>	<b>208</b>	<b>5,094,993</b>	<b>122</b>	<b>106,094,521</b>	<b>28</b>	<b>10,553,430</b>



## **SUMMARY OF ONGOING DISCUSSIONS WITH COUNSEL TO THE AD HOC GROUP**

### Claims Process Consultation Rights

16. Since the Ad Hoc Group was granted consultation rights for claims greater than \$75,000, the Receiver has been in communication with counsel to the Ad Hoc Group with respect to the Claims Process. The Receiver agreed to provide an updated claims log to Bennett Jones on a weekly basis starting May 15, 2017. The claims log included the creditor name, the date received, the type of claim (secured/unsecured), the amount owed to the creditor per Twin Butte's records, and the current status of the Receiver's review and/or intended action (ie. accept, disallow, currently being reconciled).
17. The Receiver notes that certain of the claims noted as 'accepted' above are still being reviewed by the Ad Hoc Group in accordance with their consultation rights with respect to the claims process.

### Subordination Issue

18. The Subordination Application returnable June 30, 2017 is to consider if the Debenture Holders' Claim should rank pari passu with all other unsecured creditors and that the debenture claim is not subordinated to the claims of the remaining unsecured creditors.
19. The Receiver, the Receiver's Counsel and Counsel to the Ad Hoc Group met in an attempt to determine the protocol for determining the Subordination Issue. Counsel to the Ad Hoc Group advised that in their view, the Receiver need not and should not take a position with respect to the Subordination Issue as it is an inter-creditor issue.

20. In accordance with the duties, authorization and direction given to the Receiver in the Claims Procedures Order, the Receiver is in the process of reviewing the amount and classification of the claim asserted in the Debenture Holders' Amended POC. This is necessary in order to determine if the Debenture Holders' Claim should be accepted, revised or disallowed in accordance with the Claims Procedures Order.
21. Given the concerns expressed by the Ad Hoc Group that the Receiver should not be taking a position on the Subordination Issue the Receiver intends to seek advice and direction from this Honourable Court.
22. At this time, the Receiver continues to consider its position with respect to the Subordination Issue; however the Receiver and the Ad Hoc Group's counsel agree it is necessary to ensure that the Court and all creditors have notice and access to the key documents and provisions that, in the Receiver's view, are relevant to the Subordination Issue. These documents and provisions are attached and summarized below.
23. The Receiver further understands that the Ad Hoc Group's counsel will serve the Subordination Application and the Ad Hoc Group's brief on the service list and to the listing of unsecured claims that the Receiver has provided.

## **DOCUMENTS AND PROVISIONS RELEVANT TO THE SUBORDINATION ISSUE**

24. The Receiver may issue a further report prior to the Ad Hoc Groups' Subordination Application to update its claims review and other matters if it determines it is necessary. Furthermore, the Receiver is considering the Ad Hoc Group's argument that the Receiver should not participate in any inter-creditor matters which they believe includes the Subordinate Issue.

25. In the interim period, the Receiver has attached to this Report copies of the documents it believes are relevant to the subordination issue along with the excerpts of the sections that specifically deal with subordination. The following documents are attached to this Report and the relevant sections have been reproduced below:
- (a) A copy of the Debenture Holders’ Amended POC– attached at Appendix “A”;
  - (b) The Short Form Prospectus dated December 6, 2013 (the “**Short Form Prospectus**”) – attached at Appendix “B”;
  - (c) The Convertible Debenture Indenture between Twin Butte Energy Ltd. and Valiant Trust Company dated December 13, 2013, previously defined as the Indenture - attached at Appendix “A” (as it was attached as a schedule to the Debenture Holders’ Amended POC); and
  - (d) The Twin Butte Press release regarding the offering of the Debentures dated November 25, 2013 – attached as Appendix “C”.
26. The Receiver has provided excerpts from the above noted documents that relate specifically to the Subordination Issue, but cautions that all parties should review the relevant documents in full.
27. The following provides an excerpt, with emphasis added by the Receiver to certain provisions that it determined are relevant in assessing whether the Debenture Holders’ Claim should rank subordinate or pari passu to other unsecured creditors.

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## TWIN BUTTE SHORT FORM PROSPECTUS, DATED DECEMBER 6, 2013

### First Page:

#### Debenture Conversion Privilege

Each Debenture will be convertible into common shares ("Common Shares") of the Corporation at the option of the holder thereof at any time prior to 5:00 p.m. (Calgary time) on the earliest of: (i) the Business Day (as defined herein) immediately preceding the Maturity Date, and (ii) the last Business Day immediately preceding the Redemption Date (as defined herein), in each case, at a conversion price of \$3.05 per Common Share (the "Conversion Price"), representing a conversion rate of approximately 327.8689 Common Shares per \$1,000 principal amount of Debentures, subject to adjustment in accordance with the Indenture (as defined herein). Upon conversion, holders of Debentures will receive accrued and unpaid interest thereon from and including the last Interest Payment Date up to, but not including, the Conversion Date (as defined herein). Further particulars concerning the conversion privilege, including provisions for the adjustment of the conversion price, are set out under "Details of the Offering – Debentures – Conversion Privilege".

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**Rank:** The Debentures will be direct, unsecured obligations of the Corporation and will be fully subordinated to all Senior Indebtedness, as more particularly described below under "Subordination". The Debentures will rank pari passu with one another and will rank pari passu with all other existing and future unsecured subordinated indebtedness of the Corporation to the extent subordinated on the same terms. The Indenture will not restrict the ability of the Corporation or its subsidiaries from incurring additional indebtedness, including Senior Indebtedness, or from mortgaging, pledging or charging their respective properties to secure any indebtedness or liabilities, including Senior Indebtedness. See "Details of the Offering – Debentures – Rank".

**Subordination:** The payment of the principal and premium, if any, of, and interest on, the Debentures will be subordinated and postponed, and subject in right of payment in the circumstances referred to below and more particularly as set forth in the Indenture, to the full and final payment of all Senior Indebtedness of the Corporation.

The Indenture will provide that in the event of any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization or other similar proceedings relative to the Corporation, or to its property or assets, or in the event of any proceedings for voluntary liquidation, dissolution or other winding-up of the Corporation, whether or not involving insolvency or bankruptcy, or any marshalling of the assets and liabilities of the Corporation, then holders of Senior Indebtedness will receive payment in full before the holders of Debentures will be entitled to receive any payment or distribution of any kind or character, whether in cash, property or securities, which may be payable or deliverable in any such event in respect of any of the Debentures or any unpaid interest accrued thereon. The Indenture will also provide that the Corporation will not make any payment, and the holders of the Debentures will not be entitled to demand, institute proceedings for the collection of, or receive any payment or benefit (including, without any limitation, by set-off, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of indebtedness represented by the Debentures: (a) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures; or (b) at any time when a default or an event of default has occurred under the Senior Indebtedness and is continuing

or upon the acceleration of Senior Indebtedness, unless the Senior Indebtedness has been repaid in full. See "Details of the Offering – Debentures – Subordination".

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### ***Subordination***

The payment of the principal and premium, if any, of, and interest on, the Debentures will be subordinated and postponed, and subject in right of payment in the circumstances referred to below and more particularly as set forth in the Indenture, to the full and final payment of all Senior Indebtedness of the Corporation. "Senior Indebtedness" of the Corporation will be defined in the Indenture and will include all obligations, liabilities and indebtedness of the Corporation which would, in accordance with IFRS, be classified upon a consolidated balance sheet of the Corporation as liabilities of the Corporation and, whether or not so classified, shall include (without duplication): (a) indebtedness of the Corporation or its subsidiaries for borrowed money; (b) obligations of the Corporation evidenced by bonds, debentures, notes or other similar instruments; (c) obligations of the Corporation or its subsidiaries arising pursuant or in relation to bankers' acceptances, letters of credit, letters of guarantee, performance bonds and surety bonds (including payment and reimbursement obligations in respect thereof) or indemnities issued in connection therewith; (d) obligations of the Corporation under any swap, hedging or other similar contracts or arrangements; (e) obligations of the Corporation under guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the Senior Indebtedness or other obligations of any other person which would otherwise constitute Senior Indebtedness within the meaning of this definition; (f) all indebtedness of the Corporation representing the deferred purchase price of any property including, without limitation, purchase money mortgages; (g) accounts payable to trade creditors; (h) all renewals, extensions and refinancing of any of the foregoing; (i) all declared but unpaid dividends or distributions; and (j) all costs and expenses incurred by or on behalf of the holder of any Senior Indebtedness in enforcing payment or collection of any such Senior Indebtedness, including enforcing any security interest securing the same. "Senior Indebtedness" shall not include any indebtedness that would otherwise be Senior Indebtedness if it is expressly stated to be subordinate to or rank pari passu with the Debentures.

The Indenture will provide that in the event of any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization or other similar proceedings relative to the Corporation, or to its property or assets, or in the event of any proceedings for voluntary liquidation, dissolution or other winding-up of the Corporation, whether or not involving insolvency or bankruptcy, or any marshalling of the assets and liabilities of the Corporation, then holders of Senior Indebtedness will receive payment in full before the holders of Debentures will be entitled to receive any payment or distribution of any kind or character, whether in cash, property or securities, which may be payable or deliverable in any such event in respect of any of the Debentures or any unpaid interest accrued thereon. The Indenture will also provide that the Corporation will not make any payment, and the holders of the Debentures will not be entitled to demand, institute proceedings for the collection of, or receive any payment or benefit (including, without any limitation, by set-off, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of indebtedness represented by the Debentures: (a) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures; or (b) at any time when a default or an event of default has occurred under the Senior Indebtedness and is continuing or upon the acceleration of Senior Indebtedness, unless the Senior Indebtedness has been repaid in full.

The Debenture Trustee and the Corporation will also be authorized (and obligated upon a request from the Corporation) under the Indenture to enter into subordination agreements on behalf of the holders of Debentures with any holder of Senior Indebtedness.

**Risk Factors – Existing and Prior Ranking Indebtedness**

The Debentures will be subordinate to Senior Indebtedness of the Corporation. The Debentures will also be effectively subordinate to claims of creditors of the Corporation's subsidiaries, except to the extent that the Corporation is a creditor of such subsidiaries ranking at least pari passu with such creditors. In the event of the Corporation's insolvency, bankruptcy, liquidation, reorganization, dissolution or winding up, its assets would be made available to satisfy the obligations of the creditors of such Senior Indebtedness before being available to pay the Corporation's obligations to the holders of the Debentures. Accordingly, all or a substantial portion of the Corporation's assets could be unavailable to satisfy the claims of the holders of the Debentures.

The Corporation's ability to meet its debt-service requirements will depend on its ability to generate cash in the future, which depends on many factors, including the Corporation's financial performance, debt-service obligations, working capital and future capital-expenditure requirements. In addition, the Corporation's ability to borrow funds in the future and to make payments on outstanding debt will depend on the satisfaction of covenants in then existing credit agreements and other agreements. A failure to comply with any covenants or obligations under the Corporation's consolidated indebtedness could result in a default, which, if not cured or waived, could result in the acceleration of the relevant indebtedness. If such indebtedness were to be accelerated, there can be no assurance that the Corporation's assets would be sufficient to repay such indebtedness in full. There can also be no assurance that the Corporation will generate cash flow in amounts sufficient to pay outstanding indebtedness or to fund any other liquidity needs.

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**CONVERTIBLE DEBENTURE INDENTURE PROVIDING FOR THE ISSUANCE OF 6.25%  
CONVERTIBLE UNSECURED SUBORDINATE DEBENTURES DATED AS OF DECEMBER 13,  
2013**

**ARTICLE 1  
INTERPRETATION**

"**Senior Indebtedness**" means all obligations, liabilities and indebtedness of the Corporation which would, in accordance with GAAP, be classified upon a consolidated balance sheet of the Corporation as liabilities of the Corporation and, whether or not so classified, shall include (without duplication): (a) indebtedness of the Corporation for borrowed money; (b) obligations of the Corporation evidenced by bonds, debentures, notes or other similar instruments; (c) obligations of the Corporation arising pursuant or in relation to bankers' acceptances, letters of credit, letters of guarantee, performance bonds and surety bonds (including payment and reimbursement obligations in respect thereof) or indemnities issued in connection therewith; (d) obligations of the Corporation under any swap, hedging or other similar contracts or arrangements; (e) obligations of the Corporation under Guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the Senior Indebtedness or other obligations of any other Person which would otherwise constitute Senior Indebtedness within the meaning of this definition; (f) all indebtedness of the Corporation representing the deferred purchase price of any property including, without limitation, purchase money mortgages; (g) accounts payable to trade creditors; (h) all renewals, extensions and refinancing of any of the foregoing; (i) all declared but unpaid dividends or distributions; and (j) all costs and expenses incurred by or on behalf of any Senior Creditor in enforcing payment or collection of any such Senior Indebtedness, including enforcing any security interest securing the same. "**Senior Indebtedness**" shall not include any

indebtedness that would otherwise be Senior Indebtedness if it is expressly stated to be subordinate to or rank *pari passu* with the Debentures;

## ARTICLE 5 SUBORDINATION OF DEBENTURES

### 5.1 Applicability of Article

The Debenture Liabilities shall be subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in this Article 5 and in Section 2.4(e), to the prior full and final payment of all Senior Indebtedness of the Corporation and any Subsidiary of the Corporation, and each holder of any such Debenture by his acceptance thereof, whether directly or on his behalf, agrees to and shall be bound by the provisions of this Article 5.

### 5.2 Order of Payment

Upon any distribution of the assets of the Corporation upon any dissolution, winding up, total liquidation or reorganization of the Corporation (whether in bankruptcy, insolvency or receivership proceedings, or upon an "assignment for the benefit of creditors" or any other marshalling of the assets and liabilities of the Corporation, or otherwise):

- (a) all Senior Indebtedness shall first be paid indefeasibly in full, or provision made for such payment, in cash before any payment is made on account of the principal of or interest on or any other liability or obligation in respect of the indebtedness evidenced by the Debentures;
- (b) any payment or distribution of assets of the Corporation, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5 shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the Senior Creditors to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Corporation or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Corporation's assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Debenture Trustee or any requirement to account to the Debenture Trustee or the Debentureholders.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (i) whether or not the Senior Indebtedness is secured;
- (ii) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of any Senior Security;
- (iii) the time or order of the attachment, perfection or crystallization of any

- security constituted by any Senior Security;
- (iv) the taking of any collection, enforcement or realization proceedings pursuant to any Senior Security;
  - (v) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors or any of them or the Debentureholders or any of them to any money or property of the Corporation;
  - (vi) the failure to exercise any power or remedy reserved to the Senior Creditors under any Senior Security or to insist upon a strict compliance with any terms thereof;
  - (vii) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
  - (viii) the date of giving or failing to give notice to or making demand upon the Corporation;
  - (ix) any amendment, modification, increase, extension, renewal, replacement of any Senior Indebtedness or Senior Security; or
  - (x) any other matter whatsoever.

### **5.3 Subrogation to Rights of Holders of Senior Indebtedness**

Subject to the prior payment in full of all Senior Indebtedness, the holders of the Debentures shall be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distributions of assets of the Corporation to the extent of the application thereto of such payments or other assets which would have been received by the holders of the Debentures but for the provisions hereof until the principal of, premium, if any, on and interest on the Debentures shall be paid in full, and no such payments or distributions to the holders of the Debentures of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Corporation, its creditors (other than holders of Senior Indebtedness) and the holders of Debentures, be deemed to be a payment by the Corporation to the former holders of the Senior Indebtedness or on account of the repaid Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of Senior Indebtedness, on the other hand.

### **5.7 Confirmation of Subordination**

Each holder of Debentures by his acceptance thereof authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney-in-fact for any and all such purposes. This power of attorney, being coupled with an interest and rights, shall be irrevocable. Upon request of the Corporation, and upon being furnished with an Officer's Certificate stating that one or more named Persons are Senior Creditors, and specifying the maximum amount and nature of the Senior Indebtedness of such Senior Creditors, the Debenture Trustee shall enter into a written agreement or agreements, as



the Senior Creditor may reasonably request, with the Corporation and the Person or Persons named in such Officer's Certificate providing that such Person or Persons are entitled to all the rights and benefits of this Article 5 as a Senior Creditor specified in such Officer's Certificate and in such agreement, which may include, among other things, an agreement not to amend the provisions of this Article 5 and the definitions herein without the consent of such Senior Creditor. Such agreement shall be conclusive evidence that the indebtedness specified therein is Senior Indebtedness. However, nothing herein shall impair the rights of any Senior Creditor who has not entered into such an agreement.

#### **5.10 Rights of Holders of Senior Indebtedness Not Impaired**

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Corporation or by any non-compliance by the Corporation with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

#### **5.15 Contesting Security**

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Indebtedness, the Senior Security or the relative priority of the Senior Security.

#### **5.16 Obligations Created by Article 5**

The Corporation and the Debenture Trustee, in its capacity as trustee hereunder and not in its corporate personal capacity, agree, and each holder by its acceptance of a Debenture likewise agrees, that:

- (a) the provisions of this Article 5 are an inducement and consideration to each holder of Senior Indebtedness to give or continue credit to the Corporation, the Corporation's Subsidiaries or others or to acquire Senior Indebtedness; and
- (b) each holder of Senior Indebtedness may accept the benefit of this Article 5 on the terms and conditions set forth in this Article 5 by giving or continuing credit to the Corporation, the Corporation's Subsidiaries or others or by having outstanding or acquiring Senior Indebtedness, in each case without notice to the Debenture Trustee and without establishing actual reliance on this Article 5.

### **ARTICLE 6 CONVERSION OF DEBENTURES**

#### **6.7 Corporation to Reserve Common Shares**

The Corporation covenants with the Debenture Trustee that it will at all times reserve and keep available out of its authorized Common Shares, solely for the purpose of issue upon conversion of Debentures as provided in this Article 6, and conditionally allot to Debenture holders who may exercise their conversion rights hereunder, such number of Common Shares as shall then be issuable upon the conversion of all outstanding Debentures. The Corporation covenants with the Debenture Trustee that all Common Shares which shall be so issuable shall be duly and validly issued as fully-paid, non-assessable and Freely Tradeable.

## ESTIMATED DISTRIBUTION TO CREDITORS

28. In its Sixth Report, the Receiver advised it would provide an estimated distribution once the Claims Bar Date has passed. The estimated distribution to unsecured creditors will depend significantly on whether the Debenture Holders' Claim ranks subordinate to or pari passu with all other unsecured creditors. Accordingly the Receiver has provided the estimated recovery under two scenarios.
- i. Scenario 1 - Assumes the Debenture Holders' Claim ranks pari passu with all other unsecured creditors; and
  - ii. Scenario 2 –Assumes the Debenture Holders' Claim ranks subordinate to all other unsecured creditors.
29. The Receiver notes that several estimates and assumptions were required to be made in order to estimate the distribution presented below and the actual distribution may vary significantly from that presented below. For the purposes of the estimated distribution analysis below, the Receiver has assumed that the total pool of claims include all proof of claims filed that have been accepted by the Receiver and all proof of claims that are currently being reviewed, but exclude any proof of claims that have been or intend to be disallowed by the Receiver including certain significant tax claims as discussed further below.
30. The Receiver is currently in the process of reviewing the remaining proof of claims received and therefore the assumptions used for this estimated recovery analysis should not be interpreted as the Receiver's acceptance of claims.

31. The following table presents the Receiver's estimated distributable cash. The analysis includes current cash on hand and estimated additional future expenses including, remaining operating and joint venture payables, general and administrative costs to complete the receivership, estimated statement of adjustments to be finalized, estimated professional fees including the Receiver, the Receiver's counsel and the Ad Hoc Groups counsel.

<b>Estimated Cash Available for Distribution</b>	
<b>As at June 2, 2017</b>	
<b>CAD</b>	
<b>Estimated Cash on Hand as June 2, 2017</b>	82,655,174
<b>Estimated Hold back for additional expenses</b>	
Operating expenses and joint venture payables	500,000
General & Administrative Expenses	250,000
Statement of Adjustments payment(recovery)	(45,000)
Professional Fees	1,000,000
Ad Hoc Group Professional Fees	300,000
<b>Total Estimated Holdback</b>	<b>2,005,000</b>
<b>Estimated Net Cash Available for Distribution</b>	<b>80,650,174</b>

32. The following table presents the estimated recovery to the creditors based on the two scenarios identified above.

<b>Claim Type</b>	<b>Claims filed in Claims Process</b>	<b>Estimated Recovery</b>			
		<b>Scenario #1 - Debenture pari passu with unsecureds</b>		<b>Scenario #2 - Debentures Claim ranks subordinate to unsecureds</b>	
	Amount	Amount	%	Amount	%
Secured/Trust *	1,764,288	1,764,288	100%	1,764,288	100%
Unsecured *	16,753,301	12,077,645	72%	16,753,301	100%
Debentures Claim **	92,671,925	66,808,242	72%	62,132,585	67%
<b>Total</b>	<b>111,189,514</b>	<b>80,650,174</b>		<b>80,650,174</b>	


33. As noted above, the Receiver currently estimates that if the Subordination Issue is ruled in favour of the Debenture Holders the recovery to non-debenture unsecured creditors would be reduced from 100% to 72% while Debenture Holders' recovery would increase from 67% to 72%.
34. Note the majority of the disallowed claims not included in claims pool utilized in the recovery analysis above relate to certain tax claims (collectively the "**Tax Claims**") as follows:
- (a) Claim in the amount of \$6,199,879 filed by Her Majesty the Queen in Right of Canada as Represented by the Minister of National Revenue; and
  - (b) Claim in the amount of \$3,191,487 filed by Alberta Treasury Board and Finance Tax and Revenue Administration (Her Majesty the Queen in Right of the Province of AB as represented by the President of Treasury Board and Minister of Finance).
35. The Receiver considers the Tax Claims not to be valid and accordingly has disallowed them. If the Tax Claims are determined to be valid and the Debenture Holders' Claim is determined to be subordinate to other unsecured creditors this would reduce the recovery to the Debenture Holders by \$9,391,366 or 10% of their estimated recovery (recovery reduced from 67% per table above to 57%). If the Debenture Holder's Claim ranks pari passu with other unsecured creditors and the Tax Claims are determined to be valid the recovery to all unsecured creditors would be reduced by approximately 6% (recovery reduced from 72% to 66%)

## **REQUEST FOR ADVICE AND DIRECTION**

36. The Receiver respectfully requests that this Honourable Court provide advice and direction with respect to the Subordination Issue and the classification of the Debenture Holders' Claim.


All of which is respectfully submitted this 6<sup>th</sup> day of June, 2017.

FTI Consulting Canada Inc.,  
in its capacity as receiver and manager  
of the assets, undertakings and properties of  
Twin Butte Energy Ltd.



---

Deryck Helkaa  
Senior Managing Director, CA, CPA, CIRP



---

Dustin Olver  
Managing Director, CA, CPA

# **Appendix A**

## **Debenture Holders' Amended POC**

**AMENDED PROOF OF CLAIM**

**IN THE MATTER OF THE RECEIVERSHIP OF TWIN BUTTE ENERGY LTD. (“Twin Butte”)**

Regarding the claim of \_\_\_Computershare Trust Company of Canada\_\_\_ (the “**Claimant**”)

All notices or correspondence regarding this claim are to be forwarded to the Claimant at the following address:

600, 530 – 8th Avenue SW  
\_\_\_\_\_  
Calgary, AB T2P 3S8  
\_\_\_\_\_

Telephone Number: (403) 267-6569

Facsimile Number: (403) 267-6598

Email address: shannon.grover@computershare.com

Attention (Contact Person): Shannon Grover

*(All future correspondence will be delivered to the designated email address unless the Claimant specifically requests hard copies)*

Please provide hard copies of correspondence to the address above.

I, Shannon Grover (name of Claimant or authorized representative), of  
Calgary, Alberta (City, Province or State), do hereby certify that:

1. The Claimant has received a Claims Package from the Receiver, and wishes to assert a Claim.
2. I am the Claimant.

OR

I am Manager, Corporate Trust (position/title) of the Claimant.

3. I have knowledge of all the circumstances connected with the claim referred to in this form.
4. The Claimant states that Twin Butte was at September 1, 2016, and still is, indebted to the Claimant in the sum of CDN\$ 92,220,726.52 for debt or damages, and a Subsequent Claim for damages of \$451,198.63 (insert CDN\$ value of claim) as shown by the statement of account attached hereto and marked Schedule “A” and Schedule “B”.

*If the claim is to be reduced by deducting any counterclaim to which the Twin Butte is entitled, or amounts associated with the return of equipment or assets by Twin Butte, please specify.*

*The statement of account must specify the evidence in support of the claim including the date and location of the delivery of all services and materials. Any claim for interest must be supported by contractual documentation evidencing the entitlement to interest.*

5. A. UNSECURED CLAIM OF \$ 92,220,726.52, for debt or damages as outlined in Schedules "A" and "B" hereto, and a Subsequent Claim for damages of \$451,198.63, as outlined in Schedule "B" hereto. That in respect of this claim the Claimant does not hold and has not held any assets as security.

B. SECURED CLAIM OF \$ \_\_\_\_\_. That in respect of this claim the Claimant holds assets valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:

*Give full particulars of the security, including the date on which the security was given and the value at which the claimant assesses the security together with the basis of valuation, and attach a copy of the security documents as Schedule "B".*

C. TRUST CLAIM OF \$ \_\_\_\_\_. That in respect of said debt I claim a trust interest in certain of Twin Butte's assets valued at \$ \_\_\_\_\_, particulars of which claim and assets are attached.

*Give full particulars of the alleged trust, including the date on which the trust arose, the property against which the trust is asserted, and the value at which the claimant assesses the trust property together with the basis of valuation, and attach a copy of all relevant documents as Schedule "C".*

6. Other than as already set out herein, the particulars of the undersigned's total Claim against Twin Butte are attached on a separate sheet.
7. Have you acquired this Claim by assignment? \_\_\_ Yes X No  
(if yes, attach documents evidencing assignment)
8. This Proof of Claim form must be received by the Receiver by no later than 5:00 p.m. (Mountain Time) on June 1, 2017 (or, if you are a Subsequent Creditor within the meaning of the Claims Procedure Order, by the Subsequent Claims Bar Date as that term is defined in the Claims Procedure Order) by either prepaid registered mail, personal delivery, courier, facsimile transmission at the following address:

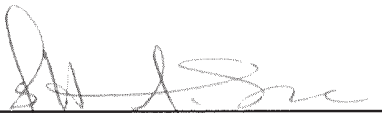
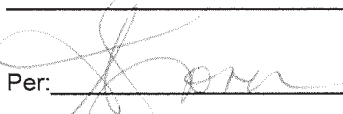
The Receiver:

FTI Consulting Canada Inc., Court-appointed receiver of Twin Butte Energy Ltd.  
Attn: Lindsay Shierman  
720, 440 2<sup>nd</sup> Avenue SW  
Calgary, AB T2P 5E9  
Telephone: (403) 454-6036  
Fax: (403) 232-6116

or by email to Lindsay Shierman at [lindsay.shierman@fticonsulting.com](mailto:lindsay.shierman@fticonsulting.com)

**Failure to file your Proof of Claim and required documentation as directed by 5:00 p.m. on June 1, 2017 (Mountain Time) (or, if you are a Subsequent Creditor within the meaning of the Claims Procedure Order, by the Subsequent Claims Bar Date as that term is defined in the Claims Procedure Order) will result in your Claim being forever barred and you will be prohibited from making or enforcing a Claim against Twin Butte and shall not be entitled to further notice or distribution, if any, and shall not be entitled to participate as a Creditor in these proceedings.**



 _____ Witness Signature  <b>JODIE HANSEN</b> PROFESSIONAL, CORPORATE TRUST	Name of Claimant: Computershare Trust Company of Canada _____ Per:  _____ Name: <u>Shannon Grover</u> _____ Title: <u>Manager, Corporate Trust</u> (please print)
---	---



**CONVERTIBLE DEBENTURE INDENTURE**

**between**

**TWIN BUTTE ENERGY LTD.**

**- and -**

**VALIANT TRUST COMPANY**

**Providing for the Issue of  
6.25% Convertible Unsecured Subordinated Debentures**

**Dated as of December 13, 2013**

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## CONVERTIBLE DEBENTURE INDENTURE

**THIS CONVERTIBLE DEBENTURE INDENTURE** is made as of the 13th day of December, 2013.

### **BETWEEN:**

**TWIN BUTTE ENERGY LTD.**, a corporation existing under the laws of the Province of Alberta and having its head office in the City of Calgary, in the Province of Alberta

- and -

**VALIANT TRUST COMPANY**, a trust company continued under the laws of Canada

**WHEREAS** the Corporation wishes to create and issue the Debentures (as defined herein) in the manner and subject to the terms and conditions of this Indenture;

**NOW THEREFORE THIS INDENTURE WITNESSES** that for good and valuable consideration mutually given and received, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed and declared as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1 Definitions**

In this Indenture and in the Debentures and the recitals, unless there is something in the subject matter or context inconsistent therewith or unless otherwise expressly provided, the following terms shall have the respective meanings set out below and grammatical variations of such terms shall have corresponding meanings:

"**1933 Act**" means the United States *Securities Act of 1933*, as amended, and the rules and regulations promulgated thereunder;

"**1934 Act**" means the United States *Securities Exchange Act of 1934*, as amended, and the rules and regulations promulgated thereunder;

"**90% Redemption Right**" has the meaning ascribed thereto in Section 2.4(j)(vii);

"**90% Redemption Right Notice**" has the meaning ascribed thereto in Section 2.4(j)(vii);

"**ABCA**" means the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, including the regulations promulgated thereunder;

"**Additional Debentures**" means Debentures of any one or more series, other than the first series of Debentures, being the Initial Debentures, issued under this Indenture;

"**Affiliate**" and "**Associate**" when used to indicate a relationship with a Person or company, shall have their respective meanings as set forth in the *Securities Act* (Alberta);

"**Applicable Period**" means for each regular cash dividend or distribution, the period announced by the Corporation, in respect of which such dividend or distribution is payable. As of the date hereof, the Applicable Period is one month. If, however, the Corporation announces a regular quarterly, semi-annual or annual dividend or distribution, then the Applicable Period will be deemed to be the related quarterly, semi-annual or annual period;

"**Applicable Securities Legislation**" means applicable securities laws (including published rules, regulations, policies, blanket orders, rulings and instruments) in each of the applicable provinces of Canada;

"**Authorized Officer**" means a duly authorized officer of the Corporation;

"**Base Common Share**" has the meaning ascribed thereto in Section 2.4(k)(iii);

"**Beneficial Holder**" means any Person who holds a beneficial interest in a Global Debenture as shown on the books of the Depository or a Depository Participant;

"**Business Day**" means any day which is not Saturday or Sunday or a statutory holiday in Calgary, Alberta or any other day on which businesses of the Debenture Trustee and Canadian chartered banks are generally closed;

"**Cash Change of Control**" means a Change of Control in which 10% or more of the consideration for Common Shares in the transaction or transactions constituting a Change of Control consists of: (i) cash, other than cash payments for fractional Common Shares and cash payments made in respect of dissenters' appraisal rights; (ii) equity securities (including trust units, limited partnership units or other participating securities of a trust, limited partnership or similar entity) that are not traded or intended to be traded immediately following such transactions on a recognized stock exchange; or (iii) other property that is not traded or intended to be traded immediately following such transactions on a recognized stock exchange;

"**Cash Change of Control Conversion Period**" has the meaning ascribed thereto in Section 2.4(k)(i);

"**CDS**" means CDS Clearing and Depository Services Inc.;

"**Change of Control**" means:

- (a) the acquisition by any Person or group of Persons acting jointly or in concert (within the meaning of MI 62-104 and in Ontario, the *Securities Act* (Ontario) and OSC Rule 62-504) of ownership of, or voting control or direction over, more than 50% of the issued and outstanding Common Shares; or
- (b) the sale or other transfer of all or substantially all of the consolidated assets of the Corporation;

however, a "Change of Control" shall not include a sale, merger, reorganization, arrangement, combination or other similar transaction if the previous holders of Common Shares immediately prior to such transaction hold at least 50% of the voting control or direction in such merged, reorganized, arranged, combined or other continuing entity (and in the case of a sale of all or substantially all of the assets, in the entity which has acquired such assets) immediately following completion of such transaction;

"**Change of Control Purchase Date**" has the meaning ascribed thereto to it in Section 2.4(j)(v);

**"Change of Control Purchase Offer"** has the meaning ascribed thereto in Section 2.4(j)(i);

**"Common Share Bid Request"** means a request for bids to purchase Common Shares (to be issued by the Corporation on the Common Share Delivery Date) made by the Debenture Trustee in accordance with the Common Share Interest Payment Election Notice and that shall make the acceptance of any bid conditional upon the acceptance of sufficient bids to result in aggregate proceeds from such issue and sale of Common Shares that, together with the cash payments by the Corporation in lieu of fractional Common Shares, if any, equal to the Interest Obligation or portion thereof that is subject to the Common Share Interest Payment Election;

**"Common Share Delivery Date"** means a date, not more than 90 days and not less than one Business Day prior to the applicable Interest Payment Date, upon which Common Shares are issued by the Corporation and delivered to the Debenture Trustee for sale pursuant to Common Share Purchase Agreements (together with the cash payments by the Corporation, if any, required to be made in order to pay in full the applicable Interest Obligation or portion thereof that is subject to the Common Share Interest Payment Election);

**"Common Share Interest Payment Election"** means an election to satisfy all or any portion of the Interest Obligation on the applicable Interest Payment Date in the manner described in the Common Share Interest Payment Election Notice;

**"Common Share Interest Payment Election Amount"** means the sum of the amount of the aggregate proceeds to be realized from the sale of Common Shares on the Common Share Delivery Date pursuant to acceptable bids obtained pursuant to the Common Share Bid Requests, together with any amount to be paid by the Corporation in respect of fractional Common Shares pursuant to Section 10.1(g), that is equal to the aggregate amount of the Interest Obligation or portion thereof in respect of which the Common Share Interest Payment Election Notice was delivered;

**"Common Share Interest Payment Election Notice"** means a written notice made by the Corporation to the Debenture Trustee specifying:

- (a) the amount of the Interest Obligation to which the election relates;
- (b) the Common Share Interest Payment Election Amount;
- (c) the investment banks, brokers or dealers through which the Debenture Trustee shall seek bids to purchase the Common Shares and the conditions of such bids, which may include the minimum number of Common Shares, minimum price per Common Share, timing for closing for bids and such other matters as the Corporation may specify; and
- (d) that the Debenture Trustee shall accept through such investment banks, brokers or dealers selected by the Corporation only those bids which comply with such notice;

**"Common Share Proceeds Investment"** has the meaning ascribed thereto in Section 10.1(h);

**"Common Share Purchase Agreement"** means an agreement in customary form among the Corporation, the Debenture Trustee and the Persons making acceptable bids pursuant to a Common Share Bid Request, which complies with all applicable laws, including the Applicable Securities Legislation and the rules and regulations of any stock exchange on which the Debentures or Common Shares are then listed;

**"Common Share Redemption Right"** has the meaning ascribed thereto in Section 4.6(a);

"**Common Share Repayment Right**" has the meaning ascribed thereto in Section 4.11(a);

"**Common Shares**" means common shares of the Corporation, as such common shares are constituted on the date of execution and delivery of this Indenture; provided that in the event of a change or a subdivision, revision, reduction, combination or consolidation thereof, any reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up, or such successive changes, subdivisions, redivisions, reductions, combinations or consolidations, reclassifications, capital reorganizations, consolidations, amalgamations, arrangements, mergers, sales or conveyances or liquidations, dissolutions or windings-up, then, subject to adjustments, if any, having been made in accordance with the provisions of Section 6.5, "**Common Shares**" shall mean the shares or other securities or property resulting from such change, subdivision, redivision, reduction, combination or consolidation, reclassification, capital reorganization, consolidation, amalgamation, arrangement, merger, sale or conveyance or liquidation, dissolution or winding-up;

"**Conversion Price**" means \$3.05, being the amount for which each Common Share may be issued from time to time upon the conversion of the Debentures, as adjusted in accordance with the provisions of Article 6;

"**Corporation**" means Twin Butte Energy Ltd., a corporation existing under the ABCA, and includes any successor to or of the Corporation that shall have complied with the provisions of Article 11;

"**Counsel**" means a barrister or solicitor or a firm of barristers or solicitors, who may be counsel for the Corporation, acceptable to the Debenture Trustee, acting reasonably;

"**Current Market Price**" on any date means the VWAP for the 20 consecutive Trading Days ending on the fifth Trading Day preceding such date (or, if the Common Shares are not listed on the TSX, on such stock exchange on which the Common Shares are listed as may be selected by the Directors and approved by the Debenture Trustee or, if the Common Shares are not listed on any stock exchange, then on the over-the-counter market or, if there is no market, fair value as determined by an independent financial advisor selected by the Directors and approved by the Debenture Trustee, acting reasonably);

"**Date of Conversion**" has the meaning ascribed thereto in Section 6.4(b);

"**Debenture Liabilities**" means the indebtedness, liabilities and obligations of the Corporation under Debentures issued under this Indenture, including on account of principal, interest or otherwise but excluding the issuance of Common Shares upon any conversion pursuant to Article 6, upon any redemption pursuant to Article 4, or at maturity pursuant to Article 4;

"**Debenture Trustee**" means Valiant Trust Company or its successor or successors for the time being as trustee hereunder;

"**Debentureholders**" or "**holders**" means the Persons for the time being entered in the register for Debentures as registered holders of Debentures or any transferees of such Persons by endorsement or delivery;

"**Debentures**" means the debentures, notes or other evidence of indebtedness of the Corporation issued and certified hereunder, or deemed to be issued and certified hereunder, including, without limitation, the Initial Debentures, and for the time being outstanding, whether in definitive or interim form;

"**Defeased Debentures**" has the meaning ascribed thereto in Section 9.6(b);

"**Depository**" means, with respect to the Debentures for so long as they are issued in the form of one or more Global Debentures, each Person designated as a depository by the Corporation pursuant to Section 3.1, which shall initially be CDS, and any successor depository designated pursuant to the applicable provisions of this Indenture;

"**Depository Participant**" means a broker, dealer, bank, other financial institution or other Person for whom from time to time, a Depository effects book-entry for a Global Debenture deposited with the Depository;

"**Directors**" means the directors of the Corporation on the date hereof or such directors as may, from time to time, be appointed or elected directors of the Corporation pursuant to the Corporation's articles and by-laws, and applicable laws, and "**Director**" means any one of them, and reference to action by the Directors means action by the Directors as a board;

"**Dissenting Debentureholders**" means a Debentureholder who does not accept an Offer referred to in Section 12.1 and includes any assignee of the Debenture of a Debentureholder to whom such an Offer is made, whether or not such assignee is recognized under this Indenture;

"**Effective Date**" has the meaning ascribed thereto in Section 2.4(k)(ii);

"**Event of Default**" has the meaning ascribed thereto in Section 8.1;

"**Ex-Dividend Date**" means, with respect to any dividend, distribution or issuance on the Common Shares, the first date on which the Common Shares trade on the applicable exchange or in the applicable market without the right to receive such dividend, distribution or issuance;

"**Expiration Date**" has the meaning ascribed thereto in Section 6.5(f);

"**Expiration Time**" has the meaning ascribed thereto in Section 6.5(f);

"**Expiry Date**" has the meaning ascribed thereto in Section 2.4(j)(ii);

"**Expiry Time**" has the meaning ascribed thereto in Section 2.4(j)(ii);

"**Extraordinary Resolution**" has the meaning ascribed thereto in Section 13.13;

"**Freely Tradeable**" means, in respect of shares of capital of any class of any corporation, which can be traded by the recipient thereof without any restriction under Applicable Securities Legislation, such as hold periods, except in the case of a "control distribution" (as that term is defined in Applicable Securities Legislation), or a transaction or series of transactions incidental to a control distribution;

"**Fully Registered Debentures**" means Debentures registered as to both principal and interest;

"**generally accepted accounting principles**" or "**GAAP**" means generally accepted accounting principles in Canada, as amended from time to time, as applicable to the Corporation and for greater certainty includes International Financial Reporting Standards, as and to the extent applicable to the Corporation;

"**Global Debenture**" means a Debenture that is issued to and registered in the name of the Depository, or its nominee, pursuant to Section 2.6 for purposes of being held by or on behalf of the Depository as custodian for participants in the Depository's book-entry only registration system;

"**Government Obligations**" means securities issued or guaranteed by the Government of Canada or any province thereof;

"**Guarantees**" means any guarantee, undertaking to assume, endorse, contingently agree to purchase, or to provide funds for the payment of, or otherwise become liable in respect of, any indebtedness, liability or obligation of any Person;

"**Initial Debentures**" means the Debentures designated as "6.25% Convertible Unsecured Subordinated Debentures" and described in Section 2.4;

"**Initial Dividend Threshold**" means \$0.016 per Common Share in respect of a monthly Applicable Period, and proportionately adjusted in the case of an Applicable Period that is not one month (which would be \$0.048 per Common Share for a quarterly dividend or distribution, \$0.096 per Common Share for a semi-annual dividend or distribution or \$0.192 per Common Share for an annual dividend or distribution);

"**Interest Account**" has the meaning ascribed thereto in Section 10.1(h);

"**Interest Obligation**" means the obligation of the Corporation to pay interest on the Debentures, as and when the same becomes due;

"**Interest Payment Date**" means a date specified in a Debenture as the date on which interest on such Debenture shall become due and payable;

"**Make Whole Premium**" has the meaning ascribed to it in Section 2.4(k)(i);

"**Make Whole Premium Shares**" has the meaning ascribed thereto in Section 2.4(k)(ii);

"**Maturity Account**" means an account or accounts required to be established by the Corporation (and which shall be maintained by and subject to the control of the Debenture Trustee) for the Debentures pursuant to and in accordance with this Indenture;

"**Maturity Date**" has means the date specified for maturity of any Debentures;

"**Maturity Notice**" has the meaning ascribed thereto in Section 2.4(g);

"**MI 62-104**" means Multilateral Instrument 62-104 — *Take-Over Bids and Issuer Bids*;

"**Offer**" means an offer to acquire outstanding Debentures which is a take-over bid for Debentures within the meaning of MI 62-104 and in Ontario, the *Securities Act* (Ontario) and OSC Rule 62-504 if the Debentures were considered equity securities, where, as of the date of the offer to acquire, the Debentures that are subject to the offer to acquire, together with the Offeror's Debentures, constitute in the aggregate 20% or more of the outstanding principal amount of the Debentures;

"**offer to acquire**" includes an acceptance of an offer to sell;

"**Offeror**" means a Person, or two or more Persons acting jointly or in concert (as that term is used in the *Securities Act* (Alberta)), who make an Offer to acquire Debentures;

"**Offeror's Debentures**" means Debentures beneficially owned, or over which control or direction is exercised, on the date of an Offer by the Offeror, any Affiliate or Associate of the Offeror or any Person

or company acting jointly or in concert (as that term is used in the *Securities Act (Alberta)*) with the Offeror;

"**Offeror's Notice**" means the notice described in Section 12.2;

"**Offer Price**" has the meaning ascribed thereto in Section 2.4(j)(i);

"**Offering**" means the public offering of the Initial Debentures as described in the Prospectus;

"**Officer's Certificate**" means a certificate of the Corporation signed by any one of the Directors or any one authorized officer of the Corporation, on behalf of the Corporation, in such capacity, and not in his personal capacity;

"**Original Purchaser**" has the meaning ascribed thereto in Section 2.17;

"**OSC Rule 62-504**" means Ontario Securities Commission Rule 62-504 – *Take-Over Bids and Issuer Bids*;

"**Periodic Offering**" means an offering of Debentures of a series from time to time, the specific terms of which Debentures, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Corporation upon the issuance of such Debentures from time to time;

"**Person**" means and includes individuals, corporations, limited partnerships, general partnerships, joint stock companies, limited liability companies, joint ventures, associations, companies, trusts, banks, trust companies, pension funds, business trusts or other organizations, whether or not legal entities and governments, governmental agencies and political subdivisions thereof;

"**Privacy Laws**" has the meaning ascribed thereto in Section 15.19;

"**Prospectus**" means the (final) short form prospectus of the Corporation dated December 6, 2013 relating to the distribution of the \$85,000,000 aggregate principal amount of Debentures and, unless the context otherwise requires, includes all documents incorporated therein by reference and any amendments thereto;

"**Purchased Common Shares**" has the meaning ascribed thereto in Section 6.5(f);

"**Redemption Date**" has the meaning ascribed thereto in Section 4.3;

"**Redemption Notice**" has the meaning ascribed thereto in Section 2.4(g);

"**Redemption Price**" means, in respect of a Debenture, the amount payable on the Redemption Date fixed for such Debenture, the principal portion of which amount may be payable by the issuance of Freely Tradeable Common Shares as provided for in Section 4.6, and where applicable, includes accrued and unpaid interest thereon up to (but not including) the Redemption Date;

"**Regulation S**" means Regulation S adopted by the SEC under the 1933 Act;

"**Restricted Physical Debenture**" means a definitive certificate representing Debentures, including without limitation, a definitive certificate issued in accordance with Section 2.6(c) or Section 3.1(b) that bears a U.S. Legend;

"**SEC**" means the United States Securities and Exchange Commission;

"**Securities**" has the meaning ascribed thereto in Section 2.16;

"**Senior Creditor**" means a holder or holders of Senior Indebtedness and includes any agent or agents, representative or representatives or trustee or trustees of any such holder or holders;

"**Senior Indebtedness**" means all obligations, liabilities and indebtedness of the Corporation which would, in accordance with GAAP, be classified upon a consolidated balance sheet of the Corporation as liabilities of the Corporation and, whether or not so classified, shall include (without duplication): (a) indebtedness of the Corporation for borrowed money; (b) obligations of the Corporation evidenced by bonds, debentures, notes or other similar instruments; (c) obligations of the Corporation arising pursuant or in relation to bankers' acceptances, letters of credit, letters of guarantee, performance bonds and surety bonds (including payment and reimbursement obligations in respect thereof) or indemnities issued in connection therewith; (d) obligations of the Corporation under any swap, hedging or other similar contracts or arrangements; (e) obligations of the Corporation under Guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the Senior Indebtedness or other obligations of any other Person which would otherwise constitute Senior Indebtedness within the meaning of this definition; (f) all indebtedness of the Corporation representing the deferred purchase price of any property including, without limitation, purchase money mortgages; (g) accounts payable to trade creditors; (h) all renewals, extensions and refinancing of any of the foregoing; (i) all declared but unpaid dividends or distributions; and (j) all costs and expenses incurred by or on behalf of any Senior Creditor in enforcing payment or collection of any such Senior Indebtedness, including enforcing any security interest securing the same. "**Senior Indebtedness**" shall not include any indebtedness that would otherwise be Senior Indebtedness if it is expressly stated to be subordinate to or rank *pari passu* with the Debentures;

"**Senior Security**" means all mortgages, hypothecs, liens, pledges, charges (whether fixed or floating), security interests or other encumbrances of any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness;

"**Spinoff Securities**" has the meaning ascribed thereto in Section 6.5(c);

"**Spinoff Valuation Period**" has the meaning ascribed thereto in Section 6.5(c);

"**Stock Price**" has the meaning ascribed thereto in Section 2.4(k)(ii);

"**Subsidiary**" has the meaning ascribed thereto in the ABCA;

"**Successor**" has the meaning ascribed thereto in Section 11.1;

"**Tax Act**" means the *Income Tax Act* (Canada), R.S.C. 1985, c.1, as amended, including the regulations promulgated thereunder, each as amended from time to time;

"**this Indenture**", "**hereto**", "**herein**", "**hereby**", "**hereunder**", "**hereof**" and similar expressions refer to this Indenture and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto;

"**Time of Expiry**" means the time of expiry of certain rights with respect to the conversion of Debentures as defined in Section 2.4(f);



"**Trading Day**" means, with respect to the TSX (or such other recognized stock exchange) or other market for securities, any day on which such exchange or market is open for trading or quotation and on which the Debentures or Common Shares are then listed;

"**TSX**" means the Toronto Stock Exchange or its successor or successors;

"**United States**" means the United States of America, its territories and possessions, any state of the United States and the District of Columbia;

"**U.S. Legend**" has the meaning ascribed thereto in Section 2.16;

"**U.S. Purchaser**" means a purchaser of Debentures that (i) received an offer to purchase Debentures in the United States or (ii) placed its order to purchase Debentures from within the United States; provided, however, that the term "U.S. Purchaser" does not include a purchaser of Debentures that purchases such Debentures in an "offshore transaction" pursuant to Rule 902(h)(3) of the 1933 Act;

"**VWAP**" means the volume-weighted average trading price of the Common Shares for the applicable period (which must be calculated utilizing days in which the Common Shares actually trade). The VWAP shall be determined by dividing the aggregate sale price of all Common Shares sold on the applicable exchange or market, as the case may be, over the applicable period by the total number of Common Shares so sold; and

"**Written Direction of the Corporation**" means an instrument in writing signed by any one Director or any one Authorized Officer on behalf of the Corporation.

## 1.2 Meaning of "Outstanding"

Every Debenture certified and delivered by the Debenture Trustee hereunder shall be deemed to be outstanding until it is cancelled, converted, redeemed or delivered to the Debenture Trustee for cancellation, conversion or redemption and monies and/or Common Shares, as the case may be, for the payment thereof shall have been set aside under Article 9, provided that:

- (a) Debentures which have been partially redeemed, purchased or converted shall be deemed to be outstanding only to the extent of the unredeemed, unpurchased or unconverted part of the principal amount thereof;
- (b) when a new Debenture has been issued in substitution for a Debenture which has been lost, stolen or destroyed, only one of such Debenture shall be counted for the purpose of determining the aggregate principal amount of Debentures outstanding; and
- (c) for the purposes of any provision of this Indenture entitling holders of outstanding Debentures to vote, sign consents, requisitions or other instruments or take any other action under this Indenture, or to constitute a quorum of any meeting of Debentureholders, Debentures owned directly or indirectly, legally or equitably, by the Corporation or a Subsidiary of the Corporation shall be disregarded except that:
  - (i) for the purpose of determining whether the Debenture Trustee shall be protected in relying on any such vote, consent, acquisition or other instrument or action, or on the holders of Debentures present or represented at any meeting of Debentureholders, only the Debentures which the Debenture Trustee knows are so owned shall be so disregarded;

- (ii) Debentures so owned which have been pledged in good faith other than to the Corporation or a Subsidiary of the Corporation shall not be so disregarded if the pledgee shall establish to the satisfaction of the Debenture Trustee the pledgee's right to vote such Debentures, sign consents, requisitions or other instruments or take such other actions in his discretion free from the control of the Corporation or a Subsidiary of the Corporation; and
- (iii) Debentures so owned shall not be disregarded if they are the only Debentures outstanding.

### **1.3 Headings**

The headings, the table of contents and the division of this Indenture into Articles and Sections are for convenience of reference only and shall not affect the interpretation of this Indenture.

### **1.4 References**

Unless otherwise specified in this Indenture:

- (a) references to Articles, Sections, and Schedules are to Articles, Sections, and Schedules in this Indenture; and
- (b) "hereto", "herein", "hereby", "hereunder", "hereof" and similar expressions, without reference to a particular provision, refer to this Indenture.

### **1.5 Certain Rules of Interpretation**

Unless otherwise specified in this Indenture:

- (a) the singular includes the plural and vice versa;
- (b) references to any gender shall include references to all genders;
- (c) reference to any agreement or other instrument in writing means such agreement or other instrument in writing as amended, modified, replaced or supplemented from time to time;
- (d) unless otherwise indicated, reference to a statute shall be deemed to be a reference to such statute as amended, re-enacted or replaced from time to time; and
- (e) unless otherwise indicated, time periods within which a payment is to be made or any other action is to be taken hereunder shall be calculated by including the day on which the period commences and not including the day on which the period ends.

### **1.6 Time of Essence**

Time shall be of the essence of this Indenture.

### **1.7 Day Not a Business Day**

Whenever any payment to be made hereunder shall be due, any period of time would begin or end, any calculation is to be made or any other action is to be taken on, or as of, or from a period ending on, a day other than a Business Day, such payment shall be made, such period of time shall begin or end, such

calculation shall be made and such other action shall be taken, as the case may be, unless otherwise specifically provided herein, on or as of the next succeeding Business Day without any additional interest, cost or charge to the Corporation.

### **1.8 Applicable Law and Attornment**

This Indenture and the Debentures shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein. For the purpose of all legal proceedings, this Indenture will be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta will have jurisdiction to entertain any action arising under this Indenture. The Corporation attorns to the jurisdiction of the courts of Province of Alberta.

### **1.9 Conflict**

In the event of a conflict or inconsistency between a provision in the body of this Indenture and in the Debentures issued hereunder, the provision in the body of this Indenture shall prevail to the extent of the inconsistency.

### **1.10 Currency**

All dollar amounts expressed in this Indenture and in the Debentures are in lawful money of Canada and all payments required to be made hereunder and thereunder shall be made in Canadian dollars.

### **1.11 Accounting Terms**

Except as hereinafter provided or as otherwise indicated in this Indenture, all calculations required or permitted to be made hereunder pursuant to the terms of this Indenture shall be made in accordance with GAAP. For greater certainty, GAAP shall include any accounting standards that may from time to time be approved for general application by the Canadian Institute of Chartered Accountants.

### **1.12 Calculations**

The Corporation shall be responsible for making all calculations called for hereunder including, without limitation, calculations of Current Market Price and calculations made pursuant to Sections 2.4(j) and 2.4(k). The Corporation shall make such calculations in good faith exercising reasonable care, diligence and skill and, absent manifest error, the Corporation's calculations shall be final and binding on holders and the Debenture Trustee. The Corporation will provide a schedule of its calculations to the Debenture Trustee and the Debenture Trustee shall be entitled to rely conclusively on the accuracy of such calculations without independent verification.

### **1.13 Language**

Each of the parties hereto hereby acknowledges that it has consented to and requested that this Indenture and all documents relating thereto, including, without limiting the generality of the foregoing, the form of Debenture attached hereto as Schedule "A", be drawn up in the English language only. Les parties aux présentes reconnaissent avoir accepté et demandé que le présent acte de fiducie et tous les documents s'y rapportant, y compris, sans restreindre la portée générale de ce qui précède, le formulaire de débenture joint aux présentes à titre d'annexe A, soient rédigés dans la langue anglaise seulement.

### **1.14 Severability**

Each of the provisions in this Indenture is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any of the other provisions hereof.

### **1.15 Schedule**

The following Schedules form part of this Indenture:

- Schedule "A" – Form of Debenture
- Schedule "B" – Form of Redemption Notice
- Schedule "C" – Form of Maturity Notice
- Schedule "D" – Form of Notice of Conversion
- Schedule "E" – Form of Declaration for Removal of U.S. Legend

In the event of any inconsistency between the provisions of any Section of this Indenture and the provisions of the Schedules which form a part hereof, the provisions of this Indenture shall prevail to the extent of the inconsistency.

### **1.16 Successors and Assigns**

All covenants and agreements in this Indenture by the Corporation shall bind its successors and assigns, whether expressed or not.

### **1.17 Entire Agreement**

This Indenture and all supplemental indentures and Schedules hereto and thereto, and the Debentures issued hereunder and thereunder, together constitute the entire agreement between the parties hereto with respect to the indebtedness created hereunder and thereunder and under the Debentures and supersedes as of the date hereof all prior memoranda, agreements, negotiations, discussions and term sheets, whether oral or written, with respect to the indebtedness created hereunder or thereunder and under the Debentures.

### **1.18 Benefits of Indenture**

Nothing in this Indenture or in the Debentures, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any paying agent, the holders of Debentures, the Senior Creditors, the Directors and (to the extent provided in Sections 8.1, 8.11 and 17.2) the holders of Common Shares, any benefit or any legal or equitable right, remedy or claim under this Indenture.

## **ARTICLE 2 THE DEBENTURES**

### **2.1 Limit of Debentures**

Subject to the limitation in respect of the Initial Debentures set out in Section 2.4(a), the aggregate principal amount of Debentures authorized to be issued under this Indenture is unlimited, but Debentures may be issued only upon and subject to the conditions and limitations herein set forth.

## 2.2 Terms of Debentures of any Series

The Debentures may be issued in one or more series. There shall be established herein or in or pursuant to one or more indentures supplemental hereto, prior to the initial issuance of Debentures of any particular series:

- (a) the designation of the Debentures of the series (which need not include the term "Debentures"), which shall distinguish the Debentures of the series from the Debentures of all other series;
- (b) any limit upon the aggregate principal amount of the Debentures of the series that may be certified and delivered under this Indenture (except for Debentures certified and delivered upon registration of, transfer of, amendment of, or in exchange for, or in lieu of, other Debentures of the series pursuant to Sections 2.9, 2.10, 3.1, 3.2 and 3.6 and Article 4 and Article 6);
- (c) the date or dates on which the principal of the Debentures of the series is payable;
- (d) the rate or rates at which the Debentures of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and on which record date, if any, shall be taken for the determination of holders to whom such interest shall be payable and/or the method or methods by which such rate or rates or date or dates shall be determined;
- (e) the place or places where the principal of and any interest on Debentures of the series shall be payable or where any Debentures of the series may be surrendered for registration of transfer or exchange;
- (f) the right, if any, of the Corporation to redeem Debentures of the series, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions upon which, Debentures of the series may be so redeemed;
- (g) the obligation, if any, of the Corporation to redeem, purchase or repay Debentures of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a holder thereof and the price or prices at which, the period or periods within which, the date or dates on which, and any terms and conditions upon which, Debentures of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligations;
- (h) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which Debentures of the series shall be issuable;
- (i) subject to the provisions of this Indenture, any trustee, Depositories, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Debentures of the series;
- (j) any other events of default or covenants with respect to the Debentures of the series;
- (k) whether and under what circumstances the Debentures of the series will be convertible into or exchangeable for securities of any Person;

- (l) the form and terms of the Debentures of the series;
- (m) if applicable, that the Debentures of the series shall be issuable in whole or in part as one or more Global Debentures and, in such case, the Depository or Depositories for such Global Debentures in whose name the Global Debentures will be registered, and any circumstances other than or in addition to those set forth in Section 2.9 or 3.1 or those applicable with respect to any specific series of Debentures, as the case may be, in which any such Global Debenture may be exchanged for Fully Registered Debentures, or transferred to and registered in the name of a person other than the Depository for such Global Debentures or a nominee thereof;
- (n) if other than Canadian currency, the currency in which the Debentures of the series are issuable; and
- (o) any other terms of the Debentures of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Debentures of any one series shall be substantially identical, except as may otherwise be established herein or by or pursuant to a resolution of the Directors, Officer's Certificate or in an indenture supplemental hereto. All Debentures of any one series need not be issued at the same time and may be issued from time to time, including pursuant to a Periodic Offering, consistent with the terms of this Indenture, if so provided herein, by or pursuant to such resolution of the Directors, Officer's Certificate or in an indenture supplemental hereto.

### **2.3 Form of Debentures**

Except in respect of the Initial Debentures, the form of which is provided for herein, the Debentures of each series shall be substantially in such form or forms (not inconsistent with this Indenture) as shall be established herein or by or pursuant to one or more resolutions of the Directors (or to the extent established pursuant to, rather than set forth in, a resolution of the Directors, in an Officer's Certificate detailing such establishment) or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform to general usage, all as may be determined by the Directors or officers of the Corporation executing such Debentures on behalf of the Corporation, as conclusively evidenced by their execution of such Debentures.

### **2.4 Form and Terms of the Initial Debentures**

- (a) The first series of Debentures (the "**Initial Debentures**") authorized for issue immediately is limited to an aggregate principal amount of up to \$85,000,000 and shall be designated as "6.25% Convertible Unsecured Subordinated Debentures".
- (b) The Initial Debentures will be dated as of the date of closing of the Offering and shall, subject to the terms hereof, mature on December 31, 2018 (the "**Maturity Date**" for the Initial Debentures).
- (c) The Initial Debentures shall bear interest from the date of issue at the rate of 6.25% per annum, payable in equal semi-annual instalments in arrears on June 30 and December 31

in each year computed on the basis of a 365-day year or 366-day year, as the case may be. The first such payment will fall due on June 30, 2014, which payment will include interest from and including December 13, 2013 up to, but not including, June 30, 2014, and the last such payment (representing interest payable from and including the last Interest Payment Date) will fall due on the Maturity Date or the earlier date of redemption or repayment. Interest is payable after as well as before maturity and after as well as before default, with interest on amounts after maturity or in default at the same rate, compounded semi-annually. For certainty, the first interest payment will be equal to \$34.08 for each \$1,000 principal amount of Initial Debentures. Any payment required to be made on any day that is not a Business Day will be made on the next succeeding Business Day. The record dates for the payment of interest on the Initial Debentures will be the fifth Business Day preceding the Interest Payment Date in each year.

- (d) The Initial Debentures are redeemable in accordance with the terms of Article 4 hereof, provided that the Initial Debentures will not be redeemable before December 31, 2016 (except in limited circumstances following a Change of Control as provided in Section 2.4(j)). On or after December 31, 2016 and prior to the Maturity Date, the Initial Debentures may be redeemed by the Corporation, in whole or in part from time to time, at the option of the Corporation on notice as provided for in Section 4.3 at the Redemption Price on the Redemption Date, provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price on the date on which such notice of redemption is given exceeds 125% of the Conversion Price and the Corporation shall have provided to the Debenture Trustee an Officer's Certificate confirming such Current Market Price. The Redemption Notice for the Initial Debentures shall be substantially in the form of Schedule "B" to this Indenture. In connection with the redemption of the Initial Debentures, the Corporation may, at its option and subject to the provisions of Section 4.6 and subject to regulatory approval, elect to satisfy its obligation to pay all or a portion of the aggregate principal portion of the Redemption Price of the Initial Debentures to be redeemed by issuing and delivering to the holders of such Initial Debentures, such number of Freely Tradeable Common Shares as is obtained by dividing the aggregate principal portion of the Redemption Price by 95% of the Current Market Price in effect on the Redemption Date. If the Corporation elects to exercise such option, it shall so specify and provide details in the Redemption Notice. Any accrued and unpaid interest will be paid in cash.
- (e) The Initial Debentures will be direct, unsecured obligations of the Corporation and will be fully subordinated to Senior Indebtedness in accordance with the provisions of Article 5 hereof. In accordance with Section 2.12, the Initial Debentures will rank *pari passu* with one another and with each other series of Debentures issued under this Indenture or under indentures supplemental to this Indenture (regardless of their actual date or terms of issue) and, except as prescribed by law, with all other existing and future unsecured subordinated indebtedness of the Corporation to the extent subordinated on the same terms.
- (f) Upon and subject to the provisions and conditions of Article 6 hereof and Section 3.7, the holder of each Initial Debenture shall have the right at such holder's option, at any time prior to 5:00 p.m. (Calgary time) on the earliest of (i) the Business Day immediately preceding the Maturity Date, (ii) the last Business Day immediately preceding any Redemption Date specified by the Corporation for redemption of such Initial Debentures by notice to the holders of Initial Debentures in accordance with Sections 2.4(d) and 4.3 of this Indenture (the earliest of which will be the "**Time of Expiry**" for the purposes of

Article 6 hereof), (iii) if called for repurchase pursuant to the exercise by the Corporation of the 90% Redemption Right, on the Business Day immediately preceding the payment date; or (iv) if subject to compulsory acquisition as provided for in Article 12, on the Business Day immediately prior to the day on which such acquisition becomes effective, subject to the satisfaction of certain conditions, to convert the whole or, in the case of an Initial Debenture of a denomination in excess of \$1,000, any part which is \$1,000 or an integral multiple thereof, of the principal amount of such Initial Debenture into Common Shares at the Conversion Price in effect on the Date of Conversion. To the extent a redemption is a redemption in part only of the Initial Debentures, such right to convert, if not exercised prior to the applicable Time of Expiry, shall survive as to any Initial Debentures not redeemed or converted and be applicable to the next succeeding Time of Expiry.

The Conversion Price in effect on the date hereof for each Common Share to be issued upon the conversion of Initial Debentures shall be equal to \$3.05 such that approximately 327.8689 Common Shares shall be issued for each \$1,000 principal amount of Initial Debentures so converted, subject to the terms of Section 6.6. Except as provided below, no adjustment in the number of Common Shares to be issued upon conversion will be made for dividends or distributions on Common Shares issuable upon conversion, the record date for the payment of which precedes the date upon which the holder becomes a holder of Common Shares in accordance with Article 6, or for interest accrued on Initial Debentures surrendered. No fractional Common Shares will be issued, and holders will receive a cash payment in satisfaction of any fractional interest based on the Current Market Price as of the Date of Conversion. The Conversion Price applicable to, and the Common Shares, securities or other property receivable on the conversion of, the Initial Debentures is subject to adjustment pursuant to the provisions of Section 2.4(k) and Section 6.5.

Holders converting their Initial Debentures will receive, in addition to the applicable number of Common Shares, accrued and unpaid interest (less any taxes required to be deducted) in respect of the Initial Debentures surrendered for conversion from the last Interest Payment Date up to, but not including the Date of Conversion in accordance with Section 6.4(e). For clarity, payment of such interest, whether in cash or by delivery of Freely Tradeable Common Shares pursuant to the exercise of the Common Share Interest Payment Election, may, at the option of the Corporation, be paid on the next regularly scheduled Interest Payment Date following the Date of Conversion.

Holders of Initial Debentures surrendered for conversion during the period from the close of business on any regular record date for the payment of interest on the Initial Debentures to the opening of business on the next succeeding Interest Payment Date will receive the semi-annual interest payable on such Initial Debentures on the corresponding Interest Payment Date notwithstanding the conversion. In the event that a holder of Initial Debentures exercises their conversion right following a Redemption Notice by the Corporation, such holder will be entitled to receive accrued and unpaid interest, in addition to the applicable number of Common Shares to be received on conversion, for the period from the last Interest Payment Date to (but not including) the Date of Conversion.

The Conversion Price will not be adjusted for accrued interest.



Notwithstanding any other provisions of this Indenture, if any Debentures are surrendered for conversion on an Interest Payment Date or during the five Business Days preceding an Interest Payment Date, the Person or Persons entitled to receive Common Shares in respect of the Initial Debentures so surrendered for conversion shall not become the holder or holders of record of such Common Shares until the Business Day following such Interest Payment Date.

- (g) On the Redemption Date or on the Maturity Date of the Initial Debentures, as applicable, the Corporation may, at its option and subject to the provisions of Sections 4.6 and 4.11 hereof as applicable, and provided no Event of Default has occurred and is continuing, and subject to any required regulatory approvals, elect to satisfy its obligation to pay all or a portion of the principal amount of the Initial Debentures by issuing and delivering Freely Tradeable Common Shares to the holders of Initial Debentures. If the Corporation elects to exercise such option, it shall deliver to the holders of Initial Debentures, as applicable, a redemption notice (the "**Redemption Notice**") substantially in the form of Schedule "B" including such election, or a maturity notice (the "**Maturity Notice**") substantially in the form of Schedule "C". Any accrued and unpaid interest will be paid in cash.
- (h) The Initial Debentures shall be issued in denominations of \$1,000 and integral multiples of \$1,000. The Debenture Trustee is hereby appointed as registrar and transfer agent for the Initial Debentures. Each Initial Debenture and the certificate of the Debenture Trustee endorsed thereon shall be issued in substantially the form set out in Schedule "A-1" to this Indenture or, for Initial Debentures issued and sold to U.S. Purchasers, Schedule "A-2" to this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform with general usage, all as may be determined by the Directors or an Authorized Officer executing such Initial Debenture in accordance with Section 2.7 hereof, as conclusively evidenced by his or her execution of an Initial Debenture. Each Initial Debenture shall additionally bear such distinguishing letters and numbers as the Debenture Trustee shall approve. The Initial Debentures may be engraved, lithographed, printed, mimeographed or typewritten or partly in one form and partly in another.

The Initial Debentures shall be initially issued as one or more Global Debentures and the Depository for the Initial Debentures shall be CDS. The Global Debentures shall be registered in the name of the Depository (or any nominee of the Depository). No Beneficial Holder will receive definitive certificates representing their interest in Initial Debentures except as provided in Section 3.1 hereof. A Global Debenture may be exchanged for Initial Debentures in registered form that are not Global Debentures, or transferred to and registered in the name of a Person other than the Depository for such Global Debentures or a nominee thereof as provided in Section 3.1.

- (i) Upon and subject to the provisions and conditions of Article 10 and provided no Event of Default has occurred and is continuing, the Corporation may elect, from time to time, to raise funds to satisfy all or part of the Interest Obligation on the Initial Debentures on any Interest Payment Date (including, for greater certainty, following conversion or upon maturity or redemption) by delivering Freely Tradeable Common Shares to the Debenture Trustee for sale through the facilities of a registered broker/dealer.

- (j) Within 30 days following the occurrence of a Change of Control, the Corporation shall be obligated to offer to purchase all Initial Debentures then outstanding. The terms and conditions of such obligation are set forth below:
- (i) Within 30 days following the occurrence of a Change of Control, and subject to the provisions and conditions of this Section 2.7(j), the Corporation shall deliver to the Debenture Trustee a notice in writing stating that there has been a Change of Control and specifying the date on which such Change of Control occurred and the circumstances or events giving rise to such Change of Control together with an offer in writing (the "**Change of Control Purchase Offer**") to purchase, on the Change of Control Purchase Date (as defined below) all (or any portion actually tendered to such offer) of the Initial Debentures then outstanding from the holders thereof at a price per Initial Debenture equal to 100% of the principal amount thereof together with accrued and unpaid interest thereon up to but not including the Change of Control Purchase Date (the "**Offer Price**"). The Debenture Trustee will promptly thereafter deliver, by prepaid courier or mail, the Change of Control Purchase Offer to the holders of all Initial Debentures then outstanding, at their addresses appearing in the registers of holders of Initial Debentures maintained by the Debenture Trustee.
  - (ii) The Change of Control Purchase Offer shall specify the date (the "**Expiry Date**") and time (the "**Expiry Time**") on which the Change of Control Purchase Offer shall expire which date and time shall not, unless otherwise required by Applicable Securities Legislation, be earlier than the close of business on the 30th day and not later than the close of business on the 60th day following the date on which such Change of Control Purchase Offer is delivered or mailed by or on behalf of the Debenture Trustee as provided above.
  - (iii) The Change of Control Purchase Offer shall specify that the Change of Control Purchase Offer may be accepted by the holders of Initial Debentures by tendering the Initial Debentures so held by them to the Debenture Trustee at its offices in Calgary, Alberta or Toronto, Ontario at or before the Expiry Time together with an acceptance notice in form and substance acceptable to the Debenture Trustee.
  - (iv) The Change of Control Purchase Offer shall state that holders of Initial Debentures may accept the Change of Control Purchase Offer in respect of all or a portion (in a minimum amount of \$1,000 principal amount and multiples thereof) of their Initial Debentures.
  - (v) The Change of Control Purchase Offer shall specify a date (the "**Change of Control Purchase Date**") no later than the third Business Day following the Expiry Date on which the Corporation shall take up and pay for all Initial Debentures duly tendered in acceptance of the Change of Control Purchase Offer. If such Change of Control Purchase Date is after a record date for the payment of interest on the Initial Debentures but on or prior to an Interest Payment Date, then the interest payable on such date will be paid to the holder of record of the Initial Debentures on the relevant record date.
  - (vi) The Corporation shall, on or before 1:00 p.m. (Calgary time), on the Business Day immediately prior to the Change of Control Purchase Date, pay to the Debenture Trustee by wire transfer or such other means as may be acceptable to

the Debenture Trustee an amount of money sufficient to pay the aggregate Offer Price in respect of all Initial Debentures duly tendered to the Change of Control Purchase Offer (less any tax required by law to be deducted). The Debenture Trustee, on behalf of the Corporation, will pay the Offer Price to the holders of Initial Debentures in the respective amounts to which they are entitled in accordance with the Change of Control Purchase Offer as aforesaid.

- (vii) If holders of 90% or more of the aggregate principal amount of Initial Debentures outstanding on the date the Corporation (other than Initial Debentures held at such date by or on behalf of the Corporation, Associates or Affiliates of the Corporation or anyone acting jointly or in concert with the Corporation) delivers the Change of Control Purchase Offer to the Debenture Trustee, accept the Change of Control Purchase Offer, the Corporation shall have the right (the "**90% Redemption Right**"), upon written notice (the "**90% Redemption Right Notice**") provided to the Debenture Trustee within 10 days following the Expiry Date, to elect to redeem all the Initial Debentures remaining outstanding at the Offer Price and on the other terms and conditions provided herein. Upon receipt of such notice by the Debenture Trustee, the Debenture Trustee shall promptly provide written notice to each holder of outstanding Initial Debentures (other than those that have accepted the Change of Control Purchase Offer) that:
  - (A) the Corporation has exercised the 90% Redemption Right and is purchasing all outstanding Initial Debentures effective as at the Change of Control Purchase Date at the Offer Price;
  - (B) each holder must surrender its Initial Debentures to the Debenture Trustee on the same terms as those holders that accepted the Change of Control Purchase Offer within 10 days after the sending of such notice; provided that with respect to a Global Debenture, the obligation to surrender an Initial Debenture to the Debenture Trustee shall be satisfied if the Debenture Trustee makes a notation on the Global Debenture of the principal amount thereof so transferred; and
  - (C) the rights of such holder under the terms of the Initial Debentures and this Indenture shall cease to be effective as of the Change of Control Purchase Date provided the Corporation has, on or before the date on which the Corporation delivers the 90% Redemption Notice to the Debenture Trustee, paid the aggregate Offer Price to, or to the order of, the Debenture Trustee and thereafter such holder's Initial Debentures shall not be considered to be outstanding and such holder shall not have any rights hereunder except to receive such Offer Price to which such holder is entitled upon surrender and delivery of such holder's Initial Debentures in accordance with the Indenture.
- (viii) The Corporation shall, on or before 1:00 p.m. (Calgary time), on the Business Day immediately prior to the date the Corporation delivers the 90% Redemption Right Notice, pay to the Debenture Trustee by wire transfer or such other means as may be acceptable to the Debenture Trustee, an amount of money sufficient to pay the aggregate Offer Price in respect of all Initial Debentures to be redeemed pursuant to the 90% Redemption Right (less any tax required by law to be deducted). The Debenture Trustee, on behalf of the Corporation, will pay the

Offer Price to the holders of Initial Debentures in the respective amounts to which they are entitled in accordance with the exercise of the 90% Redemption Right as aforesaid upon surrender and delivery of such holders' Initial Debentures.

- (ix) The Initial Debentures in respect of which the Corporation has made payment to the Debenture Trustee in accordance with the terms of this Section 2.4(j) (or the portion thereof tendered in acceptance of the Change of Control Purchase Offer) shall thereafter no longer be considered to be outstanding under this Indenture. The Corporation shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection with the Change of Control Purchase Offer and the exercise of the 90% Redemption Right, if applicable. All Initial Debentures in respect of which payment of the Offer Price has been so made shall be cancelled by the Debenture Trustee.
- (x) In the event a portion of the principal amount only of an Initial Debenture is tendered by a holder thereof in acceptance of the Change of Control Purchase Offer, the Corporation shall execute and deliver to the Debenture Trustee and the Debenture Trustee shall certify and deliver to the holder, without charge to such holder, a certificate representing the principal amount of the Initial Debenture not so tendered in acceptance of the Change of Control Purchase Offer.
- (xi) Initial Debentures for which holders have accepted the Change of Control Purchase Offer and Initial Debentures which the Corporation has elected to redeem in accordance with this Section 2.4(j) shall become due and payable at the Offer Price on the Change of Control Purchase Date, in the same manner and with the same effect as if it were the date of maturity specified in such Initial Debentures, anything therein or herein to the contrary notwithstanding, and from and after the Change of Control Purchase Date, if the money necessary to purchase or redeem, or the Common Shares necessary to purchase or redeem, the Initial Debentures shall have been deposited as provided in this Section 2.4(j) and affidavits or other proofs satisfactory to the Debenture Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest on the Initial Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest.
- (xii) In case the holder of any Initial Debenture to be purchased or redeemed in accordance with this Section 2.4(j) shall fail on or before the Change of Control Purchase Date to so surrender such holder's Initial Debenture or shall not within such time accept payment of the monies payable, to take delivery of certificates representing such Common Shares issuable in respect thereof, or give such receipt therefor, if any, as the Debenture Trustee may require, such monies may be set aside in trust, or such certificates may be held in trust, without interest, either in the deposit department of the Debenture Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum so set aside and the Debentureholder shall have no other right except to receive payment of the monies so paid and deposited, or take delivery of the certificates so deposited, or both, upon surrender and delivery

of such holder's Initial Debenture. In the event that any money required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of principal, premium, if any, or interest, if any, on Initial Debentures issued hereunder shall remain so deposited for a period of four years from the Change of Control Purchase Date (the "**Unclaimed Funds Return Date**"), then such monies, or certificates representing Common Shares, together with any accumulated interest thereon, or any distributions paid thereon, shall at the end of such period be paid over or delivered over by the Debenture Trustee or such depository or paying agent to the Corporation and the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them. Notwithstanding the foregoing, the Debenture Trustee will pay to the Corporation any remaining funds deposited hereunder prior to the Business Day immediately preceding the Unclaimed Funds Return Date upon receipt from the Corporation or one of its Subsidiaries of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds. If the remaining funds are paid to the Corporation prior to the Unclaimed Funds Return Date, the Corporation shall reimburse the Debenture Trustee for any amounts required to be paid by the Debenture Trustee to a holder of an Initial Debenture pursuant to the Change of Control Purchase Offer after the date of such payment of the remaining funds to the Corporation but prior to the Unclaimed Funds Return Date.

- (xiii) Subject to the provisions above related to Initial Debentures purchased in part, all Initial Debentures redeemed and paid under this Section 2.4(j) shall forthwith be delivered to the Debenture Trustee and cancelled and no Initial Debentures shall be issued in substitution therefor.
- (k) In addition to the requirements of Section 2.4(j) in respect of a Change of Control and subject to regulatory approval, the following provisions shall apply in respect of the occurrence of a Cash Change of Control occurring on or before December 31, 2017:
  - (i) During the period beginning ten Trading Days before the anticipated date on which the Cash Change of Control becomes effective and ending on the date that is 30 days after the Change of Control Purchase Offer is delivered to holders of Initial Debentures in accordance with Section 2.4(j)(i) (the "**Cash Change of Control Conversion Period**"), holders of Initial Debentures will be entitled to convert their Initial Debentures, in whole or in part, and receive, in addition to the number of Common Shares (or cash or other property or securities in substitution therefor) they would otherwise be entitled to receive in accordance with the provisions and conditions of Section 2.4(f) and Article 6, an additional number of Common Shares (or cash or other property or securities in substitution therefor) per \$1,000 principal amount of Initial Debentures as set forth in this Section 2.4(k) (the "**Make Whole Premium**").
  - (ii) The number of additional Common Shares per \$1,000 principal amount of Initial Debentures constituting the Make Whole Premium (the "**Make Whole Premium Shares**") will be determined by reference to the table following subsection (iii) below and is based on the date on which the Cash Change of Control becomes effective (the "**Effective Date**") and the price (the "**Stock Price**") paid per Common Share in the transaction constituting the Change of Control. If holders of Common Shares receive (or are entitled and able in all circumstances to

receive) only cash in the transaction constituting the Change of Control, the Stock Price shall be the cash amount paid per Common Share. Otherwise, the Stock Price shall be equal to the Current Market Price of the Common Shares on the day immediately preceding the Effective Date, provided that for the purposes of this Section 2.4(k)(ii) and the determination of the Current Market Price, the applicable period shall be calculated based on the 20 consecutive Trading Days ending five Trading Days preceding the applicable date. Notwithstanding the foregoing, in no circumstances can the effective Conversion Price (calculated by dividing \$1,000 by the number of Common Shares issuable upon conversion, including the maximum number of Make Whole Premium Shares hereunder) be less than the maximum permitted discounted price permitted by the TSX (or such other recognized exchange on which the Debentures are then listed) at the time of announcement of the Offering, prior to any adjustments that may be made to the Stock Price to correspond to an adjustment to the Conversion Price under this Indenture.

- (iii) The following table shows the number of Make Whole Premium Shares for each hypothetical Stock Price and Effective Date set forth below, expressed as additional Common Shares per \$1,000 principal amount of Initial Debentures. For the avoidance of doubt, the Corporation shall not be obliged to pay the Make Whole Premium otherwise than by issuance of the applicable number of Common Shares in excess of the number of Common Shares to which holders would otherwise have been entitled at the Conversion Price (the "**Base Common Shares**") upon conversion of the Initial Debentures in accordance with the provisions and conditions of Section 2.4(f) and Article 6.

**Make-Whole Premium Upon a Cash Change of Control**  
(Number of Additional Common Shares per \$1,000 Debenture)

Stock Price	Effective Date				
	December 31, 2013	December 31, 2014	December 31, 2015	December 31, 2016	December 31, 2017
<b>\$2.20</b>	126.68	126.68	126.68	126.68	126.68
<b>\$2.40</b>	99.34	96.24	91.79	88.80	88.80
<b>\$2.60</b>	77.69	74.13	68.90	61.86	56.75
<b>\$2.80</b>	60.89	57.12	51.35	43.31	29.27
<b>\$3.00</b>	47.76	44.09	37.96	29.48	11.34
<b>\$3.20</b>	37.80	33.94	28.00	19.32	3.16
<b>\$3.40</b>	29.95	26.10	20.52	11.95	0.57
<b>\$3.60</b>	23.68	20.17	14.87	6.74	0.05
<b>\$3.80</b>	18.92	15.46	10.69	3.19	0.00
<b>\$4.00</b>	14.98	11.92	7.68	1.29	0.00
<b>\$4.20</b>	12.03	9.14	5.37	0.35	0.00
<b>\$4.40</b>	9.55	7.03	3.78	0.07	0.00
<b>\$4.60</b>	7.67	5.35	2.56	0.00	0.00
<b>\$4.80</b>	6.12	4.11	1.76	0.00	0.00
<b>\$5.00</b>	4.86	3.11	1.14	0.00	0.00
<b>\$5.20</b>	3.93	2.35	0.73	0.00	0.00
<b>\$5.40</b>	3.12	1.76	0.44	0.00	0.00

<b>\$5.60</b>	2.48	1.30	0.25	0.00	0.00
<b>\$5.80</b>	1.99	0.96	0.12	0.00	0.00
<b>\$6.00</b>	1.57	0.69	0.06	0.00	0.00
<b>\$6.20</b>	1.22	0.48	0.03	0.00	0.00
<b>\$6.40</b>	0.97	0.33	0.00	0.00	0.00
<b>\$6.60</b>	0.76	0.22	0.00	0.00	0.00
<b>\$6.80</b>	0.59	0.13	0.00	0.00	0.00
<b>\$7.00</b>	0.44	0.08	0.00	0.00	0.00
<b>\$7.20</b>	0.34	0.04	0.00	0.00	0.00
<b>\$7.40</b>	0.25	0.02	0.00	0.00	0.00

- (iv) The actual Stock Price and Effective Date may not be set forth on the table above, in which case:
- (A) if the actual Stock Price on the Effective Date is between two Stock Prices in the table or the actual Effective Date is between two Effective Dates in the table, the Make-Whole Premium will be determined by a straight-line interpolation between the Make-Whole Premiums set out for the two Stock Prices and the two Effective Dates in the table based on a 365-day year or 366-day year, as the case may be, as applicable;
- (B) if the Stock Price on the Effective Date exceeds \$7.40 per Common Share, subject to adjustment as described below, the Make-Whole Premium and the number of Make Whole Premium Shares to be issued will be zero; and
- (C) if the Stock Price on the Effective Date is less than \$2.20 per Common Share, subject to adjustment as described below, the Make Whole Premium and the number of Make Whole Premium Shares to be issued will be zero.
- (v) The Stock Prices set forth in the table above will be adjusted as of any date on which the Conversion Price of the Initial Debentures is adjusted. The adjusted Stock Prices will equal the Stock Prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Price as so adjusted and the denominator of which is the Conversion Price immediately prior to the adjustment giving rise to the Stock Price adjustment. The number of additional Make Whole Premium Shares set forth in the table above will be adjusted in the manner that is inversely proportional to the adjustment of the Conversion Price as set forth under Section 6.5, other than as a result of an adjustment to the Conversion Price by adding the Make Whole Premium as described above. The provisions of Section 6.11 shall be applicable in connection with determinations under this Section 2.4(k).
- (vi) Notwithstanding the foregoing, if the Date of Conversion of any Initial Debentures occurs during the period beginning on the 10th Trading Day prior to the Effective Date and ending at the close of business on the Effective Date, the

holders of such Initial Debentures shall, on conversion of their Initial Debentures, only be entitled to receive that number of Make Whole Premium Shares (as may be adjusted pursuant to Section 6.5) on the Business Day immediately following the Effective Date and, for greater certainty, only if the Change of Control occurs. The Base Common Shares shall be issued in accordance with the terms of this Indenture applicable to a conversion of Initial Debentures otherwise than during the Cash Change of Control Conversion Period, including at the then applicable Conversion Price.

- (vii) Section 6.5 shall apply to such conversion and, for greater certainty, the former holders of Initial Debentures in respect of which the Make Whole Premium Shares are issuable shall be entitled to receive and shall accept, in lieu of the Make Whole Premium Shares, the number of shares or other securities or property of the Corporation or of the Person or other entity resulting from the transaction that constitutes the Cash Change of Control that such holders would have been entitled to receive if such holders had been the registered holders of the applicable number of Make Whole Premium Shares on the Effective Date.
- (viii) Except as otherwise provided in this Section 2.4(k), all other provisions of this Indenture applicable to a conversion of Initial Debentures shall apply to a conversion of Initial Debentures during the Cash Change of Control Conversion Period.
- (l) The Debenture Trustee shall be provided with the documents and instruments referred to in Section 2.5(b), 2.5(c) and 2.5(d) with respect to the Initial Debentures prior to the issuance of the Initial Debentures.

## **2.5 Certification and Delivery of Additional Debentures**

The Corporation may from time to time request the Debenture Trustee to certify and deliver Additional Debentures of any series by delivering to the Debenture Trustee the documents referred to below in this Section 2.5 whereupon the Debenture Trustee shall certify such Debentures and cause the same to be delivered in accordance with the Written Direction of the Corporation referred to below or pursuant to such procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the Corporation. The maturity date, issue date, interest rate (if any) and any other terms of the Debentures of such series shall be set forth in or determined by or pursuant to such Written Direction of the Corporation and procedures. In certifying such Debentures, the Debenture Trustee shall be entitled to receive and shall be fully protected in relying upon, unless and until such documents have been superseded or revoked:

- (a) an Officer's Certificate and/or executed supplemental indenture by or pursuant to which the form and terms of such Additional Debentures were established;
- (b) a Written Direction of the Corporation requesting certification and delivery of such Additional Debentures and setting forth delivery instructions, provided that, with respect to Debentures of a series subject to a Periodic Offering:
  - (i) such Written Direction of the Corporation may be delivered by the Corporation to the Debenture Trustee prior to the delivery to the Debenture Trustee of such Additional Debentures of such series for certification and delivery;



- (ii) the Debenture Trustee shall certify and deliver Additional Debentures of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount, if any, established for such series, pursuant to a Written Direction of the Corporation or pursuant to procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the Corporation;
  - (iii) the maturity date or dates, issue date or dates, interest rate or rates (if any) and any other terms of Additional Debentures of such series shall be determined by an executed supplemental indenture or by Written Direction of the Corporation or pursuant to such procedures; and
  - (iv) if provided for in such procedures, such Written Direction of the Corporation may authorize certification and delivery pursuant to oral or electronic instructions from the Corporation which oral or electronic instructions shall be promptly confirmed in writing;
- (c) an opinion of Counsel addressed to the Debenture Trustee, in form and substance satisfactory to the Debenture Trustee, acting reasonably, to the effect that all requirements imposed by this Indenture and by law in connection with the proposed issue of Additional Debentures have been complied with, subject to the delivery of certain documents or instruments specified in such opinion; and
- (d) an Officer's Certificate addressed to the Debenture Trustee (which Officer's Certificate shall be in such form that satisfies all applicable laws) certifying that the Corporation is not in default under this Indenture, that the terms and conditions for the certification and delivery of Additional Debentures have been complied with subject to the delivery of any documents or instruments specified in such Officer's Certificate and that no Event of Default exists or will exist upon such certification and delivery.

## 2.6 Issue of Global Debentures

- (a) Upon issuance of the Debentures, the Corporation shall execute and the Debenture Trustee shall certify and deliver one or more Global Debentures that shall:
- (i) represent the aggregate amount equal to the principal amount of the outstanding Debentures to be represented by one or more Global Debentures;
  - (ii) be delivered by the Debenture Trustee to such Depository or pursuant to such Depository's instructions; and
  - (iii) bear a legend substantially to the following effect:

**"This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered**

**upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.**

**Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Twin Butte Energy Ltd. (the "Issuer") or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & Co., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & Co. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & Co., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate."**

- (iv) with respect to the Global Debenture attached in the form of Schedule "A-2", bear the U.S. Legend.
- (b) The Depository designated for a Global Debenture must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered or designated under the securities legislation of the jurisdiction where the Depository has its principal offices.
- (c) Notwithstanding anything to the contrary herein, Debentures required to bear the U.S. Legend, and Common Shares issuable upon conversion, redemption or at maturity thereof, may be issued as a Global Debenture or, in the case of such Common Shares, as a global certificate, only if such Debentures are initially issued pursuant to the exemption from the registration requirements of the 1933 Act provided by Rule 144A thereunder. Other Debentures, including the Common Shares issuable upon conversion, redemption or at maturity thereof, that are required to bear the U.S. Legend shall be issued as Restricted Physical Debentures.

## **2.7 Execution of Debentures**

All Debentures shall be signed (either manually or by facsimile or other electronic signature) by any one Director or Authorized Officer, on behalf of the Corporation, holding office at the time of signing. A facsimile or other electronic signature upon a Debenture shall for all purposes of this Indenture be deemed to be the signature of the Person whose signature it purports to be. Notwithstanding that any Person whose signature, either manual or in facsimile or other electronic form, appears on a Debenture as Director or Authorized Officer, on behalf of the Corporation, may no longer hold such office at the date of the Debenture or at the date of the certification and delivery thereof, such Debenture shall be valid and binding upon the Corporation and entitled to the benefits of this Indenture.

## **2.8 Certification**

No Debenture shall be issued or, if issued, shall be obligatory or shall entitle the holder to the benefits of this Indenture, until it has been manually certified by or on behalf of the Debenture Trustee substantially in the form set out in this Indenture, the relevant supplemental indenture, or in some other form approved by the Debenture Trustee. Such certification on any Debenture shall be conclusive evidence that such Debenture is duly issued, is a valid obligation of the Corporation and the holder is entitled to the benefits hereof.

The certificate of the Debenture Trustee signed on the Debentures, or interim Debentures hereinafter mentioned, shall not be construed as a representation or warranty by the Debenture Trustee as to the validity of this Indenture or of the Debentures or interim Debentures or as to the issuance of the Debentures or interim Debentures and the Debenture Trustee shall in no respect be liable or answerable for the use made of the Debentures or interim Debentures or any of them or the proceeds thereof. The certificate of the Debenture Trustee signed on the Debentures or interim Debentures shall, however, be a representation and warranty by the Debenture Trustee that the Debentures or interim Debentures have been duly certified by or on behalf of the Debenture Trustee pursuant to the provisions of this Indenture.

## **2.9 Interim Debentures or Certificates**

Pending the delivery of definitive Debentures of any series to the Debenture Trustee, the Corporation may issue and the Debenture Trustee may certify in lieu thereof interim Debentures in such forms and in such denominations and signed in such manner as provided herein, entitling the holders thereof to receive definitive Debentures of the series when the same are ready for delivery; or the Corporation may execute and the Debenture Trustee may certify a temporary Debenture for the whole principal amount of Debentures of the series then authorized to be issued hereunder and the Corporation may deliver the same to the Debenture Trustee and thereupon the Debenture Trustee may issue its own interim certificates in such form and in such amounts, not exceeding in the aggregate the principal amount of the temporary Debenture so delivered to it, as the Corporation, and the Debenture Trustee may approve entitling the holders thereof to definitive Debentures of the series when the same are ready for delivery; and, when so issued and certified, such interim or temporary Debentures or interim certificates shall, for all purposes but without duplication, rank in respect of this Indenture equally with Debentures duly issued hereunder and, pending the exchange thereof for definitive Debentures, the holders of the interim or temporary Debentures or interim certificates shall be deemed without duplication to be Debentureholders and entitled to the benefit of this Indenture to the same extent and in the same manner as though the said exchange had actually been made. Forthwith after the Corporation shall have delivered the definitive Debentures to the Debenture Trustee, the Debenture Trustee shall cancel such temporary Debentures, if any, and shall call in for exchange all interim Debentures or certificates that shall have been issued and forthwith after such exchange shall cancel the same. No charge shall be made by the Corporation or the Debenture Trustee to the holders of such interim or temporary Debentures or interim certificates for the exchange thereof. All interest paid upon interim or temporary Debentures or interim certificates shall be noted thereon as a condition precedent to such payment unless paid by cheque to the registered holders thereof.

## **2.10 Mutilation, Loss, Theft or Destruction**

In case any of the Debentures issued hereunder shall become mutilated or be lost, stolen or destroyed, the Corporation, in its discretion, may issue, and thereupon the Debenture Trustee shall certify and deliver, a new Debenture upon surrender and cancellation of the mutilated Debenture, or in the case of a lost, stolen or destroyed Debenture, in lieu of and in substitution for the same, and the substituted Debenture shall be in a form approved by the Debenture Trustee and shall be entitled to the benefits of this Indenture and

rank equally in accordance with its terms with all other Debentures issued or to be issued hereunder. The new or substituted Debenture may have endorsed upon it the fact that it is in replacement of a previous Debenture. In case of loss, theft or destruction the applicant for a substituted Debenture shall furnish to the Corporation and to the Debenture Trustee such evidence of the loss, theft or destruction of the Debenture and such other documents as shall be satisfactory to them in their discretion and shall also furnish a surety bond and an indemnity satisfactory to them in their discretion. The applicant shall pay all reasonable expenses incidental to the issuance of any substituted Debenture.

## 2.11 Concerning Interest

- (a) Except as may otherwise be provided in this Indenture and subject to Section 2.4(c), the Debentures, whether originally or upon exchange or in substitution for previously issued Debentures which are interest bearing, shall bear interest (i) from and including their issue date, or (ii) from and including the last Interest Payment Date in respect of which interest shall have been paid or made available for payment on the outstanding Debentures of that series, whichever shall be the later, or, in respect of Debentures subject to a Periodic Offering, from and including their issue date or from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on such Debentures, in all cases, to but not including the next Interest Payment Date. Subject to Section 2.4(c), all interest shall accrue from day to day and shall be payable in equal semi-annual instalments in arrears on each Interest Payment Date. Interest on all Debentures issued hereunder shall cease to accrue on, but not including, the Maturity Date, Redemption Date or Date of Conversion, as applicable, for such Debentures, unless, upon due presentation, payment of principal or delivery of amounts, securities or other property payable or deliverable hereunder and payment of any accrued and unpaid interest or other amounts payable hereunder is improperly withheld or refused.
- (b) Subject to Section 2.11(c), unless otherwise specifically provided in the terms of the Debentures of any series, interest shall be computed on the basis of a year of 365 days or 366 days, as the case may be. With respect to any series of Debentures, whenever interest is computed on the basis of a year (the "**deemed year**") which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.
- (c) For the purposes solely of disclosure under the *Interest Act* (Canada), whenever interest to be paid on the Debentures is to be calculated on the basis of a year of 360 days consisting of twelve 30 day months, the yearly rate of interest to which the rate used in such calculation is equivalent during any particular period is the rate so used multiplied by a fraction of which:
  - (i) the numerator is the product of:
    - (A) the actual number of days in the calendar year in which such period ends, and
    - (B) the sum of (A) the product of (x) 30 and (y) the number of complete months elapsed in the relevant period and (B) the number of days elapsed in any incomplete month in the relevant period, and

- (ii) the denominator is the product of (i) 360 and (ii) the actual number of days in the relevant period.

## **2.12 Debentures to Rank *Pari Passu***

The Debentures will be direct unsecured subordinated obligations of the Corporation. Each Debenture of the same series of Debentures will rank *pari passu* with each other Debenture of the same series (regardless of their actual date or terms of issue) and, subject to statutory preferred exceptions, with all other present and future subordinated and unsecured indebtedness of the Corporation (other than, for certainty, Senior Indebtedness) to the extent subordinated on the same terms.

## **2.13 Payments of Amounts Due on Maturity**

Except as may otherwise be provided herein or in any supplemental indenture in respect of any series of Debentures and subject to Section 4.11, payments of amounts due upon maturity of the Debentures will be made in the following manner. The Corporation will establish and maintain with the Debenture Trustee a Maturity Account for each series of Debentures. Each such Maturity Account shall be maintained by and be subject to the control of the Debenture Trustee for the purposes of this Indenture. On or before 1:00 p.m. (Calgary time) on the Business Day immediately prior to the Maturity Date for Debentures outstanding from time to time under this Indenture, the Corporation will deliver to the Debenture Trustee a certified cheque or wire transfer for deposit in the applicable Maturity Account an amount sufficient to pay the cash amount payable in respect of such Debentures (including the principal amount together with any accrued and unpaid interest thereon less any tax required by law to be deducted or withheld), provided the Corporation may elect to satisfy this requirement by providing the Debenture Trustee with one or more certified cheques, or with funds by electronic transfer, for such amounts required under this Section 2.13. The Debenture Trustee, on behalf of the Corporation, will pay to each holder entitled to receive payment the principal amount of and premium (if any) and accrued and unpaid interest on the Debenture, upon surrender of the Debenture at any branch of the Debenture Trustee designated for such purpose from time to time by the Corporation and the Debenture Trustee. The delivery of such funds to the Debenture Trustee for deposit to the applicable Maturity Account will satisfy and discharge the liability of the Corporation for the Debentures to which the delivery of funds relates to the extent of the amount delivered (plus the amount of any tax deducted as aforesaid) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the money so deposited or made available the amount to which such holder is entitled.

## **2.14 Payment of Interest**

The following provisions shall apply to Debentures, except as otherwise provided in Section 2.4(c) or specified in a resolution of the Directors, an Officer's Certificate or a supplemental indenture relating to a particular series of Additional Debentures:

- (a) As interest becomes due on each Debenture (except at maturity, on conversion or on redemption, when interest may at the option of the Corporation be paid upon surrender of such Debenture) the Corporation shall, on or before 11:00 a.m., Calgary time, on the fourth (4th) Business Day immediately prior to the applicable Interest Payment Date, deliver to the Debenture Trustee a certified cheque, bank draft or wire transfer in an amount sufficient to pay such interest as is payable in respect of such Debentures. Upon receipt of such interest payment from the Corporation, the Debenture Trustee, on behalf of the Corporation, shall then send or forward by prepaid ordinary mail, electronic transfer of funds or such other means as may be agreed to by the Debenture Trustee,

payment of such interest (less any tax required to be withheld therefrom) to the order of the registered holder of such Debenture appearing on the registers maintained by the Debenture Trustee and addressed to the holder at the holder's last address appearing on the register, unless such holder otherwise directs. If payment is made to the holder by cheque, such cheque shall be forwarded at least three (3) Business Days prior to each applicable Interest Payment Date and if payment is made by other means (such as electronic transfer of funds, provided the Debenture Trustee must receive confirmation of receipt of funds prior to being able to wire funds to holders), such payment shall be made in a manner whereby the holder receives credit for such payment on the date such interest on such Debenture becomes due. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any tax withheld as aforesaid, satisfy and discharge all liability for interest on such Debenture, unless in the case of payment by cheque, such cheque is not paid at par on presentation. In the event of non-receipt of any cheque for or other payment of interest by the Person to whom it is so sent as aforesaid, the Debenture Trustee will issue to such Person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Corporation or the Debenture Trustee is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on each Debenture in the manner provided above, the Corporation or the Debenture Trustee may make payment of such interest or make such interest available for payment in any other manner acceptable to the Debenture Trustee with the same effect as though payment had been made in the manner provided above.

- (b) Notwithstanding Section 2.14(a), if the Debentures are represented by a Global Debenture, then all payments of interest on the Global Debenture shall be made by electronic funds transfer or cheque made payable to the Depository or its nominee on the day interest is payable for subsequent payment to Beneficial Holders of interests in the applicable Global Debenture, unless the Corporation and the Depository otherwise agree. None of the Corporation, the Debenture Trustee or any agent of the Debenture Trustee for any Debenture issued as a Global Debenture will be liable or responsible to any Person for any aspect of the records related to or payments made on account of beneficial interests in any Global Debenture or for maintaining, reviewing, or supervising any records relating to such beneficial interests.

## **2.15 Withholding Tax**

The Corporation will be entitled to deduct and withhold any applicable taxes or similar charges (including interest, penalties or similar amounts in respect thereof) imposed or levied by or on behalf of the Canadian government or of any Province or territory thereof or any authority or agency therein or thereof having power to tax, including pursuant to the Tax Act, from any payment to be made on or in connection with the Debentures and, provided that the Corporation forthwith remits such withheld amount to such government, authority or agency and files all required forms in respect thereof and, at the same time, provides copies of such remittance and filing to the Debenture Trustee and the relevant Debentureholder, the amount of any such deduction or withholding will be considered an amount paid in satisfaction of the Corporation's obligations under the Debentures and there is no obligation on the Corporation to gross-up amounts paid to a holder in respect of such deductions or withholdings. The Corporation shall provide the Debenture Trustee and the relevant Debentureholder with copies of receipts or other communications relating to the remittance of such withheld amount or the filing of such forms received from such government, authority or agency promptly after receipt thereof.

The Debenture Trustee shall have no obligation to verify any payments under the Tax Act or any provision of provincial, state, local or foreign tax law. The Debenture Trustee shall at all times be indemnified and held harmless by the Corporation from and against any liabilities of the Debenture Trustee incurred in connection with the failure of the Corporation or its agents, to report, remit or withhold taxes as required by the Tax Act or otherwise failing to comply with the Tax Act. This indemnification shall survive the resignation or removal of the Debenture Trustee and the termination of this Indenture solely to the extent that such liabilities have been incurred in connection with taxation years occurring during the term of this Indenture.

## 2.16 U.S. Legend on the Debentures and Common Shares

- (a) All Debentures and the Common Shares issuable upon conversion, redemption or maturity thereof (collectively, the "**Securities**") have not been and will not be registered under the 1933 Act or any state securities laws. Certificates, including both Global Certificates and Fully Registered Debentures, representing Debentures originally issued and sold to U.S. Purchasers, and certificates representing Common Shares issuable upon conversion, redemption or at maturity thereof shall, for so long as required by applicable requirements of the 1933 Act or applicable state securities laws, bear the following legend (the "**U.S. Legend**"):

"THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF TWIN BUTTE ENERGY LTD. (THE "**CORPORATION**") THAT THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (A) TO THE CORPORATION, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S ("**REGULATION S**") UNDER THE SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE CANADIAN LOCAL LAWS AND REGULATIONS, (C) IN ACCORDANCE WITH (1) RULE 144A UNDER THE SECURITIES ACT, IF AVAILABLE, OR (2) RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, AND IN EACH CASE IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN ANOTHER TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR ANY APPLICABLE STATE SECURITIES LAWS, PROVIDED THAT IN THE CASE OF TRANSFERS PURSUANT TO (C)(2) OR (D) ABOVE, A LEGAL OPINION REASONABLY SATISFACTORY TO THE CORPORATION MUST FIRST BE PROVIDED. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON CANADIAN STOCK EXCHANGES."

*provided*, that if Securities are being sold in compliance with Rule 904 of Regulation S, and provided further that the Corporation is a "foreign issuer" within the meaning of Regulation S at the time of sale, the U.S. Legend may be removed by providing a duly completed and signed declaration to the Debenture Trustee or the transfer agent for the Common Shares, as applicable, substantially as set forth in Schedule "E" hereto (or as the

Corporation may prescribe from time to time), together with any additional documentation as may be required by the Corporation or the Debenture Trustee or transfer agent, which evidence may include an opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that such U.S. Legend is no longer required pursuant to the requirements of the 1933 Act; and provided further that, if any Securities are being sold in accordance with Rule 144 under the 1933 Act, the U.S. Legend may be removed by delivery to the Debenture Trustee or transfer agent, for the Common Shares, as applicable, of an opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required under applicable requirements of the 1933 Act or applicable state securities laws. Provided that the Debenture Trustee obtains confirmation from the Corporation that such counsel is satisfactory to it, the Debenture Trustee shall be entitled to rely on such opinion of counsel without further inquiry.

- (b) Prior to the issuance of the Debentures, the Corporation shall notify the Debenture Trustee, in writing, concerning which Debentures are represented by certificates that bear the U.S. Legend. The Debenture Trustee will thereafter maintain a list of all registered holders from time to time of such legended Debentures.

## **2.17 Right of Rescission**

- (a) Upon the conversion of the principal amount of a Debenture into Common Shares pursuant to Article 6 hereof, original purchasers of Debentures under the Offering (the "**Original Purchasers**") shall have a right of action against the Corporation for rescission to receive the purchase price of the Debentures, exercisable on notice given to the Corporation not more than 180 days subsequent to the date hereof, if the Prospectus, together with any amendment thereto, contains a misrepresentation (as such term is defined in the *Securities Act* (Alberta)) and it was a misrepresentation on the date hereof or the Prospectus, or any amendment thereof, was not delivered to the Original Purchaser. The foregoing right of action for rescission is only available to an Original Purchaser while he or she is a holder of the Common Shares issued upon the conversion of Debentures pursuant to Article 6 hereof.
- (b) In no event shall the Corporation be liable under this Section 2.17 if the Original Purchaser purchased the Debentures with knowledge of the misrepresentation.

## **ARTICLE 3 REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP**

### **3.1 Global Debentures**

- (a) With respect to each series of Debentures issuable in whole or in part as one or more Global Debentures, the Corporation shall cause to be kept by and at the principal offices of the Debenture Trustee in Calgary, Alberta and by the Debenture Trustee or such other registrar as the Corporation, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as the Corporation may designate with the approval of the Debenture Trustee, a register in which shall be entered the name and address of the holder of each such Global Debenture (being the Depository, or its nominee, for such Global Debenture) as holder thereof and particulars of the Global Debenture held by it, and of all transfers thereof. If any Debentures are at any time not Global Debentures, the provisions of Section 3.2 shall govern with respect to registrations and transfers of such Debentures.



- (b) Notwithstanding any other provision of this Indenture, a Global Debenture may not be transferred by the registered holder thereof and accordingly, except to the extent contemplated by Section 2.6(c), no definitive certificates shall be issued to Beneficial Holders except in the following circumstances or as otherwise specified in a resolution of the Debenture Trustee, a resolution of the Directors, Officer's Certificate or supplemental indenture relating to a particular series of Additional Debentures:
- (i) Global Debentures may be transferred by a Depository to a nominee of such Depository or by a nominee of a Depository to such Depository or to another nominee of such Depository or by a Depository or its nominee to a successor Depository or its nominee;
  - (ii) Global Debentures may be transferred at any time after (i) the Depository for such Global Debentures or the Corporation has notified the Debenture Trustee that the Depository is unwilling or unable to continue as Depository for such Global Debentures, or (ii) the Depository ceases to be a clearing agency or otherwise ceases to be eligible to be a Depository under Section 2.6(b), provided in each case that at the time of such transfer the Corporation has not appointed a successor Depository for such Global Debentures;
  - (iii) Global Debentures may be transferred at any time after the Corporation has determined, in its sole discretion, to terminate the book-entry only registration system in respect of such Global Debentures and has communicated such determination to the Debenture Trustee in writing;
  - (iv) Global Debentures may be transferred at any time after the Debenture Trustee has determined that an Event of Default has occurred and is continuing with respect to the Debentures of the series issued as a Global Debenture, provided that Beneficial Holders of the Debentures representing, in the aggregate, not less than 25% of the aggregate principal amount of the Debentures of such series advise the Depository in writing, through the Depository Participants, that the continuation of the book-entry only registration system for such series of Debentures is no longer in their best interest and also provided that at the time of such transfer the Debenture Trustee has not waived the Event of Default pursuant to Section 8.3;
  - (v) Global Debentures may be transferred if required by applicable law; or
  - (vi) Global Debentures may be transferred if the book-entry only registration system ceases to exist.
- (c) With respect to the Global Debentures, unless and until definitive certificates have been issued to Beneficial Holders of the Debentures pursuant to subsection 3.1(b):
- (i) the Corporation and the Debenture Trustee may deal with the Depository for all purposes (including paying interest on the Debentures) as the sole holder of the Debentures and the authorized representative of the Beneficial Holders;
  - (ii) the rights of the Beneficial Holders of the Debentures shall be exercised only through the Depository and shall be limited to those established by law and

agreements between such Beneficial Holders and the Depository or the Depository Participants;

- (iii) the Depository will make book-entry transfers among the Depository Participants; and
  - (iv) whenever this Indenture requires or permits actions to be taken based upon instructions or directions of Debentureholders evidencing a specified percentage of the outstanding Debentures, the Depository shall be deemed to be counted in that percentage only to the extent that it has received instructions to such effect from the Beneficial Holders of the Debentures or the Depository Participants, and has delivered such instructions to the Debenture Trustee.
- (d) Whenever a notice or other communication is required to be provided to Debentureholders, unless and until definitive certificate(s) have been issued to Beneficial Holders of the Debentures pursuant to this Section 3.1, the Debenture Trustee shall provide all such notices and communications to the Depository and the Depository shall deliver such notices and communications to such Beneficial Holders in accordance with Applicable Securities Legislation. Upon the termination of the book-entry only registration system on the occurrence of one of the conditions specified in Section 3.1(b) with respect to the Debentures issued hereunder, the Debenture Trustee shall notify all applicable Depository Participants and Beneficial Holders, through the Depository, of the availability of definitive Debenture certificates. Upon surrender by the Depository of the certificate(s) representing the Global Debentures and receipt of new registration instructions from the Depository, the Debenture Trustee shall deliver the definitive Debenture certificates for such Debentures to the holders thereof in accordance with the new registration instructions and thereafter, the registration and transfer of such Debentures will be governed by Section 3.2 and the remaining Sections of this Article 3.

### **3.2 Fully Registered Debentures**

- (a) If any Debentures are at any time not Global Debentures, then such Debentures shall be Fully Registered Debentures and the Corporation shall cause to be kept by and at the principal offices of the Debenture Trustee in Calgary, Alberta and by the Debenture Trustee or such other registrar as the Corporation, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as the Corporation may designate with the approval of the Debenture Trustee, a register in which shall be entered the names and addresses of the holders of Fully Registered Debentures and particulars of such Debentures held by them respectively and of all transfers of Fully Registered Debentures. Such registration shall be noted on the Debentures by the Debenture Trustee or other registrar unless a new Debenture shall be issued upon such transfer.
- (b) No transfer of a Fully Registered Debenture shall be valid unless made on such register referred to in Section 3.2(a) by the registered holder or such holder's executors, administrators or other legal representatives or a mandatory duly appointed by an instrument in writing in form and execution satisfactory to the Debenture Trustee or other registrar upon surrender of the Debentures together with a duly executed form of transfer acceptable to the Debenture Trustee and upon compliance with such other reasonable requirements as the Debenture Trustee or other registrar may prescribe, nor unless the name of the transferee shall have been noted on the Debenture by the Debenture Trustee or other registrar.

### **3.3 Transferee Entitled to Registration**

The transferee of a Debenture shall be entitled, after the appropriate form of transfer is lodged with the Debenture Trustee or other registrar and upon compliance with all other conditions in that behalf required by this Indenture or by law, to be entered on the register as the owner of such Debenture free from all equities or rights of set-off or counterclaim between the Corporation and the transferor or any previous holder of such Debenture, save in respect of equities of which the Corporation is required to take notice by statute or by order of a court of competent jurisdiction.

### **3.4 No Notice of Trusts**

Neither the Corporation nor the Debenture Trustee nor any registrar shall be bound to take notice of or see to the execution of any trust (other than that created by this Indenture) whether express, implied or constructive, in respect of any Debenture, and may transfer the same on the direction of the Person registered as the holder thereof, whether named as trustee or otherwise, as though that Person were the beneficial owner thereof.

### **3.5 Registers Open for Inspection**

The registers referred to in Sections 3.1 and 3.2 shall, during regular business hours of the Debenture Trustee, be open for inspection by the Corporation, the Debenture Trustee or any Debentureholder. Every registrar, including the Debenture Trustee, shall from time to time when requested so to do by the Corporation or by the Debenture Trustee, in writing, furnish the Corporation or the Debenture Trustee, as the case may be, with a list of names and addresses of holders of registered Debentures entered on the register kept by them and showing the principal amount and serial numbers of the Debentures held by each such holder, provided the Debenture Trustee shall be entitled to charge a reasonable fee to provide such a list.

### **3.6 Exchanges of Debentures**

- (a) Subject to Section 3.7, Debentures in any authorized form or denomination, other than Global Debentures, may be exchanged by the holder for Debentures in any other authorized form or denomination, of the same series and date of maturity, bearing the same interest rate and of the same aggregate principal amount as the Debentures so exchanged.
- (b) In respect of exchanges of Debentures permitted by Section 3.6(a), Debentures of any series may be exchanged only at the principal offices of the Debenture Trustee in Calgary, Alberta or Toronto, Ontario or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the Corporation with the approval of the Debenture Trustee. Any Debentures tendered for exchange shall be surrendered to the Debenture Trustee. The Corporation shall execute and the Debenture Trustee shall certify all Debentures necessary to carry out exchanges as aforesaid. All Debentures surrendered for exchange shall be cancelled.
- (c) Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect.

### **3.7 Closing of Registers**

- (a) Neither the Corporation nor the Debenture Trustee nor any registrar shall be required to:
  - (i) make transfers or exchanges or conversion of Fully Registered Debentures on any Interest Payment Date or Maturity Date for such Debentures or during the five preceding Business Days;
  - (ii) make transfers or exchanges of any Debentures on the day of any selection by the Debenture Trustee of Debentures to be redeemed or during the five preceding Business Days;
  - (iii) make transfers or exchanges of any Debentures which will have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures shall not be redeemed; or
  - (iv) issue additional Debentures hereunder (i) on any Interest Payment Date or during a period of 5 Business Days immediately preceding any such date, or (ii) on the day of any selection by the Debenture Trustee of any Debentures to be redeemed or purchased or during the 5 preceding Business Days or thereafter until after the mailing of any notice of redemption or purchase.
- (b) Subject to any restriction herein provided, the Corporation with the approval of the Debenture Trustee may at any time close any register for the Debentures, other than those kept at the principal offices of the Debenture Trustee in Calgary, Alberta, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and thereafter such Debentures shall be deemed to be registered on such other register. Notice of such transfer shall be given to the holders of such Debentures.

### **3.8 Charges for Registration, Transfer and Exchange**

For each Debenture exchanged, registered, transferred or discharged from registration, the Debenture Trustee or other registrar, except as otherwise herein provided, may make a reasonable charge for its services and in addition may charge a reasonable sum for each new Debenture issued (such amounts to be agreed upon from time to time by the Debenture Trustee and the Corporation), and payment of such charges and reimbursement of the Debenture Trustee or other registrar for any stamp taxes or governmental or other charges required to be paid shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Debentureholder hereunder:

- (a) for any exchange of any interim or temporary Debenture or interim certificate that has been issued under Section 2.9 for a definitive Debenture;
- (b) for any exchange of a Global Debenture as contemplated in Section 3.1;
- (c) for any exchange of any Debenture resulting from a partial redemption under Section 4.2;
- (d) for any exchange of any Debenture resulting from a partial conversion under Section 6.4(d); or
- (e) for any exchange of any Debenture resulting from a partial purchase under Section 2.4(j).

### 3.9 Ownership of Debentures

- (a) Unless otherwise required by law, the Person in whose name any registered Debenture is registered shall for all the purposes of this Indenture be and be deemed to be the owner thereof and payment of or on account of the principal of and premium, if any, on such Debenture and interest thereon shall be made to such registered holder.
- (b) Neither the Corporation nor the Debenture Trustee shall have any liability for:
  - (i) any aspect of the records relating to the beneficial ownership of the Debentures held by a Depository or of the payments relating thereto; or
  - (ii) maintaining, supervising or reviewing any such records relating to the Debentures.

The rules governing Depositories provide that they act as the agent and depository for Depository Participants. As a result, such Depository Participants must look solely to the Depository and Beneficial Holders of Debentures must look solely to the Depository Participants for the payment of principal and interest on the Debentures paid by or on behalf of the Corporation to the Depository.

- (c) Beneficial Holders of Debentures:
  - (i) may not have Debenture certificates registered in their name; and
  - (ii) may not have physical certificates representing their interest in the Debentures.
- (d) The registered holder for the time being of any registered Debenture shall be entitled to the principal, premium, if any, and/or interest evidenced by such instruments, respectively, free from all equities or rights of set-off or counterclaim between the Corporation and the original or any intermediate holder thereof and all Persons may act accordingly and the receipt of any such registered holder for any such principal, premium or interest shall be a good discharge to the Corporation and/or the Debenture Trustee for the same and neither the Corporation nor the Debenture Trustee shall be bound to inquire into the title of any such registered holder.
- (e) Where Debentures are registered in more than one name, the principal, premium, if any, and interest from time to time payable in respect thereof may be paid to the order of all such holders, failing written instructions from them to the contrary, and the receipt of any one of such holders therefore shall be a valid discharge, to the Debenture Trustee, any registrar and to the Corporation.
- (f) In the case of the death of one or more joint holders of any Debenture the principal, premium, if any, and interest from time to time payable thereon may be paid to the order of the survivor or survivors of such registered holders and the receipt of any such survivor or survivors therefor shall be a valid discharge to the Debenture Trustee and any registrar and to the Corporation.

**ARTICLE 4**  
**REDEMPTION AND PURCHASE OF DEBENTURES**  
**AND CERTAIN PAYMENTS ON MATURITY**

**4.1 Applicability of Article**

Subject to regulatory approval and Section 2.4(d), the Corporation shall have the right at its option to redeem, either in whole at any time or in part from time to time before the Maturity Date of such Debentures, either by payment of money, by issuance of Freely Tradeable Common Shares as provided in Section 4.6 or any combination thereof, any Debentures issued hereunder of any series which by their terms are made so redeemable (subject, however, to any applicable restriction on the redemption of Debentures of such series) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as shall have been expressed in this Indenture, the Debentures, in an Officer's Certificate or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the Corporation, requesting the certification and delivery thereof.

Subject to regulatory approval and Article 5 hereof, the Corporation shall also have the right at its option to repay, either in whole or in part, on maturity, either, by payment of money in accordance with Sections 2.13 and 4.10, by issuance of Freely Tradeable Common Shares as provided in Section 4.11 or any combination thereof, the principal amount of any Debentures issued hereunder of any series which by their terms are made so repayable on maturity (subject however, to any applicable restriction on the repayment of the principal amount of the Debentures of such series) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as shall have been expressed in this Indenture, the Debentures, in an Officer's Certificate or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the Corporation, requesting the certification and delivery thereof.

**4.2 Partial Redemption**

If less than all the Debentures of any series for the time being outstanding are at any time to be redeemed, or if a portion of the Debentures being redeemed are being redeemed for cash and a portion of such Debentures are being redeemed by the payment of Freely Tradeable Common Shares pursuant to Section 4.6, the Debentures to be so redeemed shall be selected by the Debenture Trustee on a pro rata basis to the nearest multiple of \$1,000 in accordance with the principal amount of the Debentures registered in the name of each holder or in such other manner as the Debenture Trustee deems equitable, subject to the approval of the TSX or such other exchange on which the Debentures are then listed, as may be required from time to time. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture shall be redeemed in part unless the principal amount redeemed is \$1,000 or a multiple thereof. For this purpose, the Debenture Trustee may make, and from time to time vary, regulations with respect to the manner in which such Debentures may be drawn for redemption in part or for redemption in cash and regulations so made shall be valid and binding upon all holders of such Debentures notwithstanding the fact that as a result thereof one or more of such Debentures may become subject to redemption in part only or for cash only. In the event that one or more of such Debentures becomes subject to redemption in part only, upon surrender of any such Debentures for payment of the Redemption Price, together with interest accrued to but not including the Redemption Date, the Corporation shall execute and the Debenture Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order one or more new Debentures for the unredeemed part of the principal amount of the Debenture or Debentures so surrendered or, with respect to a Global Debenture, the Depository shall make notations on the Global Debenture of the principal amount thereof so redeemed. Unless the context otherwise requires, the terms "Debenture" or "Debentures" as used in this Article 4

shall be deemed to mean or include any part of the principal amount of any Debenture which in accordance with the foregoing provisions has become subject to redemption.

#### **4.3 Notice of Redemption**

A Redemption Notice in respect of any series of Debentures to be redeemed shall be given to the holders of the Debentures so to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "**Redemption Date**") in the manner provided in Section 14.2. Every such notice shall specify the aggregate principal amount of Debentures called for redemption, the Redemption Date, the Redemption Price and the portion to be redeemed for cash and the portion to be redeemed by issuing Common Shares and the places of payment and shall state that interest upon the principal amount of Debentures called for redemption shall cease to accrue and be payable from and after the Redemption Date. In addition, unless all the outstanding Debentures are to be redeemed, the Redemption Notice shall specify:

- (a) the distinguishing letters and numbers of the registered Debentures which are to be redeemed (or of such thereof as are registered in the name of such Debentureholder);
- (b) in the case of a published notice, the distinguishing letters and numbers of the Debentures which are to be redeemed or, if such Debentures are selected pro rata or by other similar system, such particulars as may be sufficient to identify the Debentures so selected;
- (c) in the case of a Global Debenture, that the redemption will take place in such manner as may be agreed upon by the Depository, the Debenture Trustee and the Corporation; and
- (d) in all cases, the principal amounts of such Debentures or, if any such Debenture is to be redeemed in part only, the principal amount of such part.

In the event that all Debentures to be redeemed are registered Debentures, publication shall not be required.

#### **4.4 Debentures Due on Redemption Dates**

Notice having been given as aforesaid, all the Debentures so called for redemption shall thereupon be and become due and payable at the Redemption Price on the Redemption Date specified in such notice, in the same manner and with the same effect as if it were the Maturity Date specified in such Debentures, anything therein or herein to the contrary notwithstanding, and from and after such Redemption Date, if the monies necessary to redeem, or the Common Shares to be issued to redeem, such Debentures shall have been deposited as provided in Section 4.5 and affidavits or other proof satisfactory to the Debenture Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest upon the Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest.

#### **4.5 Deposit of Redemption Monies or Common Shares**

Redemption of Debentures shall be provided for by the Corporation depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before 1:00 p.m. (Calgary Time) on the Business Day immediately prior to the Redemption Date specified in such notice, such sums of money, or certificates representing such Common Shares, or both, as the case may be, as may be sufficient to pay the Redemption Price of the Debentures so called for redemption, together with accrued

and unpaid interest thereon provided the Corporation may elect to satisfy this requirement by providing the Debenture Trustee with one or more certified cheques or a wire transfer for such amounts required under this Section 4.5 post-dated to the Redemption Date or by providing the Debenture trustee with such funds through electronic transfer of funds on the Business Day immediately prior to the Redemption Date or by providing the Debenture Trustee with such funds through electronic transfer of funds on the Business Day immediately prior to the Redemption Date. The Corporation shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, or certificates so deposited, or both, the Debenture Trustee shall pay or cause to be paid, or issue or cause to be issued, to the holders of such Debentures so called for redemption, upon surrender of such Debentures, the principal, premium (if any) and interest (if any) to which they are respectively entitled on redemption, less applicable withholding taxes, if any.

#### **4.6 Right to Repay Principal Portion of Redemption Price in Common Shares**

- (a) Subject to the receipt of any required regulatory approvals, the provisions governing any series of Debentures, Section 2.4(d) and the other provisions of this Section 4.6, the Corporation may, at its option, in exchange for or in lieu of paying the principal portion of the Redemption Price in money, elect to satisfy its obligation to pay all or any portion of the principal amount of Debentures due upon redemption by issuing and delivering to holders on the Redemption Date that number of Freely Tradeable Common Shares obtained by dividing the principal portion of the Debentures (or applicable portion thereof to be satisfied by the issuance and delivery of Freely Tradeable Common Shares), by 95% of the Current Market Price on the Redemption Date (the "**Common Share Redemption Right**").
- (b) The Corporation shall exercise the Common Share Redemption Right by so specifying in the Redemption Notice which shall be delivered to the Debenture Trustee and the holders of Debentures to be so redeemed not more than 60 days and not less than 40 days prior to the Redemption Date in the manner provided in Section 14.2. The Redemption Notice shall also specify the aggregate principal amount of Debentures in respect of which it is exercising the Common Share Redemption Right.
- (c) The Corporation's right to exercise the Common Share Redemption Right shall be conditional upon the following conditions being met on the Business Day preceding the Redemption Date:
  - (i) the issuance of the Common Shares on the exercise of the Common Share Redemption Right shall be made in accordance with Applicable Securities Legislation and such Common Shares shall be issued as Freely Tradeable Common Shares;
  - (ii) such additional Freely Tradeable Common Shares shall be listed on each stock exchange on which the Common Shares are then listed;
  - (iii) the Corporation shall be a reporting issuer in good standing under Applicable Securities Legislation where the distribution of such Common Shares occurs;
  - (iv) no Event of Default shall have occurred and be continuing;
  - (v) satisfaction of the conditions set forth in Section 2.4(d);



- (vi) the receipt by the Debenture Trustee of an Officer's Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Common Shares to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Common Shares on the Redemption Date; and
- (vii) the receipt by the Debenture Trustee of an opinion of Counsel to the effect that such Common Shares have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the Redemption Price, will be validly issued as fully paid and non-assessable, that conditions (i) and (ii) above have been satisfied and that, relying exclusively on a list of issuers in default maintained by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where such lists are not maintained.

If the foregoing conditions are not satisfied prior to the close of business on the Business Day preceding the Redemption Date, the Corporation shall pay the Redemption Price in cash in accordance with Section 4.5 unless the Debentureholders waive the conditions which are not satisfied by way of Extraordinary Resolution. The Corporation may not change the form of components or percentage of consideration to be paid for the Debentures except as described in the preceding sentence. When the Corporation determines the actual number of the Common Shares to be issued pursuant to the Corporation's exercise of its Common Share Redemption Right, it will issue a press release on a national newswire disclosing the Current Market Price and such actual number of Common Shares.

- (d) In the event that the Corporation duly exercises its Common Share Redemption Right, the Corporation shall on or before 1:00 p.m. (Calgary time) on the Business Day immediately prior to the Redemption Date, deliver to the Debenture Trustee, for delivery to and on account of the holders of the Debentures, upon the due presentation and surrender of the Debentures, certificates representing the Common Shares to which such holders are entitled. From the certificates so deposited in addition to amounts payable by the Debenture Trustee pursuant to Section 4.5, the Debenture Trustee must pay or cause to be paid, to the holders of such Debentures the Redemption Price of the Debentures called for redemption in the amounts to which they are respectively entitled on the Redemption Date and deliver to such holders the certificates to which such holders are entitled.
- (e) No fractional Common Shares shall be delivered upon the exercise of the Common Share Redemption Right but, in lieu thereof, the Corporation shall pay to the Debenture Trustee for the account of the holders, at the time contemplated in Section 4.6(d), the cash equivalent thereof determined on the basis of the Current Market Price of the Common Shares on the Redemption Date (less any tax required to be deducted).
- (f) A holder of Debentures shall be treated as the shareholder of record of the Common Shares issued on due exercise by the Corporation of its Common Share Redemption Right effective immediately after the close of business on the Redemption Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including dividends or distributions in kind) thereon and arising thereafter, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.

- (g) In the event that the Corporation exercises its Common Share Repayment Right, the Corporation shall at all times reserve and keep available out of its authorized Common Shares (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Corporation's Common Share Redemption Right as provided herein, and shall issue to Debentureholders to whom Common Shares will be issued pursuant to exercise of the Common Share Redemption Right, such number of Common Shares as shall be issuable in such event. All Common Shares which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.
- (h) The Corporation shall comply with all Applicable Securities Legislation regulating the issue and delivery of Common Shares upon exercise of the Common Share Redemption Right and shall cause to be listed and posted for trading such Common Shares on each stock exchange on which the Common Shares are then listed.
- (i) The Corporation shall from time to time promptly pay, or make provision satisfactory to the Debenture Trustee for the payment of, all taxes and charges which may be imposed by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Common Shares to holders upon exercise of the Common Share Redemption Right pursuant to the terms of the Debentures and of this Indenture.
- (j) If the Corporation elects to satisfy its obligation to pay all or any portion of the Redemption Price by issuing Freely Tradeable Common Shares in accordance with this Section 4.6 and if the Redemption Price (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the cash payment of the Redemption Price, if any, is insufficient to satisfy such withholding taxes, the Debenture Trustee, on Written Direction of the Corporation but for the account of the holder, shall sell, or cause to be sold through such investment banks, brokers or dealers selected by the Corporation, out of the Freely Tradeable Common Shares issued by the Corporation for this purpose, such number of Freely Tradeable Common Shares that together with the cash payment of the Redemption Price, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and shall remit same on behalf of the Corporation to the proper tax authorities within the period of time prescribed for this purpose under applicable laws. Any amount of net proceeds (after payment of all costs) in excess of the amount required to cover applicable tax required by applicable law to be withheld will be remitted to the Debentureholder.
- (k) Each certificate representing Common Shares issued in payment of the Redemption Price of Debentures bearing the U.S. Legend, as well as all certificates issued in exchange for or in substitution of the foregoing securities, shall bear the U.S. Legend; provided that if the Common Shares are being sold in compliance with the requirements of Rule 904 of Regulation S, and provided further that the Corporation is a "foreign issuer" within the meaning of Regulation S at the time of sale, the U.S. Legend may be removed by providing a declaration to the transfer agent for the Common Shares, substantially as set forth in Schedule "E" hereto (or as the Corporation may prescribe from time to time), together with any additional documentation as may be required by the Corporation or the transfer agent, which evidence may include a written opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required pursuant to the requirements of the 1933 Act; and provided further that, if any such securities are being sold within the United States in accordance with Rule 144 under the 1933 Act, the U.S. Legend may be removed by

delivery to the transfer agent for the Common Shares, of an opinion of counsel of recognized standing, in form and substance, reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required under applicable requirements of the 1933 Act or applicable state securities laws.

#### **4.7 Failure to Surrender Debentures Called for Redemption**

In case the holder of any Debenture so called for redemption shall fail on or before the Redemption Date to so surrender such holder's Debenture, or shall not within such time accept payment of the Redemption Price payable, or take delivery of certificates representing such Common Shares issuable in respect thereof, or give such receipt therefor, if any, as the Debenture Trustee may require, such redemption monies may be set aside in trust, without interest, or such certificates may be held in trust, either in the deposit department of the Debenture Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum or Common Shares so set aside and, to that extent, the Debenture shall thereafter not be considered as outstanding hereunder and the Debentureholder shall have no other right except to receive payment out of the monies so paid and deposited, or take delivery of the certificates so deposited, or both, upon surrender and delivery up of such holder's Debenture of the Redemption Price, as the case may be, of such Debenture. In the event that any money, or certificates for Common Shares, required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of principal, premium, if any, or interest, if any, on Debentures issued hereunder shall remain so deposited until the Business Day immediately preceding the fourth anniversary of the Redemption Date, then such monies or certificates for Common Shares, together with any accumulated interest thereon or any distribution paid thereon, shall at the end of such period be paid over or delivered over by the Debenture Trustee or such depository or paying agent to the Corporation on its demand, and thereupon the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them and subject to applicable law, thereafter the holder of a Debenture in respect of which such money was so repaid to the Corporation shall have no rights in respect thereof except to obtain payment of the money or certificates due from the Corporation, subject to any prescription period provided by the laws of the Province of Alberta. Notwithstanding the foregoing, the Debenture Trustee will pay any remaining funds prior to the Business Day immediately preceding the fourth anniversary of the Redemption Date to the Corporation upon receipt from the Corporation or one of its Subsidiaries of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds. If the remaining funds are paid to the Corporation prior to the Business Day immediately preceding the fourth anniversary of the Redemption Date, the Corporation shall, prior to the payment by the Debenture Trustee, pay the Debenture Trustee the amounts required to be paid by the Debenture Trustee to a holder of a Debenture pursuant to the redemption after the date of such payment of the remaining funds to the Corporation but prior to the Business Day immediately preceding the fourth anniversary of the Redemption Date.

#### **4.8 Cancellation of Debentures Redeemed**

Subject to the provisions of Sections 4.2 and 4.9 as to Debentures redeemed or purchased in part, all Debentures redeemed and paid under this Article 4 shall forthwith be delivered to the Debenture Trustee and cancelled and no Debentures shall be issued in substitution therefor.

#### **4.9 Purchase of Debentures by the Corporation**

Subject to Applicable Securities Legislation and unless otherwise specifically provided with respect to a particular series of Debentures, the Corporation or an Affiliate may at any time and from time to time, purchase Debentures in the market (which shall include purchases from or through an investment dealer or a firm holding membership on a recognized stock exchange) or by tender or by private contract, at any

price. All Debentures so purchased may, at the option of the Corporation or such Affiliate, be delivered to the Debenture Trustee and shall be cancelled and no Debentures shall be issued in substitution therefor.

If, upon an invitation for tenders, more Debentures are tendered at the same lowest price that the Corporation or an Affiliate is prepared to accept, the Debentures to be purchased by the Corporation or by such Affiliate shall be selected by the Debenture Trustee on a pro rata basis or in such other manner consented to by the TSX or such other exchange on which the Debentures are then listed which the Debenture Trustee considers appropriate, from the Debentures tendered by each tendering Debentureholder who tendered at such lowest price. For this purpose the Debenture Trustee may make, and from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made shall be valid and binding upon all Debentureholders, notwithstanding the fact that as a result thereof one or more of such Debentures become subject to purchase in part only.

The holder of a Debenture of which a part only is purchased, upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such holder, one or more new Debentures for the unpurchased part so surrendered, and the Debenture Trustee shall certify and deliver such new Debenture or Debentures upon receipt of the Debenture so surrendered or, with respect to a Global Debenture, the Debenture Trustee shall make notations on the Global Debenture of the principal amount thereof so purchased.

#### **4.10 Deposit of Maturity Monies or Common Shares**

Subject to Section 4.11, payment on maturity of Debentures shall be provided for by the Corporation depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before 1:00 p.m. (Calgary time) on the Business Day immediately prior to the Maturity Date such sums of money, or certificates representing such Common Shares, or both as the case may be, as may be sufficient to pay the principal amount of the Debentures, together with a sum of money sufficient to pay all accrued and unpaid interest thereon up to but not including the Maturity Date, provided the Corporation may elect to satisfy this requirement by providing the Debenture Trustee with one or more certified cheques or with funds by electronic transfer, for such amounts required under this Section 4.10. The Corporation shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection therewith. Every such deposit shall be irrevocable. From the sums so deposited, or certificates so deposited, or both, the Debenture Trustee shall pay or cause to be paid to the holders of such Debentures, upon surrender of such Debentures, the principal, premium (if any) and interest (if any) to which they are respectively entitled on maturity, less applicable withholding taxes, if any.

#### **4.11 Right to Repay Principal Amount in Common Shares**

- (a) Subject to receipt of any required regulatory approvals, the provisions governing any series of Debentures and the other provisions of this Section 4.11, the Corporation may, at its option, in exchange for or in lieu of paying in cash all or any portion of the principal amount of the Debentures outstanding, elect to satisfy its obligation to repay all or any portion of the principal amount of the Debentures outstanding, by issuing and delivering to holders on the Maturity Date that number of Freely Tradeable Common Shares obtained by dividing the principal amount of the Debentures (or applicable portion thereof to be satisfied by the issuance and delivery of Common Shares) by 95% of the Current Market Price of the Common Shares on the Maturity Date (the "**Common Share Repayment Right**").

- (b) The Corporation shall exercise the Common Share Repayment Right by so specifying in the Maturity Notice, which shall be delivered to the Debenture Trustee and the holders of Debentures not more than 60 days and not less than 40 days prior to the Maturity Date, and which shall also specify the aggregate principal amount of Debentures in respect of which it is exercising the Common Share Repayment Right on the Maturity Date.
- (c) The Corporation's right to exercise the Common Share Repayment Right shall be conditional upon the following conditions being met on the Business Day preceding the Maturity Date:
- (i) the issuance of the Common Shares on the exercise of the Common Share Repayment Right shall be made in accordance with Applicable Securities Legislation and such Common Shares shall be issued as Freely Tradeable Common Shares;
  - (ii) such additional Freely Tradeable Common Shares shall be listed on each stock exchange on which the Common Shares are then listed;
  - (iii) the Corporation shall be a reporting issuer in good standing under Applicable Securities Legislation where the distribution of such Common Shares occurs;
  - (iv) no Event of Default shall have occurred and be continuing;
  - (v) the receipt by the Debenture Trustee of an Officer's Certificate stating that conditions (i), (ii), (iii) and (iv) above have been satisfied and setting forth the number of Common Shares to be delivered for each \$1,000 principal amount of Debentures and the Current Market Price of the Common Shares on the Maturity Date; and
  - (vi) the receipt by the Debenture Trustee of an opinion of Counsel to the effect that such Common Shares have been duly authorized and, when issued and delivered pursuant to the terms of this Indenture in payment of the principal amount of the Debentures outstanding will be validly issued as fully paid and non-assessable, that conditions (i) and (ii) above have been satisfied and that, relying exclusively on lists of issuers in default maintained by the relevant securities authorities, condition (iii) above is satisfied, except that the opinion in respect of condition (iii) need not be expressed with respect to those provinces where such lists are not maintained.

If the foregoing conditions are not satisfied prior to the close of business on the Business Day preceding the Maturity Date, the Corporation shall pay the principal amount of the Debentures outstanding in cash in accordance with Sections 2.13 and 4.10, unless the Debentureholders waive the conditions which are not satisfied by way of Extraordinary Resolution. The Corporation may not change the form of components or percentage of consideration to be paid for the Debentures once it has given the notice required to be given to Debentureholders hereunder, except as described in the preceding sentence. When the Corporation determines the actual number of the Common Shares to be issued pursuant to the Corporation's exercise of its Common Share Redemption Right, it will issue a press release on a national newswire disclosing the Current Market Price and such actual number of Common Shares.

- (d) In the event that the Corporation duly exercises its Common Share Repayment Right, the Corporation shall on or before 1:00 p.m. (Calgary time) on the Business Day immediately prior to the Maturity Date, deliver to the Debenture Trustee, for delivery to and on account of the holders, upon the due presentation and surrender of the Debenture certificates representing, the Freely Tradeable Common Shares to which such holders are entitled. The Corporation shall also deposit with the Debenture Trustee a sum of money sufficient to pay all accrued and unpaid interest on the Debentures and any charges or expenses which may be incurred by the Debenture Trustee in connection with the Common Share Repayment Right. Every such deposit shall be irrevocable. From the certificates so deposited in addition to amounts payable by the Debenture Trustee pursuant to Sections 2.13 and 4.10, the Debenture Trustee shall pay or cause to be paid, to the holders of such Debentures, upon surrender of such Debentures, the principal amount of and premium (if any) and interest on the Debentures to which they are respectively entitled on maturity and deliver to such holders the certificates to which such holders are entitled. The delivery of such certificates to the Debenture Trustee will satisfy and discharge the liability of the Corporation for the Debentures to which the delivery of certificates relates to the extent of the amount delivered (plus the amount of any Common Shares sold to pay applicable taxes in accordance with this Section 4.11) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the certificates so delivered, the certificate(s) to which it is entitled.
- (e) No fractional Common Shares shall be delivered upon the exercise of the Common Share Repayment Right but, in lieu thereof, the Corporation shall pay to the Debenture Trustee for the account of the holders, at the time contemplated in Section 4.11(d)), the cash equivalent thereof determined on the basis of the Current Market Price of the Common Shares on the Maturity Date (less any tax required to be deducted, if any).
- (f) A holder shall be treated as the shareholder of record of the Common Shares issued on due exercise by the Corporation of its Common Share Repayment Right effective immediately after the close of business on the Maturity Date, and shall be entitled to all substitutions therefor, all income earned thereon or accretions thereto and all dividends or distributions (including dividends or distributions in kind) thereon and arising thereafter, and in the event that the Debenture Trustee receives the same, it shall hold the same in trust for the benefit of such holder.
- (g) The Corporation shall at all times reserve and keep available out of its authorized Common Shares (if the number thereof is or becomes limited), solely for the purpose of issue and delivery upon the exercise of the Common Share Repayment Right as provided herein, and shall issue to Debentureholders to whom Common Shares will be issued pursuant to exercise of the Common Share Repayment Right, such number of Common Shares as shall be issuable in such event. All Common Shares which shall be so issuable shall be duly and validly issued as fully paid and non-assessable.
- (h) The Corporation shall comply with all Applicable Securities Legislation regulating the issue and delivery of Common Shares upon exercise of the Common Share Repayment Right and shall cause to be listed and posted for trading such Common Shares on each stock exchange on which the Common Shares are then listed.
- (i) The Corporation shall from time to time promptly pay, or make provision satisfactory to the Debenture Trustee for the payment of, all taxes and charges which may be imposed

by the laws of Canada or any province thereof (except income tax, withholding tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Common Shares to holders upon exercise of the Common Share Repayment Right pursuant to the terms of the Debentures and of this Indenture.

- (j) If the Corporation elects to satisfy its obligation to pay all or any portion of the principal amount of Debentures due on maturity by issuing Freely Tradeable Common Shares in accordance with this Section 4.11 and if the principal amount (or any portion thereof) to which a holder is entitled is subject to withholding taxes and the amount of the cash payment of the principal amount due on maturity, if any, is insufficient to satisfy such withholding taxes, the Debenture Trustee, on a Written Direction of the Corporation but for the account of the holder, shall sell, or cause to be sold, through such investment banks, brokers or dealers selected by the Corporation, out of the Common Shares issued by the Corporation for this purpose, such number of Common Shares that together with the cash component of the principal amount due on maturity, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and shall remit same on behalf of the Corporation to the proper tax authorities within the period of time prescribed for this purpose under applicable laws. Any amount of net proceeds (after payment of all costs) in excess of the amount required to cover applicable tax required by applicable law to be withheld will be remitted to the Debentureholder.
- (k) Each certificate representing Common Shares issued in payment of the Debentures bearing the U.S. Legend, as well as all certificates issued in exchange for or in substitution of such Common Shares, shall bear the U.S. Legend; provided that if the Common Shares are being sold in compliance with the requirements of Rule 904 of Regulation S, and provided further that the Corporation is a "foreign issuer" within the meaning of Regulation S at the time of sale, the U.S. Legend may be removed by providing a duly completed and signed declaration to the transfer agent for the Common Shares, substantially as set forth in Schedule "E" hereto (or as the Corporation may prescribe from time to time), together with any additional documentation as may be required by the Corporation or the transfer agent, which evidence may include a written opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required pursuant to the requirements of the 1933 Act; and provided further that, if any such securities are being sold in accordance with Rule 144 under the 1933 Act, the U.S. Legend may be removed by delivery to the transfer agent for the Common Shares, of an opinion of counsel of recognized standing, in form and substance, reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required under applicable requirements of the 1933 Act or applicable state securities laws.

## **ARTICLE 5 SUBORDINATION OF DEBENTURES**

### **5.1 Applicability of Article**

The Debenture Liabilities shall be subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in this Article 5 and in Section 2.4(e), to the prior full and final payment of all Senior Indebtedness of the Corporation and any Subsidiary of the Corporation, and each holder of any such Debenture by his acceptance thereof, whether directly or on his behalf, agrees to and shall be bound by the provisions of this Article 5.

## 5.2 Order of Payment

Upon any distribution of the assets of the Corporation upon any dissolution, winding up, total liquidation or reorganization of the Corporation (whether in bankruptcy, insolvency or receivership proceedings, or upon an "assignment for the benefit of creditors" or any other marshalling of the assets and liabilities of the Corporation, or otherwise):

- (a) all Senior Indebtedness shall first be paid indefeasibly in full, or provision made for such payment, in cash before any payment is made on account of the principal of or interest on or any other liability or obligation in respect of the indebtedness evidenced by the Debentures;
- (b) any payment or distribution of assets of the Corporation, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5 shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the Senior Creditors to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Corporation or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Corporation's assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Debenture Trustee or any requirement to account to the Debenture Trustee or the Debentureholders.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (i) whether or not the Senior Indebtedness is secured;
- (ii) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of any Senior Security;
- (iii) the time or order of the attachment, perfection or crystallization of any security constituted by any Senior Security;
- (iv) the taking of any collection, enforcement or realization proceedings pursuant to any Senior Security;
- (v) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors or any of them or the Debentureholders or any of them to any money or property of the Corporation;
- (vi) the failure to exercise any power or remedy reserved to the Senior Creditors under any Senior Security or to insist upon a strict compliance with any terms thereof;



- (vii) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (viii) the date of giving or failing to give notice to or making demand upon the Corporation;
- (ix) any amendment, modification, increase, extension, renewal, replacement of any Senior Indebtedness or Senior Security; or
- (x) any other matter whatsoever.

### **5.3 Subrogation to Rights of Holders of Senior Indebtedness**

Subject to the prior payment in full of all Senior Indebtedness, the holders of the Debentures shall be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distributions of assets of the Corporation to the extent of the application thereto of such payments or other assets which would have been received by the holders of the Debentures but for the provisions hereof until the principal of, premium, if any, on and interest on the Debentures shall be paid in full, and no such payments or distributions to the holders of the Debentures of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Corporation, its creditors (other than holders of Senior Indebtedness) and the holders of Debentures, be deemed to be a payment by the Corporation to the former holders of the Senior Indebtedness or on account of the repaid Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of Senior Indebtedness, on the other hand.

The Debenture Trustee, for itself and on behalf of each of the Debentureholders, acknowledges and agrees that the Senior Creditors may enforce the provisions of the Senior Security and exercise any rights and remedies thereunder, all in such order, at such times and in such manner as they may determine in the exercise of their sole discretion, including, without limitation, any right to take or retake control or possession of the collateral, to hold, prepare for sale, process, sell, lease, dispose of, or liquidate the collateral, to incur expenses in connection with such disposition, and to exercise all the rights and remedies of a secured creditor under applicable law.

### **5.4 Obligation to Pay Not Impaired**

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Corporation, which is absolute and unconditional, to pay to the holders of the Debentures the principal of, premium, if any, on and interest on the Debentures, as and when the same shall become due and payable in accordance with their terms, or affect the relative rights of the holders of the Debentures and creditors of the Corporation other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Debenture Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable law upon default under this Indenture, subject to the rights, if any, under this Article 5 of the holders of Senior Indebtedness.

### **5.5 No Payment if Senior Indebtedness in Default**

Upon the maturity of any Senior Indebtedness by lapse of time, acceleration or otherwise, or any enforcement of any Senior Indebtedness, then, except as provided in Section 5.8, all such Senior

Indebtedness shall first be paid in full, or shall first have been duly provided for, before any payment is made on account of the Debenture Liabilities.

In case of a circumstance constituting a default or event of default with respect to any Senior Indebtedness permitting (either at that time or upon notice, lapse of time or satisfaction of other condition precedent) a Senior Creditor to demand payment or accelerate the maturity thereof where the notice of such default or event of default has been given by or on behalf of the holders of Senior Indebtedness to the Corporation or the Corporation otherwise has knowledge thereof, unless and until such default or event of default shall have been cured or waived or ceased to exist, no payment (by purchase of Debentures or otherwise) shall be made by the Corporation with respect to the Debenture Liabilities and neither the Debenture Trustee nor the holders of Debentures shall be entitled to demand, accelerate, institute proceedings for the collection of (which shall, for certainty include proceedings related to an adjudication or declaration as to the insolvency or bankruptcy of the Corporation and other similar creditor proceedings), or receive any payment or benefit (including without limitation by set-off, combination of accounts or otherwise in any manner whatsoever) on account of the Debentures after the happening of such a default or event of default (except as provided in Section 5.8), and unless and until such default or event of default shall have been cured or waived or ceased to exist, such payments shall be held in trust for the benefit of, and, if and when such Senior Indebtedness shall have become due and payable, shall be paid over to, the Senior Creditor holding such Senior Indebtedness until all such Senior Indebtedness shall have been paid in full, after giving effect to any concurrent payment or distribution to the holders of such Senior Indebtedness; provided, however, that, subject to the priorities and rights of the Senior Creditors under this Article 5, the foregoing shall in no way prohibit, restrict or prevent the Debenture Trustee from taking such actions as may be necessary to preserve claims of the Debenture Trustee and/or the holders of the Debentures under this Indenture in any bankruptcy, reorganization or insolvency proceeding (including, without limitation, the filing of proofs of claim in any such bankruptcy, reorganization or insolvency proceedings by or against the Corporation or its Subsidiaries and exercising its rights to vote as an unsecured creditor under any such bankruptcy, reorganization or insolvency proceedings commenced by or against the Corporation or its Subsidiaries). The fact that any payment hereunder is prohibited by this Section 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder.

#### **5.6 Payment on Debentures Permitted**

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Corporation to make, or prevent the Corporation from making, at any time except as prohibited by Section 5.2 or Section 5.5, any payment of principal of, premium, if any, on or interest on the Debentures as the same may become due. The fact that any such payment is prohibited by Section 5.2 or Section 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall prevent the conversion of the Debentures or, except as prohibited by Section 5.2 or Section 5.5, the application by the Debenture Trustee of any moneys deposited with the Debenture Trustee hereunder for such purpose, to the payment of or on account of the Debenture Liabilities.

#### **5.7 Confirmation of Subordination**

Each holder of Debentures by his acceptance thereof authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney-in-fact for any and all such purposes. This power of attorney, being coupled with an interest and rights, shall be irrevocable. Upon request of the Corporation, and upon being furnished with an Officer's Certificate stating that one or more named Persons are Senior Creditors, and specifying the maximum amount and nature of the Senior Indebtedness

of such Senior Creditors, the Debenture Trustee shall enter into a written agreement or agreements, as the Senior Creditor may reasonably request, with the Corporation and the Person or Persons named in such Officer's Certificate providing that such Person or Persons are entitled to all the rights and benefits of this Article 5 as a Senior Creditor specified in such Officer's Certificate and in such agreement, which may include, among other things, an agreement not to amend the provisions of this Article 5 and the definitions herein without the consent of such Senior Creditor. Such agreement shall be conclusive evidence that the indebtedness specified therein is Senior Indebtedness. However, nothing herein shall impair the rights of any Senior Creditor who has not entered into such an agreement.

### **5.8 Knowledge of Debenture Trustee**

Notwithstanding the provisions of this Article 5, the Debenture Trustee will not be charged with knowledge of the existence of any fact that would prohibit the making of any payment of monies to or by the Debenture Trustee, or the taking of any other action by the Debenture Trustee, unless and until the Debenture Trustee has received written notice thereof from the Corporation, any Debentureholder or any Senior Creditor.

### **5.9 Debenture Trustee May Hold Senior Indebtedness**

The Debenture Trustee is entitled to all the rights set forth in this Article 5 with respect to any Senior Indebtedness at the time held by it, to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture deprives the Debenture Trustee of any of its rights as such holder.

### **5.10 Rights of Holders of Senior Indebtedness Not Impaired**

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Corporation or by any non-compliance by the Corporation with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

### **5.11 Altering the Senior Indebtedness**

The holders of the Senior Indebtedness have the right to extend, renew, revise, restate, modify or amend the terms of the Senior Indebtedness (including, without limitation, increasing the principal amount of the Senior Indebtedness) or such Senior Security therefor and to release, sell or exchange such security and otherwise to deal freely with the Corporation and its Subsidiaries, all without notice to or consent of the Debentureholders or the Debenture Trustee and without affecting the liabilities and obligations of the parties to this Indenture or the Debentureholders or the Debenture Trustee.

### **5.12 Additional Indebtedness**

This Indenture does not restrict the Corporation or any Subsidiary of the Corporation from incurring additional indebtedness for borrowed money or otherwise (including, without limitation, Senior Indebtedness) or mortgaging, pledging or charging its real (immoveable) or personal (moveable) property or properties to secure any indebtedness or other financing.

### **5.13 Right of Debentureholder to Receive Common Shares Not Impaired**

The subordination of the Debenture Liabilities to the Senior Indebtedness and the provisions of this Article 5 do not impair in any way the right of a Debentureholder to receive Common Shares in respect of

principal and interest upon any conversion pursuant to Article 6 or upon any redemption pursuant to Article 4.

#### **5.14 Invalidated Payments**

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 5 shall be reinstated and the provisions of this Article 5 shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Debenture Trustee or the Debentureholders for amounts paid to the Debentureholders subsequent to such payment or satisfaction in full and prior to such reinstatement.

#### **5.15 Contesting Security**

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Indebtedness, the Senior Security or the relative priority of the Senior Security.

#### **5.16 Obligations Created by Article 5**

The Corporation and the Debenture Trustee, in its capacity as trustee hereunder and not in its corporate personal capacity, agree, and each holder by its acceptance of a Debenture likewise agrees, that:

- (a) the provisions of this Article 5 are an inducement and consideration to each holder of Senior Indebtedness to give or continue credit to the Corporation, the Corporation's Subsidiaries or others or to acquire Senior Indebtedness; and
- (b) each holder of Senior Indebtedness may accept the benefit of this Article 5 on the terms and conditions set forth in this Article 5 by giving or continuing credit to the Corporation, the Corporation's Subsidiaries or others or by having outstanding or acquiring Senior Indebtedness, in each case without notice to the Debenture Trustee and without establishing actual reliance on this Article 5.

## **ARTICLE 6 CONVERSION OF DEBENTURES**

### **6.1 Applicability of Article**

Subject to Sections 2.4(f) and 2.4(k), any Debentures issued hereunder of any series which by their terms are convertible (subject, however, to any applicable restriction of the conversion of Debentures of such series) will be convertible into Common Shares or, if applicable, other securities or property, at such conversion rate or rates, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and shall have been expressed in this Indenture (including Sections 2.4(f) and 2.4(k), as applicable), in such Debentures, in an Officer's Certificate, or in a supplemental indenture authorizing or providing for the issue thereof.

Such right of conversion shall extend only to the maximum number of whole Common Shares into which the aggregate principal amount of the Debenture or Debentures surrendered for conversion at any one time by the holder thereof may be converted. Fractional interests in Common Shares shall be adjusted for in the manner provided in Section 6.6.

## **6.2 Notice of Expiry of Conversion Privilege**

Other than in the event of a Change of Control, notice of the expiry of the conversion privileges of the Debentures, shall be given by or on behalf of the Corporation not more than 60 days and not less than 30 days prior to the date fixed for the Time of Expiry, in the manner provided in Section 14.2.

## **6.3 Revival of Right to Convert**

If the redemption of any Debenture called for redemption by the Corporation is not made or the payment of the purchase price of any Debenture which has been tendered in acceptance of an offer by the Corporation to purchase Debentures for cancellation is not made, in the case of a redemption upon due surrender of such Debenture or in the case of a purchase on the date on which such purchase is required to be made, as the case may be, then, provided the Time of Expiry has not passed, the right to convert such Debentures shall revive and continue as if such Debenture had not been called for redemption or tendered in acceptance of the Corporation's offer, respectively.

## **6.4 Manner of Exercise of Right to Convert**

- (a) The holder of a Debenture desiring to convert such Debenture in whole or in part into Common Shares shall surrender such Debenture to the Debenture Trustee at its principal offices in Calgary, Alberta or Toronto, Ontario together with the conversion notice in the form attached hereto as Schedule "D" or any other written notice in a form satisfactory to the Debenture Trustee, in either case, duly executed by the holder or his executors or administrators or other legal representatives or his or their attorney duly appointed by an instrument in writing in form and executed in a manner satisfactory to the Debenture Trustee, exercising his right to convert such Debenture in accordance with the provisions of this Article 6; provided that with respect to a Global Debenture, the obligation to surrender a Debenture to the Debenture Trustee shall be satisfied if the Debenture Trustee makes notation on the Global Debenture of the principal amount thereof so converted and the Debenture Trustee is provided with all other documentation which it may reasonably request. Thereupon such Debentureholder or, subject to payment of all applicable stamp or security transfer taxes or other governmental charges and compliance with all reasonable requirements of the Debenture Trustee, his nominee(s) or assignee(s) shall be entitled to be entered in the books of the Corporation as at the Date of Conversion (or such later date as is specified in Section 6.4(b)) as the holder of the number of Common Shares into which such Debenture is convertible in accordance with the provisions of this Article 6 and, within three (3) Business Days thereafter, the Debenture Trustee shall (i) deliver to such Debentureholder or, subject as aforesaid, his nominee(s) or assignee(s), a certificate or certificates for such Common Shares and (ii) make or cause to be made any payment of interest to which such holder is entitled in accordance with Section 6.4(e) hereof or in respect of fractional Common Shares as provided in Section 6.6.
- (b) For the purposes of this Article, a Debenture shall be deemed to be surrendered for conversion on the date on which it is so surrendered when the register of the Debenture Trustee is open and in accordance with the provisions of this Article 6 or, in the case of a Global Debenture, on the date which the Debenture Trustee received notice of and all necessary documentation in respect of the exercise of the conversion rights and, in the case of a Debenture so surrendered by post or other means of transmission, on the date on which it is received by the Debenture Trustee at one of its offices specified in Section 6.4(a); provided that if a Debenture is surrendered for conversion on a day on which the register of Common Shares is closed the Person or Persons entitled to receive

Common Shares shall become the holder or holders of record of such Common Shares as at the date on which such register is next reopened (in each case, the "**Date of Conversion**").

- (c) Any part, being \$1,000 or an integral multiple thereof, of a Debenture in a denomination in excess of \$1,000 may be converted as provided in this Article and all references in this Indenture to conversion of Debentures shall be deemed to include conversion of such part.
- (d) Upon a holder of any Debenture exercising the right of conversion in respect of only a part of the Debenture and surrendering such Debenture to the Debenture Trustee, in accordance with Section 6.4(a) the Debenture Trustee shall cancel the same and shall without charge forthwith certify and deliver to the holder a new Debenture or Debentures in an aggregate principal amount equal to the unconverted part of the principal amount of the Debenture so surrendered or, with respect to a Global Debenture, the Debenture Trustee shall make notations on the Global Debenture of the principal amount thereof so converted.
- (e) The holder of a Debenture surrendered for conversion in accordance with this Section 6.4 shall be entitled to receive accrued and unpaid interest from the last Interest Payment Date up to, but not including the Date of Conversion. The Common Shares issued upon such conversion shall rank only in respect of distributions or dividends declared in favour of shareholders of record on and after the Date of Conversion or such later date as such holder shall become the holder of record of such Common Shares pursuant to Section 6.4(b), from which applicable date such Common Shares will for all purposes be and be deemed to be issued and outstanding as fully paid and non-assessable Common Shares.
- (f) In the event of a conversion of Debentures into Common Shares where the holder is subject to withholding taxes, the Debenture Trustee, on a Written Direction of the Corporation but for the account of the holder, shall sell, or cause to be sold through such investment banks, brokers or dealers selected by the Corporation and approved by the Debenture Trustee, out of the Common Shares issued by the Corporation for this purpose, such number of Common Shares that together with any cash payment in lieu of fractional Common Shares, if any, is sufficient to yield net proceeds (after payment of all costs) to cover the amount of taxes required to be withheld, and shall remit same on behalf of the Corporation to the proper tax authorities within the period of time prescribed for this purpose under applicable laws. Any amount of net proceeds (after payment of all costs) in excess of the amount required by applicable law to be withheld will be remitted to the Debentureholder.

## **6.5 Adjustment of Conversion Price**

Subject to the requirements of the TSX (or such other recognized exchange on which the Debentures are then listed), the Conversion Price in effect at any date shall be subject to adjustment from time to time as set forth below.

- (a) If and whenever at any time prior to the Time of Expiry the Corporation shall (i) subdivide or redivide the outstanding Common Shares into a greater number of shares, (ii) reduce, combine or consolidate the outstanding Common Shares into a smaller number of shares, or (iii) issue Common Shares or securities convertible into Common

Shares to the holders of all or substantially all of the outstanding Common Shares by way of a dividend or distribution (other than the issue of Common Shares to holders of Common Shares who have elected to receive dividends or distributions in the form of Common Shares in lieu of cash dividends or cash distributions paid in the ordinary course on the Common Shares that do not exceed the Initial Dividend Threshold in any Applicable Period), the Conversion Price in effect on the effective date of such subdivision, redivision, reduction, combination or consolidation or on the record date for such issue of Common Shares by way of a dividend or distribution, as the case may be, shall in the case of any of the events referred to in (i) and (iii) above be decreased in proportion to the number of outstanding Common Shares resulting from such subdivision, redivision, dividend or distribution, or shall, in the case of any of the events referred to in (ii) above, be increased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation. Such adjustment shall be made successively whenever any event referred to in this Section 6.5(a) shall occur. Any such issue of Common Shares by way of a dividend or distribution shall be deemed to have been made on the record date for the dividend or distribution for the purpose of calculating the number of outstanding Common Shares under subsections (b) and (c) of this Section 6.5.

- (b) If and whenever at any time prior to the Time of Expiry the Corporation shall fix a record date for the issuance of options, rights or warrants to all or substantially all the holders of its outstanding Common Shares (other than for the issue of Common Shares to holders of Common Shares who have elected to receive dividends or distributions in the form of Common Shares in lieu of cash dividends or cash distributions that do not exceed the Initial Dividend Threshold in any Applicable Period) entitling them, for a period expiring not more than 45 days after such record date, to subscribe for or purchase Common Shares (or securities convertible into Common Shares) at a price per share (or having a conversion or exchange price per share) less than 95% of the Current Market Price of a Common Share on such record date (other than pursuant to the distribution reinvestment plan of the Corporation), the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date plus a number of Common Shares equal to the quotient obtained by dividing the aggregate price of the total number of additional Common Shares offered for subscription or purchase (or the aggregate conversion or exchange price of the convertible securities so offered) by such Current Market Price per Common Share, and of which the denominator shall be the total number of Common Shares outstanding on such record date plus the total number of additional Common Shares offered for subscription or purchase (or into which the convertible securities so offered are convertible). Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such options, rights or warrants are not so issued or any such options, rights or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect if only the number of Common Shares (or securities convertible into Common Shares) actually issued upon the exercise of such options, rights or warrants were included in such fraction, as the case may be.
- (c) If and whenever at any time prior to the Time of Expiry the Corporation shall fix a record date for the making of a distribution to all or substantially all the holders of its outstanding Common Shares of (i) shares of any class other than Common Shares and

other than shares distributed to holders of Common Shares who have elected to receive dividends or distributions in the form of such shares in lieu of dividends or distributions paid in the ordinary course that do not exceed the Initial Dividend Threshold in any Applicable Period, (ii) rights, options or warrants (excluding the issuance of rights, options or warrants for which any adjustment was made pursuant to Section 6.5(b)), (iii) evidences of its indebtedness, (iv) special cash dividends or distributions not paid in the ordinary course or business, or (v) assets (excluding, in each case, dividends or distributions paid in the ordinary course that do not exceed the Initial Dividend Threshold in any Applicable Period) then, in each such case, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date multiplied by the Current Market Price per Common Share on such record date, less the fair market value (as determined by the Directors, with the approval of the Debenture Trustee and subject to TSX approval, which determination shall be conclusive) of such shares, equity interests or rights, options or warrants or evidences of indebtedness or assets so distributed, and of which the denominator shall be the total number of Common Shares outstanding on such record date multiplied by such Current Market Price per Common Share. Such adjustment shall be made successively whenever such a record date is fixed. To the extent that such distribution is not so made, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon such shares or rights, options or warrants or evidences of indebtedness or assets actually distributed, as the case may be. In clause (v) of this subsection (c) the term "dividends or distributions paid in the ordinary course" shall include the value of any securities or other property or assets distributed in lieu of cash dividends or distributions paid in the ordinary course at the option of shareholders that do not exceed the Initial Dividend Threshold in any Applicable Period.

Notwithstanding the foregoing, if the securities distributed by the Corporation to all holders of its Common Shares consist of capital stock of, or similar equity interests in, a Subsidiary or other business of the Corporation (the "**Spinoff Securities**"), the Conversion Price shall be adjusted, unless the Corporation makes an equivalent distribution to the holders of Debentures, so that the same shall be equal to the rate determined by multiplying the Conversion Price in effect on the record date fixed for the determination of shareholders entitled to receive such distribution by a fraction, the denominator of which shall be the sum of (A) the weighted average trading price of one Common Share over the 20 consecutive Trading Day period (the "**Spinoff Valuation Period**") commencing on and including the fifth Trading Day after the Ex-Dividend Date and (B) the product of (i) the weighted average trading price (calculated in substantially the same way as the Current Market Price is calculated for the Common Shares) over the Spinoff Valuation Period of one Spinoff Security or, if no such prices are available, the fair market value of one Spinoff Security as reasonably determined by the Board of Directors (which determination shall be conclusive and shall be evidenced by an Officers' Certificate delivered to the Debenture Trustee) multiplied by (ii) the number of Spinoff Securities distributed in respect of one Common Share and the numerator of which shall be the weighted average trading price of one Common Share over the Spinoff Valuation Period, such adjustment to become effective immediately preceding the opening of business on the 25th Trading Day after the date on which ex-dividend trading commences; provided, however, that the Corporation may in lieu of the foregoing adjustment elect to make adequate provision so that each holder of Debentures shall have



the right to receive upon conversion thereof the amount of such Spinoff Securities that such holder of Debentures would have received if such Debentures had been converted on the record date with respect to such distribution. In respect of any conversion during the Spinoff Valuation Period, references to 20 consecutive Trading Days shall be deemed to be replaced with such lesser number of Trading Days as have elapsed between the Commencement of the Spinoff Valuation Period and the relevant conversion date.

- (d) If and whenever at any time prior to the Time of Expiry, there is a reclassification of the Common Shares or a capital reorganization or change of the Corporation other than as described in Section 6.5(a) or a consolidation, amalgamation, arrangement or merger of the Corporation with or into any other Person or other entity; or a sale, transfer or other disposition of the property and assets of the Corporation as an entirety or substantially as an entirety to any other Person or other entity or a liquidation, dissolution or winding-up of the Corporation, any holder of a Debenture who has not exercised its right of conversion prior to the effective date of such reclassification, capital reorganization, change, consolidation, amalgamation, arrangement or merger, sale, transfer, disposition or liquidation, dissolution or winding-up, upon the exercise of such right thereafter, shall be entitled to receive and shall accept, in lieu of the number of Common Shares then sought to be acquired by it, the number of shares or other securities or property of the Corporation or of the Person or other entity resulting from such reclassification, capital reorganization, change, consolidation, amalgamation, arrangement or merger, or to which such sale, transfer, disposition may be made or which holders of Common Shares receive pursuant to such liquidation, dissolution or winding-up, as the case may be, that such holder of a Debenture would have been entitled to receive on such reclassification, capital reorganization, change, consolidation, amalgamation, arrangement or merger, sale, transfer, dispositions or liquidation, dissolution or winding-up, if, on the record date or the effective date thereof, as the case may be, the holder had been the registered holder of the number of Common Shares sought to be acquired by it and to which it was entitled to acquire upon the exercise of the conversion right. If determined appropriate by the Directors to give effect to or to evidence the provisions of this Section 6.5(d), the Corporation, its successor, or such purchasing Person or other entity, as the case may be, shall, prior to or contemporaneously with any such reclassification, capital reorganization, change, consolidation, amalgamation, arrangement, merger, sale, transfer, dispositions or liquidation, dissolution or winding-up or other similar transaction, enter into an indenture which shall provide, to the extent possible, for the application of the provisions set forth in this Indenture with respect to the rights and interests thereafter of the holder of Debentures to the end that the provisions set forth in this Indenture shall thereafter correspondingly be made applicable, as nearly as may reasonably be, with respect to any shares or other securities or property to which a holder of Debentures is entitled on the exercise of its conversion rights thereafter. Any indenture entered into between the Corporation and the Debenture Trustee pursuant to the provisions of this Section 6.5(d) shall be a supplemental indenture entered into pursuant to the provisions of Article 16. Any indenture entered into between the Corporation, any successor to the Corporation or such purchasing Person or other entity and the Debenture Trustee shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 6.5(d) and which shall apply to successive reclassifications, capital reorganizations, changes, consolidations, amalgamations, mergers, sales, transfers, dispositions and to any successive liquidation, dissolution or winding up or other similar transaction.

- (e) If and whenever at any time prior to the Time of Expiry the Corporation shall fix a record date for the payment of a regular cash dividend or distribution to the holders of all or substantially all of the outstanding Common Shares in respect of any Applicable Period that exceeds the Initial Dividend Threshold, the Conversion Price shall be adjusted immediately after such record date so that it shall be equal to the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the denominator shall be the Current Market Price per Common Share on such record date and of which the numerator shall be the Current Market Price per Common Share on such record date minus the amount in cash per Common Share distributed to holders of Common Shares in excess of the Initial Dividend Threshold. Such adjustment shall be made successively whenever such a record date is fixed. To the extent that any such cash dividend or distribution is not paid, the Conversion Price shall be re-adjusted to the Conversion Price which would then be in effect if such record date had not been fixed.

The Initial Dividend Threshold will be adjusted in the same manner as the Conversion Price set forth under Section 6.5, provided that no adjustment will be made to the Initial Dividend Threshold for any adjustment made to the Conversion Price under Section 6.5(e) and 6.5(c)(iv).

- (f) If any issuer bid (other than a normal course issuer bid made through the facilities of the TSX) made by the Corporation or any of its Subsidiaries for all or any portion of Common Shares shall expire, then, if the issuer bid shall require the payment to shareholders of consideration per Common Share having a fair market value (determined as provided below) that exceeds the Current Market Price per Common Share on the last date (the "**Expiration Date**") tenders could have been made pursuant to such issuer bid (as it may be amended) (the last time at which such tenders could have been made on the Expiration Date is hereinafter sometimes called the "**Expiration Time**"), the Conversion Price shall be adjusted so that the same shall equal the rate determined by multiplying the Conversion Price in effect immediately preceding the close of business on the Expiration Date by a fraction of which (i) the denominator shall be the sum of (A) the fair market value of the aggregate consideration (the fair market value as determined by the Board of Directors, subject to TSX approval, whose determination shall be conclusive evidence of such fair market value and which shall be evidenced by an Officers' Certificate delivered to the Debenture Trustee) payable to shareholders based on the acceptance (up to any maximum specified in the terms of the issuer bid) of all Common Shares validly tendered and not withdrawn as of the Expiration Time (the Common Shares deemed so accepted, up to any such maximum, being referred to as the "**Purchased Common Shares**") and (B) the product of the number of Common Shares outstanding (less any Purchased Common Shares and excluding any Common Shares held in the treasury of the Corporation) at the Expiration Time and the Current Market Price per Common Share on the Expiration Date and (ii) the numerator of which shall be the product of the number of Common Shares outstanding (including Purchased Common Shares but excluding any Common Shares held in the treasury of the Corporation) at the Expiration Time multiplied by the Current Market Price per Common Share on the Expiration Date, such increase to become effective immediately preceding the opening of business on the day following the Expiration Date. In the event that the Corporation is obligated to purchase Common Shares pursuant to any such issuer bid, but the Corporation is permanently prevented by applicable law from effecting any or all such purchases or any or all such purchases are rescinded, the Conversion Price shall again be adjusted to be the Conversion Price which would have been in effect based upon the number of Common Shares actually purchased, if any. If the application of this clause (f) of Section 6.5 to any

issuer bid would result in a decrease in the Conversion Price, no adjustment shall be made for such issuer bid under this clause (f).

For purposes of this Section 6.5(f), the term "issuer bid" shall mean an issuer bid (other than an issuer bid which is exempt from the requirements of Part 2 of MI 62-104) under Applicable Securities Legislation or a take-over bid (other than a take-over bid which is exempt from the requirements of Part 2 of MI 62-104) under Applicable Securities Legislation by a Subsidiary of the Corporation for the Common Shares and all references to "purchases" of Common Shares in issuer bids (and all similar references) shall mean and include the purchase of Common Shares in issuer bids and all references to "tendered Common Shares" (and all similar references) shall mean and include Common Shares tendered in issuer bids.

- (g) In any case in which this Section 6.5 shall require that an adjustment shall become effective immediately after a record date for an event referred to herein, the Corporation may defer, until the occurrence of such event, issuing to the holder of any Debenture converted after such record date and before the occurrence of such event the additional Common Shares issuable upon such conversion by reason of the adjustment required by such event before giving effect to such adjustment; provided, however, that the Corporation shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Common Shares upon the occurrence of the event requiring such adjustment and the right to receive any distributions made on such additional Common Shares declared in favour of holders of record of Common Shares on and after the Date of Conversion or such later date as such holder would, but for the provisions of this Section 6.5(g), have become the holder of record of such additional Common Shares pursuant to Section 6.4(b).
- (h) The adjustments provided for in this Section 6.5 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section, provided that, notwithstanding any other provision of this Section, no adjustment of the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least 1% in the Conversion Price then in effect; provided however, that any adjustments which by reason of this Section 6.5(h) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.
- (i) For the purpose of calculating the number of Common Shares outstanding, Common Shares owned by or for the benefit of the Corporation shall not be counted.
- (j) In the event of any question arising with respect to the adjustments provided in this Section 6.5, such question shall be conclusively determined by a firm of nationally recognized chartered accountants appointed by the Corporation and acceptable to the Debenture Trustee (who may be the auditors of the Corporation); such accountants shall have access to all necessary records of the Corporation and such determination shall be binding upon the Corporation, the Debenture Trustee, and the Debentureholders.
- (k) In case the Corporation shall take any action affecting the Common Shares other than action described in this Section 6.5, which in the opinion of the Directors, would materially affect the rights of Debentureholders, the Conversion Price shall be adjusted in such manner and at such time, by action of the Directors, subject to the prior written

consent of the TSX (or, if the Debentures are not listed thereon, on such other exchange on which the Debentures are then listed), as the Directors in their sole discretion may determine to be equitable in the circumstances. Failure of the Directors to make such an adjustment shall be conclusive evidence that they have determined that it is equitable to make no adjustment in the circumstances.

- (l) Subject to the prior written consent of the TSX or such other exchange on which the Debentures are then listed, no adjustment in the Conversion Price shall be made in respect of any event described in Sections 6.5(a), 6.5(b), 6.5(c) or 6.5(d) other than the events described in 6.5(a)(i) or 6.5(a)(ii) if the holders of the Debentures are entitled to participate in such event on the same terms *mutatis mutandis* as if they had converted their Debentures prior to the effective date or record date, as the case may be, of such event.
- (m) Except as stated above in this Section 6.5, no adjustment will be made in the Conversion Price for any Debentures as a result of the issuance of Common Shares at less than the Current Market Price for such Common Shares on the date of issuance or the then applicable Conversion Price.

## **6.6 No Requirement to Issue Fractional Common Shares**

The Corporation shall not be required to issue fractional Common Shares upon the conversion of Debentures pursuant to this Article. If more than one Debenture shall be surrendered for conversion at one time by the same holder, the number of whole Common Shares issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of such Debentures to be converted. If any fractional interest in a Common Share would, except for the provisions of this Section, be deliverable upon the conversion of any principal amount of Debentures, the Corporation shall, in lieu of delivering any certificate representing such fractional interest, make a cash payment to the holder of such Debenture of an amount equal to the fractional interest which would have been issuable multiplied by the Current Market Price on the Date of Conversion of such fractional interest (less applicable withholding taxes, if any).

## **6.7 Corporation to Reserve Common Shares**

The Corporation covenants with the Debenture Trustee that it will at all times reserve and keep available out of its authorized Common Shares, solely for the purpose of issue upon conversion of Debentures as provided in this Article 6, and conditionally allot to Debentureholders who may exercise their conversion rights hereunder, such number of Common Shares as shall then be issuable upon the conversion of all outstanding Debentures. The Corporation covenants with the Debenture Trustee that all Common Shares which shall be so issuable shall be duly and validly issued as fully-paid, non-assessable and Freely Tradeable.

## **6.8 Cancellation of Converted Debentures**

Subject to the provisions of Section 6.4 as to Debentures converted in part, all Debentures converted in whole or in part under the provisions of this Article shall be forthwith delivered to and cancelled by the Debenture Trustee and no Debenture shall be issued in substitution therefor.

## **6.9 Certificate as to Adjustment**

The Corporation shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 6.5, deliver an Officer's Certificate to the Debenture Trustee specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based, which certificate and the amount of the adjustment specified therein shall be verified by an opinion of a firm of nationally recognized chartered accountants appointed by the Corporation and acceptable to the Debenture Trustee (who may be the auditors of the Corporation) and shall be conclusive and binding on all parties in interest. When so approved, the Corporation shall, except in respect of any subdivision, redivision, reduction, combination or consolidation of the Common Shares, forthwith give notice to the Debentureholders in the manner provided in Section 14.2 specifying the event requiring such adjustment or readjustment and the results thereof, including the resulting Conversion Price.

## **6.10 Notice of Special Matters**

The Corporation covenants with the Debenture Trustee that so long as any Debenture remains outstanding, it will give notice to the Debenture Trustee, and to the Debentureholders in the manner provided in Section 14.2, of its intention to fix a record date for any event referred to in Sections 6.5(a), 6.5(b), 6.5(c), 6.5(d), 6.5(e) or 6.5(f) (other than the subdivision, redivision, reduction, combination or consolidation of its Common Shares) which may give rise to an adjustment in the Conversion Price, and, in each case, such notice shall specify the particulars of such event and the record date and the effective date for such event; provided that the Corporation shall only be required to specify in such notice such particulars of such event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than fourteen (14) days in each case prior to such applicable record date.

In addition, the Corporation covenants with the Debenture Trustee that so long as any Debenture remains outstanding, it will give notice to the Debenture Trustee, and to the Debentureholders in the manner provided in Section 14.2, at least 30 days prior to the (i) effective date of any transaction referred to in Section 6.5(d) stating the consideration into which the Debentures will be convertible after the effective date of such transaction, and (ii) Expiration Date of any transaction referred to in Section 6.5(f) stating the consideration paid per Common Share in such transaction.

## **6.11 Protection of Debenture Trustee**

Subject to Section 15.3, the Debenture Trustee:

- (a) shall not at any time be under any duty or responsibility to any Debentureholder to determine whether any facts exist which may require any adjustment in the Conversion Price, or with respect to the nature or extent of any such adjustment when made, or with respect to the method employed in making the same;
- (b) shall not be accountable with respect to the validity or value (or the kind or amount) of any Common Shares or other securities or property which may at any time be issued or delivered upon the conversion of any Debenture;
- (c) shall not be responsible for any failure of the Corporation to make any cash payment or to issue, transfer or deliver Common Shares or Common Share certificates upon the

surrender of any Debenture for the purpose of conversion, or to comply with any of the covenants contained in this Article; and

- (d) shall be entitled to act and rely on any adjustment calculation of the Corporation.

### **6.12 Payment of Cash in Lieu of Common Shares**

Upon conversion, the Corporation may offer and the converting holder may agree to the delivery of cash for all or a portion of the Debentures surrendered in lieu of Common Shares, the cash equivalent thereof to be determined on the basis of the Current Market Price of the Common Shares to be received upon conversion on the Date of Conversion (less applicable withholding taxes, if any).

### **6.13 U.S. Legend on Common Shares**

Each certificate representing Common Shares issued upon conversion of Debentures pursuant to this Article 6 bearing the U.S. Legend, as well as all certificates issued in exchange for or in substitution of such Common Shares, shall bear the U.S. Legend; *provided*, that if the Common Shares are being sold in compliance with the requirements of Rule 904 of Regulation S, and provided further that the Corporation is a "foreign issuer" within the meaning of Regulation S at the time of sale, the U.S. Legend may be removed by providing a duly completed and signed declaration to the transfer agent for the Common Shares, substantially as set forth in Schedule "E" hereto (or as the Corporation may prescribe from time to time), together with any additional documentation as may be required by the Corporation or the transfer agent, which evidence may include a written opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required pursuant to the requirements of the 1933 Act; and provided further that, if any such securities are being sold in accordance with Rule 144 under the 1933 Act, the U.S. Legend may be removed by delivery to the transfer agent for the Common Shares, of an opinion of counsel of recognized standing, in form and substance reasonably satisfactory to the Corporation, to the effect that the U.S. Legend is no longer required under applicable requirements of the 1933 Act or applicable state securities laws.

## **ARTICLE 7 COVENANTS OF THE CORPORATION**

The Corporation hereby covenants and agrees with the Debenture Trustee for the benefit of the Debenture Trustee and the Debentureholders, that so long as any Debentures remain outstanding:

### **7.1 To Pay Principal, Premium (if any) and Interest**

The Corporation will duly and punctually pay or cause to be paid to every Debentureholder the principal of, premium (if any) and interest accrued on the Debentures of which it is the holder on the dates, at the places and in the manner mentioned herein and in the Debentures.

### **7.2 To Pay Debenture Trustee's Remuneration**

The Corporation will pay the Debenture Trustee reasonable remuneration for its services as Debenture Trustee hereunder and will repay to the Debenture Trustee on demand all monies which shall have been paid by the Debenture Trustee in connection with the execution of the trusts hereby created and such monies including the Debenture Trustee's remuneration, shall be payable out of any funds coming into the possession of the Debenture Trustee in priority to payment of any principal of the Debentures or interest thereon. Such remuneration shall continue to be payable until the trusts hereof be finally wound up and

whether or not the trusts of this Indenture shall be in the course of administration by or under the direction of a court of competent jurisdiction.

### **7.3 To Give Notice of Default**

The Corporation shall, as soon as reasonably practicable, notify the Debenture Trustee upon obtaining knowledge of any Event of Default hereunder.

### **7.4 Preservation of Existence, etc.**

Subject to the express provisions hereof, the Corporation will carry on and conduct its activities and business, in a proper, efficient and business-like manner and in accordance with good business practices; and, subject to the express provisions hereof, it will do or cause to be done all things reasonably necessary to preserve and keep in full force and effect the existence and rights of the Corporation.

### **7.5 Keeping of Books**

The Corporation will keep or cause to be kept proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Corporation in accordance with generally accepted accounting principles.

### **7.6 Annual Certificate of Compliance**

The Corporation shall deliver to the Debenture Trustee, within 120 days after the end of each calendar year, an Officer's Certificate as to the knowledge of such Director or an authorized officer of the Corporation who executes the Officer's Certificate, of the Corporation's compliance with all conditions and covenants of this Indenture certifying that after reasonable investigation and inquiry, the Corporation has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which could, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars any steps taken or proposed to be taken to remedy such Event of Default.

### **7.7 No Dividend or Distributions on Common Shares if Event of Default**

The Corporation shall not declare, make or pay any dividend or distribution to the holders of its issued and outstanding Common Shares after the occurrence of an Event of Default unless and until such default shall have been cured or waived or ceased to exist.

### **7.8 Performance of Covenants by Debenture Trustee**

If the Corporation shall fail to perform any of its covenants contained in this Indenture, the Debenture Trustee may notify the Debentureholders of such failure on the part of the Corporation or may itself perform any of the covenants capable of being performed by it, but (subject to Sections 8.2 and 15.3) shall be under no obligation to do so or to notify the Debentureholders. All sums so expended or advanced by the Debenture Trustee shall be repayable as provided in Section 7.2. No such performance, expenditure or advance by the Debenture Trustee shall be deemed to relieve the Corporation of any default hereunder.

## 7.9 Maintain Listing

The Corporation shall use reasonable commercial efforts to maintain the listing of the Common Shares and the Debentures on the TSX or any other recognized stock exchange and to maintain the Corporation's status as a "reporting issuer" not in default under Applicable Securities Legislation; provided that the foregoing covenant shall not prevent or restrict the Corporation from carrying out a transaction to which Article 11 would apply if carried out in compliance with Article 11 even if as a result of such transaction the Corporation ceases to be a "reporting issuer" in all or any of the provinces of Canada or the Common Shares or Debentures cease to be listed on the TSX or any other recognized stock exchange.

## 7.10 SEC Reporting

The Corporation covenants to the Debenture Trustee that in the event that any class of its securities shall hereafter become registered pursuant to Section 12 of the 1934 Act, the Corporation shall promptly deliver to the Debenture Trustee an Officer's Certificate (in a form provided by the Debenture Trustee, acting reasonably) notifying the Debenture Trustee of such registration and such other information as the Debenture Trustee may reasonably require at such given time.

## ARTICLE 8 DEFAULT

### 8.1 Events of Default

Each of the following events constitutes, and is herein sometimes referred to as, an "**Event of Default**":

- (a) failure for 30 days to pay interest on the Debentures when due;
- (b) failure to pay principal or premium, if any, on the Debentures when due whether at maturity, upon redemption, on a Change of Control, by declaration or otherwise (whether such payment is due in cash, Common Shares or other securities or property or a combination thereof);
- (c) default in the delivery, when due, of all cash and any Common Shares or other consideration, including any Make Whole Premium Shares, payable on conversion with respect to the Debentures which default continues for 15 days;
- (d) default in the observance or performance of any covenant or condition of this Indenture by the Corporation and the failure to cure (or obtain a waiver for) such default for a period of 30 days after notice in writing has been given to the Corporation by the Debenture Trustee or by holders of not less than 25% in aggregate principal amount of the Debentures specifying such default and requiring the Corporation to rectify such default or obtain a waiver for same;
- (e) if a decree or order of a Court having jurisdiction is entered adjudging the Corporation a bankrupt or insolvent under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws, or issuing sequestration or process of execution against, or against any substantial part of, the property of the Corporation, or appointing a receiver of, or of any substantial part of, the property of the Corporation or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of 60 days;



- (f) if the Corporation institutes proceedings to be adjudicated a bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada) or any other bankruptcy, insolvency or analogous laws, or consents to the filing of any such petition or to the appointment of a receiver of, or of any substantial part of, the property of the Corporation or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due;
- (g) if a resolution is passed for the winding-up or liquidation of the Corporation except in the course of carrying out or pursuant to a transaction in respect of which the conditions of Section 11.1 are duly observed and performed;
- (h) if, after the date of this Indenture, any proceedings with respect to the Corporation are taken with respect to a compromise or arrangement with respect to creditors of the Corporation generally, under the applicable legislation of any jurisdiction; or
- (i) if an event of default occurs or exists under any agreement evidencing indebtedness for borrowed money (other than non-recourse debt) of the Corporation or any Subsidiary and as a result of such event of default (i) indebtedness for borrowed money thereunder in excess of \$10,000,000 (or the equivalent amount in any other currency) has become due and payable before the date it would otherwise have been due and payable, and (ii) the holders of such indebtedness are entitled to commence, and have commenced, the enforcement of security they hold for such indebtedness (if any) or the exercise of any other creditors' remedies to collect such indebtedness.

In each and every such event the Debenture Trustee may, in its discretion, but subject to the provisions of this Section, and shall, upon prior funding and indemnity and receipt of a request in writing signed by the holders of not less than 25% in principal amount of the Debentures then outstanding (or if the Event of Default shall exist only in respect of one or more series of Debentures then outstanding, then upon receipt of a request in writing signed by holders of not less than 25% in principal amount of such series then outstanding), subject to the provisions of Section 8.3, by notice in writing to the Corporation declare the principal of, premium, if any, on and interest on all Debentures then outstanding and all other monies outstanding hereunder to be due and payable and the same shall forthwith become immediately due and payable to the Debenture Trustee (or, if the Event of Default shall exist only in respect of one or more series of the Debentures then outstanding, then the Debenture Trustee may declare the principal of, premium, if any, on and interest on such Debentures due and payable only with respect to such Debentures in which there is an Event of Default), and the Corporation shall forthwith pay to the Debenture Trustee for the benefit of the Debentureholders such principal (and premium, if any), accrued and unpaid interest and interest on amounts in default on such Debentures (and, where such a declaration is based upon a voluntary winding-up or liquidation of the Corporation, the premium, if any, on the Debentures then outstanding which would have been payable upon the redemption thereof by the Corporation on the date of such declaration) and all other monies outstanding hereunder, together with subsequent interest at the rate borne by the Debentures on such principal (and premium, if any), interest and such other monies from the date of such declaration until payment is received by the Debenture Trustee, such subsequent interest to be payable at the times and places and in the monies mentioned in and according to the tenor of the Debentures. Such payment when made shall be deemed to have been made in discharge of the Corporation's obligations hereunder and any monies so received by the Debenture Trustee shall be applied in the manner provided in Section 8.6.

## **8.2 Notice of Events of Default**

If an Event of Default shall occur and be continuing the Debenture Trustee shall, within 30 days after it receives written notice of the occurrence of such Event of Default, give notice of such Event of Default to the Debentureholders in the manner provided in Section 14.2, provided that notwithstanding the foregoing, unless the Debenture Trustee shall have been requested to do so by the holders of at least 25% of the principal amount of the Debentures then outstanding, the Debenture Trustee shall not be required to give such notice if the Debenture Trustee in good faith shall have determined that the withholding of such notice is in the best interests of the Debentureholders and shall have so advised the Corporation in writing.

When notice of the occurrence of an Event of Default has been given and the Event of Default is thereafter cured, notice that the Event of Default is no longer continuing shall be given by the Debenture Trustee to the Debentureholders within 15 days after the Debenture Trustee becomes aware the Event of Default has been cured.

## **8.3 Waiver of Default**

Upon the happening of any Event of Default hereunder:

- (a) the holders of the Debentures shall have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided) by requisition in writing by the holders of a majority of the principal amount of Debentures then outstanding, to instruct the Debenture Trustee to waive any Event of Default and to cancel any declaration made by the Debenture Trustee pursuant to Section 8.1 and the Debenture Trustee shall thereupon waive the Event of Default and cancel such declaration, or either, upon such terms and conditions as shall be prescribed in such requisition, provided that notwithstanding the foregoing if the Event of Default has occurred by reason of the non-observance or non-performance by the Corporation of any covenant applicable only to one or more series of Debentures, then the holders of more than 50% of the principal amount of the outstanding Debentures of that series shall be entitled to exercise the foregoing power and the Debenture Trustee shall so act and it shall not be necessary to obtain a waiver from the holders of any other series of Debentures; and
- (b) the Debenture Trustee, so long as it has not become bound to declare the principal of, premium, if any, on and interest on the Debentures then outstanding to be due and payable, or to obtain or enforce payment of the same, shall have power to waive any Event of Default if, in the Debenture Trustee's opinion, the same shall have been cured or adequate satisfaction made therefor, and in such event to cancel any such declaration theretofore made by the Debenture Trustee in the exercise of its discretion, upon such terms and conditions as the Debenture Trustee may deem advisable.

No such act or omission either of the Debenture Trustee or of the Debentureholders shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

## **8.4 Enforcement by the Debenture Trustee**

Subject to the provisions of Section 8.3 and to the provisions of any Extraordinary Resolution that may be passed by the Debentureholders and to the provisions of this Section, if the Corporation shall fail to pay to the Debenture Trustee, forthwith after the same shall have been declared to be due and payable under

Section 8.1, the principal of and premium (if any) and interest on all Debentures then outstanding, together with any other amounts due hereunder, the Debenture Trustee may in its discretion and shall upon receipt of a request in writing signed by the holders of not less than 25% in principal amount of the Debentures then outstanding and upon being funded and indemnified to its reasonable satisfaction against all costs, expenses and liabilities to be incurred, proceed in its name as trustee hereunder to obtain or enforce payment of such principal of and premium (if any) and interest on all the Debentures then outstanding together with any other amounts due hereunder by such proceedings authorized by this Indenture or by law or equity as the Debenture Trustee in such request shall have been directed to take, or if such request contains no such direction, or if the Debenture Trustee shall act without such request, then by such proceedings authorized by this Indenture or by suit at law or in equity as the Debenture Trustee shall deem expedient.

The Debenture Trustee shall be entitled and empowered, either in its own name or as trustee of an express trust, or as mandatory for the holders of the Debentures, or in any one or more of such capacities, to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have the claims of the Debenture Trustee and of the holders of the Debentures allowed in any insolvency, bankruptcy, liquidation or other judicial proceedings relative to the Corporation or its creditors or relative to or affecting its property. The Debenture Trustee is hereby irrevocably appointed (and the successive respective holders of the Debentures by taking and holding the same shall be conclusively deemed to have so appointed the Debenture Trustee) the true and lawful mandatory of the respective holders of the Debentures with authority to make and file in the respective names of the holders of the Debentures or on behalf of the holders of the Debentures as a class, subject to deduction from any such claims of the amounts of any claims filed by any of the holders of the Debentures themselves, any proof of debt, amendment of proof of debt, claim, petition or other document in any such proceedings and to receive payment of any sums becoming distributable on account thereof, and to execute any such other papers and documents and to do and perform any and all such acts and things for and on behalf of such holders of the Debentures, as may be necessary or advisable in the opinion of the Debenture Trustee, in order to have the respective claims of the Debenture Trustee and of the holders of the Debentures against the Corporation or its property allowed in any such proceeding, and to receive payment of or on account of such claims; provided, however, that subject to Section 8.3, nothing contained in this Indenture shall be deemed to give to the Debenture Trustee, unless so authorized by Extraordinary Resolution, any right to accept or consent to any plan of reorganization or otherwise by action of any character in such proceeding to waive or change in any way any right of any Debentureholder.

The Debenture Trustee shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests and the interests of the Debentureholders.

All rights of action hereunder may be enforced by the Debenture Trustee without the possession of any of the Debentures or the production thereof at trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Debenture Trustee shall be brought in the name of the Debenture Trustee as trustee of an express trust, and any recovery of judgment shall be for the rateable benefit of the holders of the Debentures subject to the provisions of this Indenture. In any proceeding brought by the Debenture Trustee (and also any proceeding in which a declaratory judgment of a court may be sought as to the interpretation or construction of any provision of this Indenture, to which the Debenture Trustee shall be a party) the Debenture Trustee shall be held to represent all the holders of the Debentures, and it shall not be necessary to make any holders of the Debentures parties to any such proceeding.

## 8.5 No Suits by Debentureholders

No holder of any Debenture shall have any right to institute any action, suit or proceeding at law or in equity for the purpose of enforcing payment of the principal of, or premium (if any) on, or interest on the Debentures or for the execution of any trust or power hereunder or for the appointment of a liquidator or receiver or for a receiving order under the *Bankruptcy and Insolvency Act* (Canada) or to have the Corporation wound up or to file or prove a claim in any liquidation or bankruptcy proceeding or for any other remedy hereunder, unless: (a) such holder shall previously have given to the Debenture Trustee written notice of the happening of an Event of Default hereunder; and (b) the Debentureholders by Extraordinary Resolution or by written instrument signed by the holders of at least 25% in principal amount of the Debentures then outstanding shall have made a request to the Debenture Trustee and the Debenture Trustee shall have been afforded reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose; and (c) the Debentureholders or any of them shall have furnished to the Debenture Trustee, when so requested by the Debenture Trustee, sufficient funds and security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and (d) the Debenture Trustee shall have failed to act within a reasonable time after such notification, request and offer of indemnity and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Debenture Trustee, to be conditions precedent to any such proceeding or for any other remedy hereunder by or on behalf of the holder of any Debentures.

## 8.6 Application of Monies by Debenture Trustee

- (a) Except as herein otherwise expressly provided, any monies received by the Debenture Trustee from the Corporation pursuant to the foregoing provisions of this Article 8, or as a result of legal or other proceedings or from any trustee in bankruptcy or liquidator of the Corporation, shall be applied, together with any other monies in the hands of the Debenture Trustee available for such purpose, as follows:
  - (i) first, in payment or in reimbursement to the Debenture Trustee of its compensation, costs, charges, expenses, borrowings, advances or other monies furnished or provided by or at the instance of the Debenture Trustee in or about the execution of its trusts under, or otherwise in relation to, this Indenture, with interest thereon as herein provided;
  - (ii) second, but subject as hereinafter in this Section 8.6 provided, in payment, rateably and proportionately to (and in the case of applicable withholding taxes, if any, on behalf of) the holders of Debentures, of the principal of and premium (if any) and accrued and unpaid interest and interest on amounts in default on the Debentures which shall then be outstanding in the priority of principal first and then premium and then accrued and unpaid interest and interest on amounts in default unless otherwise directed by Extraordinary Resolution and in that case in such order or priority as between principal, premium (if any) and interest as may be directed by such resolution; and
  - (iii) third, in payment of the surplus, if any, of such monies to the Corporation or its assigns;

provided, however, that no payment shall be made pursuant to clause (ii) above in respect of the principal of, premium on or interest on any Debenture held, directly or indirectly, by or for the benefit of the Corporation or any Subsidiary (other than any Debenture

pledged for value and in good faith to a Person other than the Corporation or any Subsidiary but only to the extent of such Person's interest therein) except subject to the prior payment in full of the principal of, premium (if any) on and interest (if any) on all Debentures which are not so held.

- (b) The Debenture Trustee shall not be bound to apply or make any partial or interim payment of any monies coming into its hands if the amount so received by it, after reserving thereout such amount as the Debenture Trustee may think necessary to provide for the payments mentioned in Section 8.6(a), is insufficient to make a distribution of at least 2% of the aggregate principal amount of the outstanding Debentures, but it may retain the money so received by it and invest or deposit the same as provided in Section 15.9 until the money or the investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner hereinbefore set forth. The foregoing shall, however, not apply to a final payment or distribution hereunder.

### **8.7 Notice of Payment by Debenture Trustee**

Not less than 15 days notice shall be given in the manner provided in Section 14.2 by the Debenture Trustee to the Debentureholders of any payment to be made under this Article 8. Such notice shall state the time when and place where such payment is to be made and also the liability under this Indenture to which it is to be applied. After the day so fixed, unless payment shall have been duly demanded and have been refused, the Debentureholders will be entitled to interest only on the balance (if any) of the principal monies, premium (if any) and interest due (if any) to them, respectively, on the Debentures, after deduction of the respective amounts payable in respect thereof on the day so fixed.

### **8.8 Debenture Trustee May Demand Production of Debentures**

The Debenture Trustee shall have the right to demand production of the Debentures in respect of which any payment of principal, interest or premium required by this Article 8 is made and may cause to be endorsed on the same a memorandum of the amount so paid and the date of payment, but the Debenture Trustee may, in its discretion, dispense with such production and endorsement, upon such indemnity being given to it and to the Corporation as the Debenture Trustee shall deem sufficient.

### **8.9 Remedies Cumulative**

No remedy herein conferred upon or reserved to the Debenture Trustee, or upon or to the holders of Debentures is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute.

### **8.10 Judgment Against the Corporation**

The Corporation covenants and agrees with the Debenture Trustee that, in case of any judicial or other proceedings to enforce the rights of the Debentureholders, judgment may be rendered against it in favour of the Debentureholders or in favour of the Debenture Trustee, as trustee for the Debentureholders, for any amount which may remain due in respect of the Debentures and premium (if any) and the interest thereon and any other monies owing hereunder.

### **8.11 Immunity of Directors, Officers and Others**

The Debentureholders and the Debenture Trustee hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer, director or employee of the Corporation or any of its Subsidiaries, any Director or any holder of Common Shares or of any successor thereto, for the payment of the principal of or premium or interest on any of the Debentures or on any covenant, agreement, representation or warranty by the Corporation contained herein or in the Debentures.

## **ARTICLE 9 SATISFACTION AND DISCHARGE**

### **9.1 Cancellation and Destruction**

All Debentures shall forthwith after payment thereof be delivered to the Debenture Trustee and cancelled by it. All Debentures cancelled or required to be cancelled under this or any other provision of this Indenture shall be destroyed by the Debenture Trustee and, if required by the Corporation, the Debenture Trustee shall furnish to it a destruction certificate setting out the designating numbers of the Debentures so destroyed.

### **9.2 Non-Presentation of Debentures**

Subject to Section 3.1, in case the holder of any Debenture shall fail to present the same for payment on the date on which the principal, premium (if any) or the interest thereon or represented thereby becomes payable either at maturity or otherwise or shall not accept payment on account thereof and give such receipt therefor, if any, as the Debenture Trustee may require:

- (a) the Corporation shall be entitled to pay or deliver to the Debenture Trustee and direct the Debenture Trustee to set aside; or
- (b) in respect of monies or Common Shares in the hands of the Debenture Trustee which may or should be applied to the payment of the Debentures, the Corporation shall be entitled to direct the Debenture Trustee to set aside; or
- (c) if the redemption was pursuant to notice given by the Debenture Trustee, the Debenture Trustee may itself set aside,

the principal, premium (if any) or the interest, as the case may be, in trust to be paid to the holder of such Debenture upon due presentation or surrender thereof in accordance with the provisions of this Indenture; and thereupon the principal, premium (if any) or the interest payable on or represented by each Debenture in respect whereof such monies or Common Shares, if applicable, have been set aside shall be deemed to have been paid and the holder thereof shall thereafter have no right in respect thereof except that of receiving delivery and payment of the monies or Common Shares, if applicable, (less applicable withholding taxes, if any) so set aside by the Debenture Trustee upon due presentation and surrender thereof, subject always to the provisions of Section 9.3.

### **9.3 Repayment of Unclaimed Monies or Common Shares**

Subject to applicable law, any monies or Common Shares, if applicable, set aside under Section 9.2 and not claimed by and paid to holders of Debentures as provided in Section 9.2 by the Business Day immediately preceding the fourth anniversary of the date of such setting aside shall be repaid and

delivered to the Corporation by the Debenture Trustee and thereupon the Debenture Trustee shall be released from all further liability with respect to such monies or Common Shares, if applicable, and thereafter the holders of the Debentures in respect of which such monies or Common Shares, if applicable, were so repaid to the Corporation shall have no rights in respect thereof except to obtain payment and delivery of the monies or Common Shares, if applicable, from the Corporation subject to any prescription provided by the laws of the Province of Alberta. Notwithstanding the foregoing, the Debenture Trustee will pay any remaining funds prior to the Business Day immediately preceding the fourth anniversary of the date of setting aside described in Section 9.2 to the Corporation upon receipt from the Corporation, or one of its Subsidiaries, of an unconditional letter of credit from a Canadian chartered bank in an amount equal to or in excess of the amount of the remaining funds. If the remaining funds are paid to the Corporation prior to the Business Day immediately preceding the fourth anniversary of the date of such setting aside, the Corporation shall reimburse the Debenture Trustee for any amounts so set aside which are required to be paid by the Debenture Trustee to a holder of a Debenture after the date of such payment of the remaining funds to the Corporation but prior to the Business Day immediately preceding the fourth anniversary of the date of such setting aside.

#### **9.4 Discharge**

The Debenture Trustee shall at the written request of the Corporation release and discharge this Indenture and execute and deliver such instruments as it shall be advised by Counsel are requisite for that purpose and to release the Corporation from its covenants herein contained (other than the provisions relating to the indemnification of the Debenture Trustee), upon proof being given to the reasonable satisfaction of the Debenture Trustee that the principal of and premium (if any) and interest (including interest on amounts in default, if any) on all the Debentures and all other monies payable hereunder have been paid or satisfied, or that all the Debentures have matured or have been duly called for redemption and payment of the principal of and interest (including interest on amounts in default, if any) on such Debentures and of all other monies payable hereunder has been duly and effectually provided for in accordance with the provisions hereof.

#### **9.5 Satisfaction**

- (a) The Corporation shall be deemed to have fully paid, satisfied and discharged all of the outstanding Debentures of any series and the Debenture Trustee, at the expense of the Corporation, shall execute and deliver proper instruments acknowledging the full payment, satisfaction and discharge of such Debentures, when, with respect to all of the outstanding Debentures or all of the outstanding Debentures of any series, as applicable:
  - (i) the Corporation has deposited or caused to be deposited with the Debenture Trustee as trust funds or property in trust for the purpose of making payment on such Debentures, an amount in money or Common Shares, if applicable, sufficient to pay, satisfy and discharge the entire amount of principal, premium, if any, and interest, if any, to maturity or any repayment date or Redemption Date, or any Change of Control Purchase Date, or upon conversion or otherwise as the case may be, of such Debentures (including the maximum amount of Common Shares that may be payable as Make Whole Premium Shares); or
  - (ii) the Corporation has deposited or caused to be deposited with the Debenture Trustee as property in trust for the purpose of making payment on such Debentures such amount in Canadian dollars of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada or Common Shares, as will, together with the income to accrue

thereon and reinvestment thereof, be sufficient to pay and discharge the entire amount of principal and accrued and unpaid interest to maturity or any repayment date, as the case may be, of all such Debentures;

and in either event:

- (iii) the Corporation has paid, caused to be paid or made provision to the satisfaction of the Debenture Trustee for the payment of all other sums payable or which may be payable (including the maximum number of Common Shares that may be issuable as Make Whole Premium Shares) with respect to all of such Debentures (together with all applicable expenses of the Debenture Trustee in connection with the payment of such Debentures); and
- (iv) the Corporation has delivered to the Debenture Trustee an Officer's Certificate stating that all conditions precedent herein provided relating to the payment, satisfaction and discharge of all such Debentures have been complied with.

Any deposits with the Debenture Trustee referred to in this Section 9.5 shall be irrevocable, subject to Section 9.6, and shall be made under the terms of an escrow and/or trust agreement in form and substance satisfactory to the Debenture Trustee and the Corporation and which provides for the due and punctual payment of the principal of, and interest and premium, if any, on the Debentures being satisfied.

- (b) Upon the satisfaction of the conditions set forth in this Section 9.5 with respect to all the outstanding Debentures, the terms and conditions of the Debentures, including the terms and conditions with respect thereto set forth in this Indenture (other than those contained in Article 2, Article 3, Article 4, Article 6 and this Article 9 and the provisions of Article 1 pertaining to the foregoing provisions) shall no longer be binding upon or applicable to the Corporation.
- (c) Any funds or obligations deposited with the Debenture Trustee pursuant to this Section 9.5 shall be denominated in the currency or denomination of the Debentures in respect of which such deposit is made.
- (d) If the Debenture Trustee is unable to apply any money or securities in accordance with this Section 9.5 by reason of any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Corporation's obligations under this Indenture and the affected Debentures shall be revived and reinstated as though no money or securities had been deposited pursuant to this Section 9.5 until such time as the Debenture Trustee is permitted to apply all such money or securities in accordance with this Section 9.5, provided that if the Corporation has made any payment in respect of principal, premium or interest on Debentures or, as applicable, other amounts because of the reinstatement of its obligations, the Corporation shall be subrogated to the rights of the holders of such Debentures to receive such payment from the money or securities held by the Debenture Trustee.

## **9.6 Continuance of Rights, Duties and Obligations**

- (a) Where trust funds or trust property have been deposited pursuant to Section 9.5, the holders of Debentures and the Corporation shall continue to have and be subject to their



respective rights, duties and obligations under Article 2, Article 4 and Article 6 and the provisions of Article 1 pertaining to the foregoing provisions, as may be applicable.

- (b) In the event that, after the deposit of trust funds or trust property pursuant to Section 9.5 in respect the Debentures (the "**Defeased Debentures**"), any holder of any of the Defeased Debentures from time to time converts its Debentures to Common Shares or other securities of the Corporation in accordance with Subsection 2.4(f) (in respect of Initial Debentures or the comparable provision of any other series of Debentures), Article 6 or any other provision of this Indenture, the Debenture Trustee shall upon receipt of a Written Direction of the Corporation return to the Corporation from time to time the proportionate amount of the trust funds or other trust property deposited with the Debenture Trustee pursuant to Section 9.5 in respect of the Defeased Debentures which is applicable to the Defeased Debentures so converted (which amount shall be based on the applicable principal amount of the Defeased Debentures being converted in relation to the aggregate outstanding principal amount of all the Defeased Debentures).
- (c) In the event that, after the deposit of trust funds or trust property pursuant to Section 9.5, the Corporation is required to make a Change of Control Purchase Offer to purchase any outstanding Debentures pursuant to Subsection 2.4(j) (in respect of Initial Debentures or the comparable provision of any other series of Debentures), in relation to Initial Debentures or to make an offer to purchase Debentures pursuant to any other similar provisions relating to any other series of Debentures, the Corporation shall be entitled to use any trust money or trust property deposited with the Debenture Trustee pursuant to Section 9.5 for the purpose of paying to any holders of Defeased Debentures who have accepted any such offer of the Corporation the Offer Price payable to such holders in respect of such Change of Control Purchase Offer in respect of Initial Debentures (or the total offer price payable in respect of an offer relating to any other series of Debentures). Upon receipt of a Written Direction from the Corporation, the Debenture Trustee shall be entitled to pay to such holder from such trust money or trust property deposited with the Debenture Trustee pursuant to Section 9.5 in respect of the Defeased Debentures which is applicable to the Defeased Debentures held by such holders who have accepted any such offer from the Corporation (which amount shall be based on the applicable principal amount of the Defeased Debentures held by holders that accept any such offer in relation to the aggregate outstanding principal amount of all the Defeased Debentures).

## **ARTICLE 10 COMMON SHARE INTEREST PAYMENT ELECTION**

### **10.1 Common Share Interest Payment Election**

- (a) Provided that no Event of Default has occurred and is continuing under this Indenture and that all applicable regulatory approvals have been obtained (including any required approval of any stock exchange on which the Debentures or Common Shares are then listed), the Corporation shall have the right from time to time to pay the Interest Obligation on an Interest Payment Date, (i) in cash; (ii) by delivering sufficient Common Shares to the Debenture Trustee, for sale in compliance with Applicable Securities Legislation, in which event holders of the Debentures will be entitled to receive a cash payment equal to the interest payable from the proceeds of the sale of such Common Shares; or (iii) any combination of (i) and (ii) above, by delivering a Common Share Interest Payment Election Notice to the Debenture Trustee no later than the earlier of: (i) the date required by applicable law or the rules of any stock exchange on which the

Debentures or Common Shares are then listed, and (ii) the day which is 15 Business Days prior to the Interest Payment Date to which the Common Share Interest Payment Election relates.

- (b) Upon receipt of a Common Share Interest Payment Election Notice, the Debenture Trustee shall, in accordance with this Article 10 and such Common Share Interest Payment Election Notice, deliver Common Share Bid Requests to such investment banks, brokers or dealers identified by the Corporation, in its absolute discretion, in the Common Share Interest Payment Election Notice. In connection with the Common Share Interest Payment Election, the Debenture Trustee shall have the power to: (i) accept delivery of the Common Shares from the Corporation and process the Common Shares in accordance with the Common Share Interest Payment Election Notice and this Article 10; (ii) accept bids with respect to, and consummate sales of, such Common Shares in compliance with Applicable Securities Legislation, each as the Corporation shall direct in its absolute discretion through such investment banks, brokers or dealers identified by the Corporation in the Common Share Interest Payment Election Notice; (iii) invest the proceeds of such sales on the direction of the Corporation in Government Obligations which mature prior to the applicable Interest Payment Date and use such proceeds to pay the Interest Obligation in respect of which the Common Share Interest Payment Election was made; (iv) deliver proceeds to holders of Debentures that together with the additional cash payments of the Corporation, if any, will satisfy all of the Corporation's Interest Obligations, as directed by the Corporation in the Common Share Interest Payment Election Notice, and (v) perform any other action necessarily incidental thereto as directed by the Corporation in its absolute discretion. The Common Share Interest Payment Election Notice shall direct the Debenture Trustee to solicit and accept only, and each Common Share Bid Request shall provide that the acceptance of any bid is conditional on the acceptance of, sufficient bids to result in aggregate proceeds from such issue and sale of Common Shares which, together with the cash payments to be made by the Corporation in lieu of fractional Common Shares and other cash payments by the Corporation, if any, equal the Interest Obligation on the Common Share Delivery Date.
- (c) The Common Share Interest Payment Election Notice shall provide for, and all bids shall be subject to, the right of the Corporation, by delivering written notice to the Debenture Trustee at any time prior to the consummation of such delivery and sale of the Common Shares on the Common Share Delivery Date, to withdraw (in whole or in part) the Common Share Interest Payment Election (which shall have the effect of withdrawing each related Common Share Bid Request), whereupon the Corporation shall be obliged to pay in cash the Interest Obligation in respect of which the Common Share Interest Payment Election Notice has been delivered and subsequently withdrawn.
- (d) Any sale of Common Shares pursuant to this Article 10 may be made to one or more Persons whose bids are solicited, but all such sales with respect to a particular Common Share Interest Payment Election shall take place concurrently on the Common Share Delivery Date.
- (e) The amount received in cash by a holder of a Debenture in respect of the Interest Obligation or the entitlement thereto will not be affected by whether or not, or to what extent, the Corporation elects to satisfy the Interest Obligation pursuant to a Common Share Interest Payment Election.

- (f) The Debenture Trustee shall inform the Corporation promptly following receipt of any bid or bids for Common Shares solicited pursuant to the Common Share Bid Requests. The Debenture Trustee shall accept such bid or bids as the Corporation, in its absolute discretion, shall direct by Written Direction of the Corporation, provided that the aggregate proceeds of all sales of Common Shares resulting from the acceptance of such bids, together with the amount of any cash payment by the Corporation in lieu of any fractional Common Shares and other cash payments by the Corporation, on the Common Share Delivery Date, must be equal to the related Common Share Interest Payment Election Amount in connection with any bids so accepted, the Corporation, the Debenture Trustee (if required by the Corporation in its absolute discretion) and the applicable bidders shall, not later than the Common Share Delivery Date, enter into Common Share Purchase Agreements and shall comply with all Applicable Securities Legislation, including the securities rules and regulations of any stock exchange on which the Debentures or Common Shares are then listed. The Corporation shall pay all fees and expenses in connection with the Common Share Purchase Agreements including the fees and commissions charged by such investment banks, brokers and dealers and the fees of the Debenture Trustee.
- (g) Provided that: (i) all conditions specified in each Common Share Purchase Agreement to the closing of all sales thereunder have been satisfied, other than the delivery of the Common Shares to be sold thereunder against payment of the purchase price thereof; and (ii) the purchasers under each Common Share Purchase Agreement shall be ready, willing and able to perform thereunder, in each case on the Common Share Delivery Date, the Corporation shall, on the Common Share Delivery Date, deliver to the Debenture Trustee the Common Shares to be sold on such date, an amount in cash equal to the value of any fractional Common Shares and an Officer's Certificate to the effect that all conditions precedent to such sales, including those set forth in this Indenture and in each Common Share Purchase Agreement, have been satisfied. Upon such deliveries, the Debenture Trustee shall consummate such sales on such Common Share Delivery Date by the delivery of the Common Shares to such purchasers against payment to the Debenture Trustee in immediately available funds of the purchase price therefore in an aggregate amount equal to the Common Share Interest Payment Election Amount (less any amount attributable to any fractional Common Shares), whereupon the sole right of a holder of Debentures to receive such holder's portion of the Common Share Interest Payment Election Amount will be to receive same from the Debenture Trustee out of the proceeds of such sales of Common Shares plus any amount received by the Debenture Trustee from the Corporation attributable to any fractional Common Shares in full satisfaction of the portion of the Interest Obligation in respect of which the Common Share Interest Payment Election was made and the holder will have no further recourse to the Corporation in respect of that amount of the Interest Obligation.
- (h) The Debenture Trustee shall, on the Common Share Delivery Date, use the sale proceeds of the Common Shares (together with any cash received from the Corporation in lieu of any fractional Common Shares) to purchase, on the direction of the Corporation in writing, Government Obligations which mature prior to the applicable Interest Payment Date and which the Debenture Trustee is required to hold until maturity (the "**Common Share Proceeds Investment**") and shall, on such date, deposit the balance, if any, of such sale proceeds in an account established by the Corporation (and which shall be maintained by and subject to the control of the Debenture Trustee) (the "**Interest Account**") for such Debentures. The Debenture Trustee shall hold such Common Share Proceeds Investment (but not income earned thereon) under its exclusive control in an

irrevocable trust for the benefit of the holders of the Debentures. At least one Business Day prior to the Interest Payment Date, the Debenture Trustee shall deposit amounts from the proceeds of the Common Share Proceeds Investment in the Interest Account to bring the balance of the Interest Account to the Common Share Interest Payment Election Amount. On the Interest Payment Date, the Debenture Trustee shall pay the funds held in the Interest Account together with additional cash payments of the Corporation, if any, to the holders of record of the Debentures on the Interest Payment Date (less any tax required to be deducted, if any) and, provided that there is no Event of Default, shall remit amounts, if any, in respect of income earned on the Common Share Proceeds Investment or otherwise in excess of the Common Share Interest Payment Election Amount to the Corporation.

- (i) Neither the making of a Common Share Payment Election nor the consummation of sales of Common Shares on a Common Share Delivery Date shall (i) result in the holders of the Debentures not being entitled to receive on the applicable Interest Payment Date cash in an aggregate amount equal to the Interest Obligation payable on such date or (ii) entitle or require such holders to receive any Common Shares in satisfaction of such Interest Obligation.
- (j) No fractional Common Shares will be issued in satisfaction of interest but in lieu thereof the Corporation will satisfy such fractional interest by a cash payment equal to the market price of such fractional interest (less any tax required to be deducted, if any).

## **ARTICLE 11 SUCCESSORS**

### **11.1 Restrictions on Amalgamation, Merger and Sale of Certain Assets, etc.**

Subject to the provisions of Article 12, the Corporation shall not enter into any transaction or series of transactions whereby all or substantially all of its undertaking, property or assets would become the property of any other Person (other than the Corporation's direct or indirect wholly-owned Subsidiaries) (herein called a "**Successor**") whether by way of reorganization, consolidation, amalgamation, arrangement, merger, transfer, sale, lease or otherwise, unless:

- (a) prior to or contemporaneously with the consummation of such transaction the Corporation and the Successor shall have executed such instruments and done such things as, in the opinion of Counsel, are necessary or advisable to establish that upon the consummation of such transaction:
  - (i) the Successor will have assumed all the covenants and obligations of the Corporation under this Indenture in respect of the Debentures; and
  - (ii) if the Successor is organized otherwise than under the laws of the Province of Alberta, it shall attorn to the jurisdiction of the courts of the Province of Alberta in respect of this Indenture;
- (b) the Debentures will be valid and binding obligations of the Successor entitling the holders thereof, as against the Successor, to all the rights of Debentureholders under this Indenture;

- (c) after giving effect to the transaction, no Event of Default, and no event that, after notice or lapse of time, or both, would become an Event of Default, will occur;
- (d) other conditions described in the Indenture are met; and
- (e) such transaction, in the opinion of Counsel, shall be on such terms as to substantially preserve and not impair any of the rights and powers of the Debenture Trustee or of the Debentureholders hereunder.

For certainty, the sale, conveyance, transfer or lease (in a single transaction or a series of transactions) of the properties or assets of one or more of the Corporation's Subsidiaries (other than to the Corporation or another direct or indirect wholly-owned Subsidiary) which, if such properties or assets were directly owned by the Corporation, would constitute all or substantially all of the Corporation's properties or assets on a consolidated basis, will be deemed to be a sale, conveyance, transfer or lease of all or substantially all of the Corporation's properties or assets.

## **11.2 Vesting of Powers in Successor**

Whenever the conditions of Section 11.1 shall have been duly observed and performed, any Successor formed by or resulting from such transaction shall succeed to, and be substituted for, and may exercise every right and power of the Corporation under this Indenture with the same effect as though the Successor had been named as the Corporation herein and thereafter, the Corporation shall be relieved of all obligations and covenants under this Indenture and the Debentures. The Debenture Trustee will, at the expense of the Successor, execute any documents which it may be advised by Counsel are necessary or advisable for effecting or evidencing such release and discharge.

## **ARTICLE 12 COMPULSORY ACQUISITION**

### **12.1 Offer for Debentures**

If an Offer for all of the outstanding Debentures (other than Offeror's Debentures) is made and:

- (a) within the time provided in the Offer for its acceptance or within 120 days after the date the Offer is made, whichever period is the shorter, the Offer is accepted by Debentureholders representing at least 90% of the outstanding principal amount of the Debentures, other than the Offeror's Debentures;
- (b) the Offeror is bound to take up and pay for, or has taken up and paid for the Debentures of the Debentureholders who accepted the Offer; and
- (c) the Offeror complies with Sections 12.2 and 12.4,

the Offeror is entitled to acquire, and the Dissenting Debentureholders are required to sell to the Offeror, the Debentures held by the Dissenting Debentureholders for the same consideration per Debenture payable or paid, as the case may be, under the Offer.

### **12.2 Offeror's Notice to Dissenting Common Shareholders**

Where an Offeror is entitled to acquire Debentures held by Dissenting Debentureholders pursuant to Section 12.1 and the Offeror wishes to exercise such right, the Offeror shall send by registered mail

within 30 days after the date of termination of the Offer a notice (the "**Offeror's Notice**") to each Dissenting Debentureholder stating that:

- (a) Debentureholders holding at least 90% of the principal amount of all outstanding Debentures, other than Offeror's Debentures, have accepted the Offer;
- (b) the Offeror is bound to take up and pay for, or has taken up and paid for, the Debentures of the Debentureholders who accepted the Offer;
- (c) Dissenting Debentureholders must transfer their respective Debentures to the Offeror on the terms on which the Offeror acquired the Debentures of the Debentureholders who accepted the Offer within 21 days after the date of the sending of the Offeror's Notice; and
- (d) Dissenting Debentureholders must send their respective Debenture certificate(s) to the Debenture Trustee within 21 days after the date of the sending of the Offeror's Notice.

### **12.3 Delivery of Debenture Certificates**

A Dissenting Debentureholder to whom an Offeror's Notice is sent pursuant to Section 12.2 shall, within 21 days after the sending of the Offeror's Notice, send his or her Debenture certificate(s) to the Debenture Trustee duly endorsed for transfer.

### **12.4 Payment of Consideration to Debenture Trustee**

Within 21 days after the Offeror sends an Offeror's Notice pursuant to Section 12.2, the Offeror shall pay or transfer to the Debenture Trustee, or to such other Person as the Debenture Trustee may direct, the cash or other consideration that is payable to Dissenting Debentureholders pursuant to Section 12.1. The acquisition by the Offeror of all Debentures held by all Dissenting Debentureholders shall be effective as of the time of such payment or transfer.

### **12.5 Consideration to Be Held in Trust**

The Debenture Trustee, or the Person directed by the Debenture Trustee, shall hold in trust for the Dissenting Debentureholders the cash or other consideration they or it receives under Section 12.4. The Debenture Trustee, or such Persons, shall deposit cash in a separate account in a Canadian chartered bank, or other body corporate, any of whose deposits are insured by the Canada Deposit Insurance Company, and shall place other consideration in the custody of a Canadian chartered bank or such other body corporate.

### **12.6 Completion of Transfer of Debentures to Offeror**

Within 30 days after the date of the sending of an Offeror's Notice pursuant to Section 12.2, the Debenture Trustee, if the Offeror has complied with Section 12.2 and Section 12.4, shall:

- (a) do all acts and things and execute and cause to be executed all instruments as in the Debenture Trustee's opinion may be necessary or desirable to cause the transfer of the Debentures of the Dissenting Debentureholders to the Offeror;

- (b) send to each Dissenting Debentureholder who has complied with Section 12.3 the consideration to which such Dissenting Debentureholder is entitled under this Article 12 net of applicable withholding taxes, if any; and
- (c) send to each Dissenting Debentureholder who has not complied with Section 12.3 a notice stating that:
  - (i) his or her Debentures have been transferred to the Offeror;
  - (ii) the Debenture Trustee or some other Person designated in such notice are holding in trust the consideration for such Debentures; and
  - (iii) the Debenture Trustee, or such other Person, will send the consideration to such Dissenting Debentureholder as soon as possible after receiving such Dissenting Debentureholder's Debenture certificate(s) or such other documents as the Debenture Trustee or such other Person may require in lieu thereof,

and the Debenture Trustee is hereby appointed the agent and mandatory, and is granted power of attorney with respect to the Debentures, of the Dissenting Debentureholders for the purposes of giving effect to the foregoing provisions including, without limitation, the power and authority to execute such transfers as may be necessary or desirable in respect of the book-entry only registration system of the Depository.

## **12.7 Communication of Offer to the Corporation**

An Offeror cannot make an Offer for Debentures unless, concurrent with the communication of the Offer to any Debentureholder, a copy of the Offer is provided to the Corporation, which will then provide a copy to the Debenture Trustee.

## **ARTICLE 13 MEETINGS OF DEBENTUREHOLDERS**

### **13.1 Right to Convene Meeting**

The Debenture Trustee or the Corporation may at any time and from time to time, and the Debenture Trustee shall, on receipt of a Written Direction of the Corporation or a written request signed by the holders of not less than 25% of the principal amount of the Debentures then outstanding and upon receiving funding and being indemnified to its reasonable satisfaction by the Corporation or by the Debentureholders signing such request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Debentureholders. In the event of the Debenture Trustee failing, within 30 days after receipt of any such request and such funding of indemnity, to give notice convening a meeting, the Corporation or such Debentureholders, as the case may be, may convene such meeting. Every such meeting shall be held in the city of Calgary or at such other place as may be approved or determined by the Corporation and the Debenture Trustee. In connection with any meeting of Debentureholders, the Corporation shall comply with applicable law including, if applicable, National Instrument 54-101 — *Communication with Beneficial Owners of Securities of a Reporting Issuer*.

### **13.2 Notice of Meetings**

At least 21 days' notice of any meeting shall be given to the Debentureholders in the manner provided in Section 14.2 and a copy of such notice shall be sent by post to the Debenture Trustee, unless the meeting

has been called by it. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat and it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article. The accidental omission to give notice of a meeting to any holder of Debentures shall not invalidate any resolution passed at any such meeting. A holder may waive notice of a meeting either before or after the meeting.

### **13.3 Chairman**

Some Person, who need not be a Debentureholder, nominated in writing by the Corporation (in case it convenes the meeting) or by the Debenture Trustee (in any other case) shall be chairman of the meeting and if no Person is so nominated, or if the Person so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Debentureholders present in Person or by proxy shall choose some Person present to be chairman.

### **13.4 Quorum**

Subject to the provisions of Section 13.13, at any meeting of the Debentureholders a quorum shall consist of Debentureholders present in Person or by proxy and representing at least 25% in principal amount of the outstanding Debentures. If a quorum of the Debentureholders shall not be present within 30 minutes from the time fixed for holding any meeting, the meeting, if summoned by the Debentureholders or pursuant to a request of the Debentureholders, shall be dissolved, but in any other case the meeting shall be adjourned to the same day in the next week (unless such day is not a Business Day in which case it shall be adjourned to the next following Business Day thereafter) at the same time and place and no notice shall be required to be given in respect of such adjourned meeting. At the adjourned meeting, the Debentureholders present in Person or by proxy shall, subject to the provisions of Section 13.13, constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the principal amount of the outstanding Debentures. Any business may be brought before or dealt with at an adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same. No business shall be transacted at any meeting unless the required quorum be present at the commencement of business.

### **13.5 Power to Adjourn**

The chairman of any meeting at which a quorum of the Debentureholders is present may, with the consent of the holders of a majority in principal amount of the Debentures represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

### **13.6 Show of Hands**

Every question submitted to a meeting shall, subject to Section 13.7, be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions shall be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Debentures, if any, held by him.



### **13.7 Poll**

On every Extraordinary Resolution, and on any other question submitted to a meeting when demanded by the chairman or by one or more Debentureholders or proxies for Debentureholders or as otherwise required by applicable law, a poll shall be taken in such manner and either at once or after an adjournment as the chairman shall direct. Questions other than Extraordinary Resolutions shall, if a poll be taken, be decided by the votes of the holders of a majority in principal amount of the Debentures represented at the meeting and voted on the poll.

### **13.8 Voting**

On a show of hands every Person who is present and entitled to vote, whether as a Debentureholder or as proxy for one or more Debentureholders or both, shall have one vote. On a poll each Debentureholder present in Person or represented by a proxy duly appointed by an instrument in writing shall be entitled to one vote in respect of each \$1,000 principal amount of Debentures of which he shall then be the holder. A proxy need not be a Debentureholder. In the case of joint holders of a Debenture, any one of them present in Person or by proxy at the meeting may vote in the absence of the other or others but in case more than one of them be present in Person or by proxy, they shall vote together in respect of the Debentures of which they are joint holders.

In the case of a Global Debenture, the Depositary may appoint or cause to be appointed a Person or Persons as proxies and shall designate the number of votes entitled to each such Person, and each such Person shall be entitled to be present at any meeting of Debentureholders and shall be the Persons entitled to vote at such meeting in accordance with the number of votes set out in the Depositary's designation.

### **13.9 Proxies**

A Debentureholder may be present and vote at any meeting of Debentureholders by an authorized representative. The Corporation (in case it convenes the meeting) or the Debenture Trustee (in any other case) for the purpose of enabling the Debentureholders to be present and vote at any meeting without producing their Debentures, and of enabling them to be present and vote at any such meeting by proxy and of lodging instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it shall think fit providing for and governing any or all of the following matters:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any Person signing on behalf of a Debentureholder;
- (b) the deposit of instruments appointing proxies at such place as the Debenture Trustee, the Corporation or the Debentureholder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited; and
- (c) the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed, or sent by other electronic means before the meeting to the Corporation or to the Debenture Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

### **13.10 Regulations**

The Debenture Trustee, or the Corporation with the approval of the Debenture Trustee, may from time to time make and from time to time vary such regulations as it shall from time to time think fit providing for or governing the following:

- (a) voting by proxy by Debentureholders, the form of the instrument appointing a proxyholder (which shall be in writing) and the manner in which it may be executed, and the authority to be provided by any Person signing a proxy on behalf of a Debentureholder;
- (b) the deposit of instruments appointing proxyholders at such place as the Debenture Trustee, the Corporation or the Debentureholders convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjustment thereof by which the same shall be deposited;
- (c) the deposit of instruments appointing proxyholders at an approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxyholders to be provided before the meeting to the Corporation or to the Debenture Trustee at the place at which the meeting is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting; and
- (d) generally for the calling of a meeting of Debentureholders and the conduct of business thereat.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only Persons who shall be recognized at any meeting as the holders of any Debentures, or as entitled to vote or be present at the meeting in respect thereof, shall be Debentureholders and Persons whom Debentureholders have by instrument in writing duly appointed as their proxies.

### **13.11 Persons Entitled to Attend Meetings**

The Corporation, each Subsidiary of the Corporation and the Debenture Trustee, by their respective officers, directors, employees and agents (as applicable), the auditors of the Corporation, the legal advisers of the Corporation or any Debentureholder may attend any meeting of the Debentureholders, but shall have no vote as such.

### **13.12 Powers Exercisable by Extraordinary Resolution**

In addition to the powers conferred upon them by any other provisions of this Indenture or by law, a meeting of the Debentureholders shall have the following powers exercisable from time to time by Extraordinary Resolution, subject in the case of the matters in paragraphs (a), (b), (c), (d) and (1) to receipt of the prior approval of the TSX (if applicable) or such other exchange on which the Debentures are then listed:

- (a) power to authorize the Debenture Trustee to grant extensions of time for payment of any principal, premium or interest on the Debentures, whether or not the principal, premium, or interest, the payment of which is extended, is at the time due or overdue;

- (b) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Debentureholders or the Debenture Trustee against the Corporation, or against its property, whether such rights arise under this Indenture or the Debentures or otherwise provided that such sanctioned actions are not prejudicial to the Debenture Trustee;
- (c) power to assent to any modification of or change in or addition to or omission from the provisions contained in this Indenture or any Debenture which shall be agreed to by the Corporation and to authorize the Debenture Trustee to concur in and execute any indenture supplemental hereto embodying any modification, change, addition or omission;
- (d) power to sanction any scheme for the reconstruction, reorganization or recapitalization of the Corporation or for the consolidation, amalgamation or merger of the Corporation with any other Person or for the sale, leasing, transfer or other disposition of all or substantially all of the undertaking, property and assets of the Corporation or any part thereof, provided that no such sanction shall be necessary in respect of any such transaction if the provisions of Section 11.1 shall have been complied with;
- (e) power to direct or authorize the Debenture Trustee to exercise any power, right, remedy or authority given to it by this Indenture in any manner specified in any such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;
- (f) power to waive, and direct the Debenture Trustee to waive, any default hereunder and/or cancel any declaration made by the Debenture Trustee pursuant to Section 8.1 either unconditionally or upon any condition specified in such Extraordinary Resolution;
- (g) power to restrain any Debentureholder from taking or instituting any suit, action or proceeding for the purpose of enforcing payment of the principal, premium or interest on the Debentures, or for the execution of any trust or power hereunder;
- (h) power to direct any Debentureholder who, as such, has brought any action, suit or proceeding to stay or discontinue or otherwise deal with the same upon payment, if the taking of such suit, action or proceeding shall have been permitted by Section 8.5, of the costs, charges and expenses reasonably and properly incurred by such Debentureholder in connection therewith;
- (i) power to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any Common Shares or other securities of the Corporation;
- (j) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the Debenture Trustee to exercise, on behalf of the Debentureholders, such of the powers of the Debentureholders as are exercisable by Extraordinary Resolution or other resolution as shall be included in the resolution appointing the committee. The resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee. Such committee shall consist of such number of Persons as shall be prescribed in the resolution appointing it and the members need not be themselves Debentureholders. Every such committee may elect its chairman and may

make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be binding upon all Debentureholders. Neither the committee nor any member thereof shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith;

- (k) power to remove the Debenture Trustee from office and to appoint a new Debenture Trustee or Debenture Trustees provided that no such removal shall be effective unless and until a new Debenture Trustee or Debenture Trustees shall have become bound by this Indenture;
- (l) power to sanction the exchange of the Debentures for or the conversion thereof into Common Shares, bonds, debentures or other securities or obligations of the Corporation or of any other Person formed or to be formed;
- (m) power to authorize the distribution in specie of securities received pursuant to a transaction authorized under the provisions of Section 13.12(l); and
- (n) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Debentureholders or by any committee appointed pursuant to Section 13.12(j).

### 13.13 Meaning of "Extraordinary Resolution"

- (a) The expression "**Extraordinary Resolution**" when used in this Indenture means, subject as hereinafter in this Article provided, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Debentureholders (including an adjourned meeting) duly convened for the purpose and held in accordance with the provisions of this Article at which the holders of not less than 25% of the principal amount of the Debentures then outstanding represent in Person or by proxy and passed by the favourable votes of the holders of not less than 66 $\frac{2}{3}$ % of the principal amount of the outstanding Debentures present or represented by proxy at the meeting and voted upon on a poll on such resolution.
- (b) If, at any such meeting, the holders of not less than 25% of the principal amount of the Debentures then outstanding are not present in Person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Debentureholders, shall be dissolved but in any other case it shall stand adjourned to such date, being not less than 14 nor more than 60 days later, and to such place and time as may be appointed by the chairman. Not less than 10 days notice shall be given of the time and place of such adjourned meeting in the manner provided in Section 14.2. Such notice shall state that at the adjourned meeting the Debentureholders present in Person or by proxy shall form a quorum. At the adjourned meeting the Debentureholders present in Person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such adjourned meeting and passed thereat by the affirmative vote of holders of not less than 66 $\frac{2}{3}$ % of the principal amount of the Debentures present or represented by proxy at the meeting and voted upon on a poll shall be an Extraordinary Resolution within the

meaning of this Indenture, notwithstanding that the holders of not less than 25% in principal amount of the Debentures then outstanding are not present in Person or by proxy at such adjourned meeting.

- (c) Votes on an Extraordinary Resolution shall always be given on a poll and no demand for a poll on an Extraordinary Resolution shall be necessary.

### **13.14 Powers Cumulative**

Any one or more of the powers in this Indenture stated to be exercisable by the Debentureholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Debentureholders to exercise the same or any other such power or powers thereafter from time to time.

### **13.15 Minutes**

Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Debenture Trustee at the expense of the Corporation, and any such minutes as aforesaid, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the Debentureholders, shall be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.

### **13.16 Instruments in Writing**

All actions which may be taken and all powers that may be exercised by the Debentureholders at a meeting held as hereinbefore in this Article provided may also be taken and exercised by the holders of 66⅔% of the principal amount of all the outstanding Debentures by an instrument in writing signed in one or more counterparts and the expression "Extraordinary Resolution" when used in this Indenture shall include an instrument so signed.

### **13.17 Binding Effect of Resolutions**

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article at a meeting of Debentureholders shall be binding upon all the Debentureholders, whether present at or absent from such meeting, and every instrument in writing signed by Debentureholders in accordance with Section 13.16 shall be binding upon all the Debentureholders, whether signatories thereto or not, and each and every Debentureholder and the Debenture Trustee (subject to the provisions for its indemnity herein contained) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

### **13.18 Evidence of Rights of Debentureholders**

- (a) Any request, direction, notice, consent or other instrument which this Indenture may require or permit to be signed or executed by the Debentureholders may be in any number of concurrent instruments of similar tenor signed or executed by such Debentureholders.

- (b) The Debenture Trustee may, in its discretion, require proof of execution in cases where it deems proof desirable and may accept such proof as it shall consider proper.

### **13.19 Record Dates**

If the Corporation shall solicit from the holders of Debentures any request, demand, authorization, direction, notice, consent, waiver or other action, the Corporation may, at its option, by or pursuant to a Written Direction of the Corporation, fix in advance a record date for the determination of such holders entitled to provide such request, demand, authorization, direction, notice, consent, waiver or other action, but the Corporation shall have the obligation to do so. Any such record date shall be the record date specified in or pursuant to such Written Direction of the Corporation.

If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other action may be given before or after such record date, but only the holders of record at the close of business on such record date shall be deemed to be holders for the purposes of determining whether holders of the requisite proportion of Debentures then outstanding have authorized or agreed or consented to such request, demand, authorization, notice, consent, waiver or other act, and for this purpose the Debentures then outstanding shall be computed as of such record date.

## **ARTICLE 14 NOTICES**

### **14.1 Notice to the Corporation**

Any notice to the Corporation under the provisions of this Indenture shall be valid and effective if delivered to the Corporation at Suite 410, 396 – 11th Avenue S.W., Calgary, Alberta T2R 0C5, Attention: Vice-President, Finance and Chief Financial Officer, Facsimile No.: (403) 215-2055, and copies delivered to Burnet, Duckworth & Palmer LLP, Calgary, Alberta, Attention: Fred Davidson, Facsimile No.: (403) 260-0332 or if given by registered letter, postage prepaid, to such offices and so addressed and if mailed, shall be deemed to have been effectively given three days following the mailing thereof. The Corporation may from time to time notify the Debenture Trustee in writing of a change of address which thereafter, until changed by like notice, shall be the address of the Corporation for all purposes of this Indenture.

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Corporation would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to this Section 14.1, such notice shall be valid and effective only if delivered at the appropriate address in accordance with this Section 14.1.

### **14.2 Notice to Debentureholders**

Subject to Section 3.1, all notices to be given hereunder with respect to the Debentures shall be deemed to be validly given to the holders thereof if sent by first class mail, postage prepaid, by letter or circular addressed to such holders at their post office addresses appearing in any of the registers hereinbefore mentioned and shall be deemed to have been effectively given three days following the day of mailing. Accidental error or omission in giving notice or accidental failure to mail notice to any Debentureholder or the inability of the Corporation to give or mail any notice due to any event beyond the reasonable control of the Corporation shall not invalidate any action or proceeding founded thereon.

If any notice given in accordance with the foregoing paragraph would be unlikely to reach the Debentureholders to whom it is addressed in the ordinary course of post by reason of an interruption in

mail service, whether at the place of dispatch or receipt or both, the Corporation shall give such notice by publication at least once in the city of Calgary, Alberta (or in such of those cities as, in the opinion of the Debenture Trustee, is sufficient in the particular circumstances), each such publication to be made in a daily newspaper of general circulation in the designated city.

Any notice given to Debentureholders by publication shall be deemed to have been given on the day on which publication shall have been effected at least once in each of the newspapers in which publication was required.

All notices with respect to any Debenture may be given to whichever one of the holders thereof (if more than one) is named first in the registers hereinbefore mentioned, and any notice so given shall be sufficient notice to all holders of any Persons having an interest in such Debenture.

### **14.3 Notice to Debenture Trustee**

Any notice to the Debenture Trustee under the provisions of this Indenture shall be valid and effective if delivered to the Debenture Trustee at its offices in the city of Calgary at 310, 606 – 4th Street S.W., Calgary, Alberta, T2P 1T1, Attention: Manager, Corporate Trust or if sent by facsimile to facsimile number (403) 233-2857, Attention: Manager, Corporate Trust, or if given by registered letter, postage prepaid, to such offices and so addressed and, if mailed, shall be deemed to have been effectively given three days following the mailing thereof.

### **14.4 Mail Service Interruption**

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Debenture Trustee would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to Section 14.3 such notice shall be valid and effective only if delivered at the appropriate address in accordance with Section 14.3.

## **ARTICLE 15 CONCERNING THE DEBENTURE TRUSTEE**

### **15.1 No Conflict of Interest**

The Debenture Trustee represents to the Corporation that at the date of execution and delivery by it of this Indenture there exists no material conflict of interest in the role of the Debenture Trustee as a fiduciary hereunder but if, notwithstanding the provisions of this Section 15.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture, and the Debentures issued hereunder, shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises but the Debenture Trustee shall, within 30 days after ascertaining that it has a material conflict of interest, either eliminate such material conflict of interest or resign in the manner and with the effect specified in Section 15.2.

### **15.2 Replacement of Debenture Trustee**

The Debenture Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the Corporation 60 days notice in writing or such shorter notice as the Corporation may accept as sufficient. The Corporation may at any time remove the existing Debenture Trustee and appoint a new Debenture Trustee. The Debentureholders by Extraordinary Resolution shall have the power at any time to remove the existing Debenture Trustee and to appoint a new Debenture Trustee. In the event of the Debenture Trustee resigning or being removed or being dissolved, becoming bankrupt,

going into liquidation or otherwise becoming incapable of acting hereunder, the Corporation shall forthwith appoint a new Debenture Trustee unless a new Debenture Trustee has already been appointed by the Debentureholders. Failing such appointment by the Corporation, the retiring Debenture Trustee or any Debentureholder may apply to an Alberta court, on such notice as such Alberta court may direct at the Corporation's expense, for the appointment of a new Debenture Trustee but any new Debenture Trustee so appointed by the Corporation or by the Court shall be subject to removal as aforesaid by the Corporation or the Debentureholders and the appointment of such new Debenture Trustee shall be effective only upon such new Debenture Trustee becoming bound by this Indenture. Any new Debenture Trustee appointed under any provision of this Section 15.2 shall be a corporation authorized to carry on the business of a trust company in the Province of Alberta. On any new appointment the new Debenture Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Debenture Trustee.

Any company into which the Debenture Trustee may be merged or, with or to which it may be consolidated, amalgamated or sold, or any company resulting from any merger, consolidation, sale or amalgamation to which the Debenture Trustee shall be a party, or any company succeeding to the corporate trust business of the Debenture Trustee shall be the successor Debenture Trustee under this Indenture without the execution of any instrument or any further act. Nevertheless, upon the written request of the successor Debenture Trustee or of the Corporation, the Debenture Trustee ceasing to act shall execute and deliver an instrument assigning and transferring to such successor Debenture Trustee, upon the terms herein expressed, all the rights, powers and trusts of the Debenture Trustee so ceasing to act, and shall duly assign, transfer and deliver all property and money held by such Debenture Trustee to the successor Debenture Trustee so appointed in its place. Should any deed, conveyance or instrument in writing from the Corporation be required by any new Debenture Trustee for more fully and certainly vesting in and confirming to it such estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instruments in writing shall on request of said new Debenture Trustee, be made, executed, acknowledged and delivered by the Corporation.

### **15.3 Duties of Debenture Trustee**

In the exercise of the rights, duties and obligations prescribed or conferred by the terms of this Indenture, the Debenture Trustee shall act honestly and in good faith and exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

### **15.4 Reliance Upon Declarations, Opinions, etc.**

In the exercise of its rights, duties and obligations hereunder the Debenture Trustee may, if acting in good faith, act and rely, as to the truth of the statements and accuracy of the opinions expressed therein, upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or requirement of this Indenture or required by the Debenture Trustee to be furnished to it in the exercise of its rights and duties hereunder, if the Debenture Trustee examines such statutory declarations, opinions, reports or certificates and determines that they comply with Section 15.5, if applicable, and with any other applicable requirements of this Indenture. The Debenture Trustee may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. Without restricting the foregoing, the Debenture Trustee may act and rely on an opinion of Counsel satisfactory to the Debenture Trustee notwithstanding that it is delivered by a solicitor or firm which acts as solicitors for the Corporation.

### **15.5 Evidence and Authority to Debenture Trustee, Opinions, etc.**

The Corporation shall furnish to the Debenture Trustee evidence of compliance with the conditions precedent provided for in this Indenture relating to any action or step required or permitted to be taken by



the Corporation or the Debenture Trustee under this Indenture or as a result of any obligation imposed under this Indenture, including without limitation, the certification and delivery of Debentures hereunder, the satisfaction and discharge of this Indenture and the taking of any other action to be taken by the Debenture Trustee at the request of or on the application of the Corporation, forthwith if and when (a) such evidence is required by any other Section of this Indenture to be furnished to the Debenture Trustee in accordance with the terms of this Section 15.5, or (b) the Debenture Trustee, in the exercise of its rights and duties under this Indenture, gives the Corporation written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice.

Such evidence shall consist of:

- (a) a certificate made by any one officer or director of the Corporation, stating that any such condition precedent has been complied with in accordance with the terms of this Indenture;
- (b) an opinion of Counsel that such condition precedent has been complied with in accordance with the terms of this Indenture; and
- (c) in the case of any such condition precedent compliance with which is subject to review or examination by auditors or accountants, an opinion or report of the auditors of the Corporation whom the Debenture Trustee for such purposes hereby approves, that such condition precedent has been complied with in accordance with the terms of this Indenture.

Whenever such evidence relates to a matter other than the certificates and delivery of Debentures and the satisfaction and discharge of this Indenture, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other Person whose qualifications give authority to a statement made by him, provided that if such report or opinion is furnished by a director or officer or employee of the Corporation, it shall be in the form of a statutory declaration. Such evidence shall be, so far as appropriate, in accordance with the immediately preceding paragraph of this Section 15.5.

Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in the Indenture shall include (a) a statement by the Person giving the evidence that he has read and is familiar with those provisions of this Indenture relating to the condition precedent in question, (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based, (c) a statement that, in the belief of the Person giving such evidence, he has made such examination or investigation as is necessary to enable him to make the statements or give the opinions contained or expressed therein, and (d) a statement whether in the opinion of such Person the conditions precedent in question have been complied with or satisfied.

The Corporation shall furnish to the Debenture Trustee at any time if the Debenture Trustee reasonably so requires, an Officer's Certificate that the Corporation has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would, with the giving of notice or the lapse of time, or both, or otherwise, constitute an Event of Default, or if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance. The Corporation shall, whenever the Debenture Trustee so requires, furnish the Debenture Trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the Debenture Trustee as to any action or step required or permitted to be taken by the Corporation or as a result of any obligation imposed by this Indenture.

### **15.6 Officer's Certificates Evidence**

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Debenture Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, the Debenture Trustee, if acting in good faith, may act and rely upon an Officer's Certificate.

### **15.7 Experts, Advisers and Agents**

The Debenture Trustee may:

- (a) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuator, engineer, surveyor, appraiser or other expert or advisor, whether obtained by the Debenture Trustee or by the Corporation, or otherwise, and shall not be liable for acting, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid; and
- (b) employ such agents and other assistants as it may reasonably require for the proper discharge of its duties hereunder, and may pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) in the discharge of the trusts hereof and compensation for all disbursements, costs and expenses made or incurred by it in the discharge of its duties hereunder and in the management of the trusts hereof and any solicitors employed or consulted by the Debenture Trustee may, but need not be, solicitors for the Corporation.

### **15.8 Debenture Trustee May Deal in Debentures**

Subject to Sections 15.1 and 15.3, the Debenture Trustee may, in its personal or other capacity, buy, sell, lend upon and deal in the Debentures and generally contract and enter into financial transactions with the Corporation or otherwise, without being liable to account for any profits made thereby.

### **15.9 Investment of Monies Held by Debenture Trustee**

Unless otherwise provided in this Indenture, any monies held by the Debenture Trustee, which, under the trusts of this Indenture, may or ought to be invested or which may be on deposit with the Debenture Trustee or which may be in the hands of the Debenture Trustee, may be invested and reinvested in the name or under the control of the Debenture Trustee in securities in which, under the laws of the Province of Alberta, trustees are authorized to invest trust monies, provided that such securities are expressed to mature within two years or such shorter period selected to facilitate any payments expected to be made under this Indenture, after their purchase by the Debenture Trustee, and unless and until the Debenture Trustee shall have declared the principal of and interest on the Debentures to be due and payable, the Debenture Trustee shall so invest such monies upon Written Direction of the Corporation given in a reasonably timely manner. Pending the investment of any monies as hereinbefore provided, such monies may be deposited in the name of the Debenture Trustee in any chartered bank of Canada or, with the consent of the Corporation, in the deposit department of the Debenture Trustee or any other loan or trust company authorized to accept deposits under the laws of Canada or any Province or Territory thereof at the rate of interest, if any, then current on similar deposits. The Corporation shall receive the Debenture Trustee's prevailing rate for all monies held by it, as may change from time to time.

Unless and until the Debenture Trustee shall have declared the principal of and interest on the Debentures to be due and payable, the Debenture Trustee shall pay over to the Corporation all interest received by the Debenture Trustee in respect of any investments or deposits made pursuant to the provisions of this Section.

#### **15.10 Debenture Trustee Not Ordinarily Bound**

Except as provided in Section 8.2 and as otherwise specifically provided herein, the Debenture Trustee shall not, subject to Section 15.3, be bound to give notice to any Person of the execution hereof, nor to do, observe or perform or see to the observance or performance by the Corporation of any of the obligations herein imposed upon the Corporation or of the covenants on the part of the Corporation herein contained, nor in any way to supervise or interfere with the conduct of the Corporation's business, unless the Debenture Trustee shall have been required to do so in writing by the holders of not less than 25% of the aggregate principal amount of the Debentures then outstanding or by any Extraordinary Resolution of the Debentureholders passed in accordance with the provisions contained in Article 13, and then only after it shall have been funded and indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages and expenses which it may incur by so doing.

#### **15.11 Debenture Trustee Not Required to Give Security**

The Debenture Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

#### **15.12 Debenture Trustee Not Bound to Act on the Corporation's Request**

Except as in this Indenture otherwise specifically provided, the Debenture Trustee shall not be bound to act in accordance with any direction or request of the Corporation until a duly authenticated copy of the instrument or resolution containing such direction or request shall have been delivered to the Debenture Trustee, and the Debenture Trustee shall be empowered to act upon any such copy purporting to be authenticated and believed by the Debenture Trustee to be genuine.

#### **15.13 Debenture Trustee Protected in Acting**

The Debenture Trustee may act and rely, and shall be protected in acting and relying absolutely, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, letter, facsimile transmission, directions or other paper document believed in good faith by it to be genuine and to have been signed, sent or presented by or on behalf of the proper party or parties. The Debenture Trustee shall be protected in acting and relying upon any written notice, request, waiver, consent, certificate, receipt, statutory declaration, affidavit or other paper or document furnished to it, not only as to its due execution and the validity and the effectiveness of its provisions but also as to the truth and acceptability of any information therein contained which it in good faith believes to be genuine and what it purports to be.

#### **15.14 Conditions Precedent to Debenture Trustee's Obligations to Act Hereunder**

The obligation of the Debenture Trustee to commence or continue any act, action or proceeding for the purpose of enforcing the rights of the Debenture Trustee and of the Debentureholders hereunder shall be conditional upon the Debentureholders furnishing when required by notice in writing by the Debenture Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Debenture Trustee to protect and hold harmless the Debenture Trustee

against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.

None of the provisions contained in this Indenture shall require the Debenture Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid.

The Debenture Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding require the Debentureholders at whose instance it is acting to deposit with the Debenture Trustee the Debentures held by them for which Debentures the Debenture Trustee shall issue receipts.

### **15.15 Authority to Carry on Business**

The Debenture Trustee represents to the Corporation that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in the Province of Alberta but if, notwithstanding the provisions of this Section 15.15, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the securities issued hereunder shall not be affected in any manner whatsoever by reason only of such event but the Debenture Trustee shall, within 90 days after ceasing to be authorized to carry on the business of trust company in the Province of Alberta, either become so authorized or resign in the manner and with the effect specified in Section 15.2.

### **15.16 Compensation and Indemnity**

- (a) The Corporation shall pay to the Debenture Trustee from time to time reasonable compensation for its services hereunder as agreed separately by the Corporation and the Debenture Trustee, and shall pay or reimburse the Debenture Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Debenture Trustee in the administration or execution of its duties under this Indenture (including the reasonable and documented compensation and disbursements of its Counsel and all other advisers and assistants not regularly in its employ), both before any default hereunder and thereafter until all duties of the Debenture Trustee under this Indenture shall be finally and fully performed. The Debenture Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust.
- (b) The Corporation hereby indemnifies and saves harmless the Debenture Trustee and its directors, officers, employees and agents from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Debenture Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations hereunder save only in the event of the gross negligence, wilful misconduct or fraud of the Debenture Trustee. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Debenture Trustee. The Debenture Trustee shall notify the Corporation promptly of any claim for which it may seek indemnity. The Corporation shall defend the claim and the Debenture Trustee shall cooperate in the defence. The Debenture Trustee may have separate counsel and the Corporation shall pay the reasonable fees and expenses of such Counsel. The Corporation need not pay for any settlement made without its consent, which consent must not be unreasonably withheld. This indemnity shall survive the resignation or removal of the Debenture Trustee or the discharge of this Indenture.

- (c) The Corporation need not reimburse any expense or indemnify against any loss or liability incurred by the Debenture Trustee through its own gross negligence, wilful misconduct or fraud.
- (d) Provisions contained in this Section 15.16 shall survive the resignation or removal of the Debenture Trustee and the discharge of this Debenture.

### **15.17 Anti-Money Laundering**

The Debenture Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Debenture Trustee, in its sole judgment and acting reasonably, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Debenture Trustee, in its sole judgment and acting reasonably, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' written notice to the Corporation or any shorter period of time as agreed to by the Corporation, provided that:

- (a) the Debenture Trustee's written notice shall describe the circumstances of such non-compliance; and
- (b) if such circumstances are rectified to the Debenture Trustee's satisfaction within such 10 day period, then such resignation shall not be effective.

### **15.18 Acceptance of Trust**

The Debenture Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various Persons who shall from time to time be Debentureholders, subject to all the terms and conditions herein set forth.

### **15.19 Privacy Laws**

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "**Privacy Laws**") applies to certain obligations and activities under this Indenture. Notwithstanding any other provision of this Indenture, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Corporation shall, prior to transferring or causing to be transferred personal information to the Debenture Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Debenture Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Debenture Trustee agrees: (a) to have a designated chief privacy officer; (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (c) to use personal information solely for the purposes of providing its services under or ancillary to this Indenture and to comply with applicable laws and not to use it for any other purpose except with the consent of or direction from the Corporation or the individual involved or as permitted by Privacy Laws; (d) not to sell or otherwise improperly disclose personal information to any third party; and (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

### **15.20 Third Party Interests**

The Corporation represents to the Debenture Trustee that any account to be opened by, or interest to be held by, the Debenture Trustee in connection with this Indenture, for or to the credit of the Corporation, either (i) is not intended to be used by or on behalf of any third party; or (ii) is intended to be used by or on behalf of a third party, in which case the Corporation hereto agrees to complete and execute forthwith a declaration in the Debenture Trustee's prescribed form as to the particulars of such third party.

### **15.21 Force Majeure**

Neither party shall be liable to the other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, general mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 15.21.

## **ARTICLE 16 SUPPLEMENTAL INDENTURES**

### **16.1 Supplemental Indentures**

Subject to any approval that may be required pursuant to the requirements of the TSX, from time to time the Debenture Trustee and, when authorized by a resolution of the Directors, the Corporation, may, and shall when required by this Indenture, execute, acknowledge and deliver by their proper officers deeds or indentures supplemental hereto which thereafter shall form part hereof, for any one or more of the following purposes:

- (a) providing for the issuance of Additional Debentures under this Indenture;
- (b) adding to the covenants of the Corporation herein contained for the protection of the Debentureholders, or of the Debentures of any series, or providing for events of default, in addition to those herein specified;
- (c) making such provisions not inconsistent with this Indenture as may be necessary or desirable with respect to matters or questions arising hereunder, including the making of any modifications in the form of the Debentures which do not affect the substance thereof and which in the opinion of the Debenture Trustee relying on an opinion of Counsel will not be prejudicial to the interests of the Debentureholders;
- (d) evidencing the succession, or successive successions, of others to the Corporation and the covenants of and obligations assumed by any such successor in accordance with the provisions of this Indenture;
- (e) giving effect to any Extraordinary Resolution passed as provided in Article 13; and
- (f) for any other purpose not inconsistent with the terms of this Indenture.

Unless the supplemental indenture requires the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, by Extraordinary Resolution, the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be,

shall not be required in connection with the execution, acknowledgement or delivery of a supplemental indenture. The Corporation and the Debenture Trustee may amend any of the provisions of this Indenture related to matters of United States law or the issuance of Debentures into the United States in order to ensure that such issuances can be made in accordance with applicable federal and state law in the United States without the consent or approval of the Debentureholders provided that, in the opinion of the Debenture Trustee (relying on an opinion of Counsel of recognized standing), the rights of the Debentureholders are in no way prejudiced thereby. The Debenture Trustee will have the right to request a legal opinion regarding matters of United States law on the issuance of Debentures in the United States prior to or concurrently with making such amendments. Further, the Corporation and the Debenture Trustee may without the consent or concurrence of the Debentureholders or the holders of a particular series of Debentures, as the case may be, by supplemental indenture or otherwise, make any changes or corrections in this Indenture which it shall have been advised by Counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or clerical omissions or mistakes or manifest errors contained herein or in any indenture supplemental hereto or any Written Direction of the Corporation provided for the issue of Debentures, providing that in the opinion of the Debenture Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders and the Senior Creditors are in no way prejudiced thereby.

## **ARTICLE 17 EXECUTION AND FORMAL DATE**

### **17.1 Execution**

This Indenture may be executed and delivered by facsimile or other electronic means and in counterparts, each of which when so executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution they shall be deemed to be dated as of the date hereof.

### **17.2 Contracts of the Corporation**

- (a) The Directors, in incurring any debts, liabilities or obligations, or in taking or omitting any other actions for or in connection with the affairs of the Corporation are, and will be conclusively deemed to be, acting for and on behalf of the Corporation, and not in their own personal capacities. None of the Directors will be subject to any personal liability for any debts, liabilities, obligations, claims, demands, judgments, costs, charges or expenses (including legal expenses) against or with respect to the Corporation or in respect to the affairs of the Corporation. No property or assets of the Directors, owned in their personal capacity or otherwise, will be subject to any levy, execution or other enforcement procedure with regard to any obligations under this Indenture or the Debentures. No recourse may be had or taken, directly or indirectly, against the Directors in their personal capacity. The Corporation will be solely liable therefor and resort will be had solely to the property and assets of the Corporation for payment or performance thereof.
- (b) No holder of Common Shares as such will be subject to any personal liability whatsoever, whether extra-contractually, contractually or otherwise, to any party to this Indenture or pursuant to the Debentures in connection with the obligations or the affairs of the Corporation or the acts or omissions of the Directors, whether under this Indenture, the Debentures or otherwise, and the other parties to this Indenture and the holders of the Debentures will look solely to the property and assets of the Corporation for satisfaction of claims of any nature arising out of or in connection therewith and the property and assets of the Corporation only will be subject to levy or execution.

**17.3 Formal Date**

For the purpose of convenience this Indenture may be referred to as bearing the formal date of December 13, 2013 irrespective of the actual date of execution hereof.

[Signatures on following page]



IN WITNESS WHEREOF the parties hereto have executed this Indenture as of the date first written above.

**TWIN BUTTE ENERGY LTD.**

By: Signed "*R. Alan Steele*"  
Name: R. Alan Steele  
Title: Vice-President, Finance. Chief  
Financial Officer and Corporate  
Secretary

**VALIANT TRUST COMPANY**

By: Signed "*Dan Sander*"  
Name: Dan Sander  
Title: Director, Trust Services

By: Signed "*Tara Bouchard*"  
Name: Tara Bouchard  
Title: Senior Manager, Corporate Actions

**SCHEDULE "A"**

**TO THE DEBENTURE INDENTURE BETWEEN**

**TWIN BUTTE ENERGY LTD.**

**AND**

**VALIANT TRUST COMPANY**

**FORMS OF GLOBAL DEBENTURE**

**SCHEDULE "A-1"**  
**FORM OF GLOBAL DEBENTURE (CANADIAN PURCHASERS)**

This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Twin Butte Energy Ltd. (the "Issuer") or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & Co., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & Co. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & Co., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.

Certificate No. [•]  
 CUSIP 901401AB5  
 ISIN CA901401AB52

\$[•]

**TWIN BUTTE ENERGY LTD.**

(A CORPORATION GOVERNED BY THE *BUSINESS CORPORATIONS ACT* (ALBERTA))

**6.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURE**

**TWIN BUTTE ENERGY LTD.** (the "**Corporation**") for value received hereby acknowledges itself indebted and, subject to the provisions of the convertible debenture indenture (the "**Indenture**") dated as of December 13, 2013 with Valiant Trust Company (the "**Debenture Trustee**"), promises to pay to **[INSERT NAME OF REGISTERED HOLDER]** on the maturity date of this Debenture, as hereinafter described, or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture, the principal sum of [•] dollars (\$[•]) in lawful money of Canada on presentation and surrender of this Debenture at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario in accordance with the terms of the Indenture.

The Debentures will mature on December 31, 2018.

The Debentures shall bear interest at the rate of 6.25% per annum, payable in equal semi-annually instalments, in arrears, on June 30 and December 31 in each year computed on the basis of a 365-day or 366-day year, as the case may be. The first such payment will fall due on June 30, 2014 (representing interest payable from December 13, 2013 to but not including June 30, 2014) and the last payment (representing interest payable from the last Interest Payment Date to, but not including, the Maturity Date or, the earlier date of redemption, repayment or conversion) will fall due on the Maturity Date or the earlier date of redemption, repayment or conversion. Interest is payable after as well as before maturity and after as well as before default, with interest on amounts after maturity or in default at the same rate,

compounded semi-annually. The first interest payment will be equal to \$34.08 for each \$1,000 principal amount of the Debentures.

Interest hereon shall be payable by cheque mailed by prepaid ordinary mail or by electronic transfer of funds to the registered holder hereof and, subject to the provisions of the Indenture, the sending of such electronic transfer of funds shall, to the extent of the sum represented thereby (plus the amount of any tax withheld), satisfy and discharge all liability for interest on this Debenture.

This Debenture is one of the 6.25% Convertible Unsecured Subordinated Debentures (referred to herein as the "**Debentures**") of the Corporation issued or issuable under the provisions of the Indenture. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Debentures are to be issued and held and the rights and remedies of the holders of the Debentures and of the Corporation and of the Debenture Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Debenture by acceptance hereof assents.

The Debentures authorized for issue are limited to an aggregate principal amount of eighty-five million dollars in lawful money of Canada (\$85,000,000).

The Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Debentures of any denomination may be exchanged for an equal aggregate principal amount of Debentures in any other authorized denomination or denominations.

The whole, or if this Debenture is a denomination in excess of \$1,000, any part which is \$1,000 or an integral multiple thereof, of the principal of this Debenture is convertible into Common Shares, at the option of the holder hereof, upon surrender of this Debenture at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario, at any time prior to 5:00 p.m. (Calgary time) on the earliest of: (i) the last Business Day immediately preceding the Maturity Date, (ii) the last Business Day immediately preceding the date specified for redemption of this Debenture and (iii) the last Business Day immediately preceding the Change of Control Purchase Date (as defined in the Indenture), in each case, at a conversion price of \$3.05 (the "**Conversion Price**") per Common Share, being a conversion rate of approximately 327.8689 Common Shares for each \$1,000 principal amount of Debentures so converted, all subject to the terms and conditions and in the manner set forth in the Indenture. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified. No fractional Common Shares will be issued on any conversion but in lieu thereof, the Corporation will satisfy such fractional interest by a cash payment equal to the fractional interest multiplied by the volume-weighted average price per share for Common Shares for the 20 consecutive Trading Days ending on the fifth Trading Day preceding the date of determination on the Toronto Stock Exchange (or, if the Common Shares are not listed thereon, on such stock exchange on which the Common Shares are listed as may be selected for such purpose by or on behalf of the Directors of the Corporation and approved by the Debenture Trustee, or if the Common Shares are not listed on any stock exchange, then on the over-the-counter market) determined in accordance with the Indenture (the "**Current Market Price**"). Holders converting their Debentures will receive any interest which has accrued in respect thereof from the most recent Interest Payment Date, but not including, the Date of Conversion.

This Debenture may be redeemed at the option of the Corporation on the terms and conditions set out in the Indenture at the Redemption Price therein and herein set out provided that this Debenture is not redeemable before December 31, 2016 except in the event of the satisfaction of certain conditions after a Change of Control has occurred. On or after December 31, 2016 and prior to the Maturity Date, the Debentures may be redeemed at the option of the Corporation at the redemption price equal to the

principal amount of the Debentures (the "**Redemption Price**") provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price exceeds 125% of the Conversion Price, and otherwise on the terms and conditions described in the Indenture. Any accrued and unpaid interest thereon, if any, up to but not including the Redemption Date will be paid in cash.

Upon the occurrence of a Change of Control of the Corporation, the Corporation is required to make a cash offer to purchase all of the Debentures at a price equal to the principal amount of such Debentures plus accrued and unpaid interest up to, but not including, the date the Debentures are so repurchased (the "**Change of Control Purchase Offer**"). If 90% or more of the principal amount of the Debentures outstanding on the date the Corporation provides the Change of Control Purchase Offer to the Debenture Trustee have been tendered for purchase pursuant to the Offer, the Corporation has the right to redeem all the remaining outstanding Debentures at the same price.

If an Offer for all of the outstanding Debentures is made and 90% or more of the principal amount of all the Debentures (other than Debentures held at the date of the takeover bid by or on behalf of the Offeror, Associates or Affiliates of the Offeror or anyone acting jointly or in concert with the Offeror) are taken up and paid for by the Offeror, the Offeror will be entitled to acquire the Debentures of those holders who did not accept the Offer on the same terms as the Offeror acquired the first 90% of the principal amount of the Debentures.

The Corporation may, on notice as provided in the Indenture, at its option and subject to any required regulatory approvals, elect to satisfy the obligation to repay all or any portion of the principal amount of this Debenture due on the Redemption Date or the Maturity Date, as applicable, up to but not including the Redemption Date or the Maturity Date, as applicable, by the issue of that number of Common Shares obtained by dividing the principal amount of this Debenture to be paid for in Common Shares pursuant to the exercise by the Corporation of the Common Share Repayment Right by 95% of the Current Market Price on the Redemption Date or Maturity Date, as applicable. Any accrued and unpaid interest thereon, up to but not including the Redemption Date or the Maturity Date, as applicable, will be paid in cash.

The indebtedness evidenced by this Debenture, and by all other Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the Corporation, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment of all Senior Indebtedness, whether outstanding at the date of the Indenture or thereafter created, incurred, assumed or guaranteed.

The principal hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Indenture contains provisions making binding upon all holders of Debentures outstanding thereunder resolutions passed at meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding, which resolutions or instruments may have the effect of amending the terms of this Debenture or the Indenture.

This Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in one of the registers to be kept at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario and in such other place or places and/or by such other registrars (if any) as the Corporation with the approval of the Debenture Trustee may designate. No transfer of this Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their mandatory duly appointed by an instrument in form and substance satisfactory to the Debenture Trustee or other registrar, and upon compliance with

such reasonable requirements as the Debenture Trustee and/or other registrar may prescribe and upon surrender of this Debenture for cancellation. Thereupon a new Debenture or Debentures in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

This Debenture shall not become obligatory for any purpose until it shall have been certified by the Debenture Trustee under the Indenture.

If any of the provisions of this Debenture are inconsistent with the provisions of the Indenture, the provisions of the Indenture shall take precedence and shall govern. Capitalized words or expressions used in this Debenture shall, unless otherwise defined herein, have the meaning ascribed thereto in the Indenture.

The Indenture and this Debenture shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein.

**IN WITNESS WHEREOF TWIN BUTTE ENERGY LTD.** has caused this Debenture to be signed by its authorized representatives as of the 13th day of December, 2013.

**TWIN BUTTE ENERGY LTD.**

Per: \_\_\_\_\_  
Name:  
Title:

**(FORM OF DEBENTURE TRUSTEE'S CERTIFICATE)**

Certification Date:

**VALIANT TRUST COMPANY**

Per: \_\_\_\_\_  
(Authorized Officer)

**(FORM OF REGISTRATION PANEL)**

<b>Date of Registration</b>	<b>In Whose Name Registered</b>	<b>Signature of Debenture Trustee or Registrar</b>

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_, whose address and social insurance number, if applicable, are set forth below, this Debenture (or \$ principal amount hereof) of Twin Butte Energy Ltd. standing in the name(s) of the undersigned in the register maintained by the Debenture Trustee with respect to such Debenture and does hereby irrevocably authorize and direct the Debenture Trustee to transfer such Debenture in such register, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Address of Transferee: \_\_\_\_\_

\_\_\_\_\_  
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable:

\_\_\_\_\_

\*If less than the full principal amount of the within Debenture is to be transferred, indicate in the space provided the principal amount (which must be \$1,000 or an integral multiple thereof, unless you hold a Debenture in a non-integral multiple of 1,000, in which case such Debenture is transferable only in its entirety) to be transferred.

1. The signature(s) to this assignment must correspond with the name(s) as written upon the face of this Debenture in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by a Canadian chartered bank or trust company or by a member of an acceptable Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".
2. The registered holder of this Debenture is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Signature of transferring registered holder

\_\_\_\_\_  
Name of Institution

**EXHIBIT "I"**  
**TO CDS GLOBAL DEBENTURE**  
**TWIN BUTTE ENERGY LTD.**

**6.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES**

Initial Aggregate Principal Amount:

\$[•]

CUSIP 901401AB5  
ISIN CA901401AB52

Signature of the Debenture Trustee:

\_\_\_\_\_ Authorization  
Valiant Trust Company

**ADJUSTMENTS**

Date	Amount of Increase	Amount of Decrease	New Principal Amount	Authorization



**SCHEDULE "A-2"**  
**FORM OF GLOBAL DEBENTURE (U.S. PURCHASERS)**

**This Debenture is a Global Debenture within the meaning of the Indenture herein referred to and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.**

**THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY PURCHASING THESE SECURITIES, AGREES FOR THE BENEFIT OF TWIN BUTTE ENERGY LTD. (THE "CORPORATION") THAT THESE SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (A) TO THE CORPORATION, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S ("REGULATION S") UNDER THE SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE CANADIAN LOCAL LAWS AND REGULATIONS, (C) IN ACCORDANCE WITH (1) RULE 144A UNDER THE SECURITIES ACT, IF AVAILABLE, OR (2) RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, AND IN EACH CASE IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN ANOTHER TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR ANY APPLICABLE STATE SECURITIES LAWS, PROVIDED THAT IN THE CASE OF TRANSFERS PURSUANT TO (C)(2) OR (D) ABOVE, A LEGAL OPINION REASONABLY SATISFACTORY TO THE CORPORATION MUST FIRST BE PROVIDED. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON CANADIAN STOCK EXCHANGES.**

**Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Twin Butte Energy Ltd. (the "Issuer") or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & Co., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & Co. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & Co., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.**

Certificate No. [•]  
CUSIP 901401AA7  
ISIN CA901401AA79

\$[•]

**TWIN BUTTE ENERGY LTD.**

**(A CORPORATION GOVERNED BY THE *BUSINESS CORPORATIONS ACT* (ALBERTA))**

**6.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURE**

**TWIN BUTTE ENERGY LTD.** (the "**Corporation**") for value received hereby acknowledges itself indebted and, subject to the provisions of the convertible debenture indenture (the "**Indenture**") dated as of December 13, 2013 with Valiant Trust Company (the "**Debenture Trustee**"), promises to pay to **[INSERT NAME OF REGISTERED HOLDER]** hereof on the maturity date of this Debenture, as hereinafter described, or on such earlier date as the principal amount hereof may become due in accordance with the provisions of the Indenture, the principal sum of [•] dollars (\$[•]) in lawful money of Canada on presentation and surrender of this Debenture at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario in accordance with the terms of the Indenture.

The Debentures will mature on December 31, 2018.

The Debentures shall bear interest at the rate of 6.25% per annum, payable in equal semi-annual instalments, in arrears, on June 30 and December 31 in each year computed on the basis of a 365-day or 366-day year, as the case may be. The first such payment will fall due on June 30, 2014 (representing interest payable from December 13, 2013 to but not including June 30, 2014) and the last payment (representing interest payable from the last Interest Payment Date to, but not including, the Maturity Date or, the earlier date of redemption, repayment or conversion) will fall due on the Maturity Date or the earlier date of redemption, repayment or conversion. Interest is payable after as well as before maturity and after as well as before default, with interest on amounts after maturity or in default at the same rate, compounded semi-annually. The first interest payment will be equal to \$34.08 for each \$1,000 principal amount of the Debentures.

Interest hereon shall be payable by cheque mailed by prepaid ordinary mail or by electronic transfer of funds to the registered holder hereof and, subject to the provisions of the Indenture, the sending of such electronic transfer of funds shall, to the extent of the sum represented thereby (plus the amount of any tax withheld), satisfy and discharge all liability for interest on this Debenture.

This Debenture is one of the 6.25% Convertible Unsecured Subordinated Debentures (referred to herein as the "**Debentures**") of the Corporation issued or issuable under the provisions of the Indenture. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Debentures are to be issued and held and the rights and remedies of the holders of the Debentures and of the Corporation and of the Debenture Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Debenture by acceptance hereof assents.

The Debentures authorized for issue are limited to an aggregate principal amount of eighty-five million dollars in lawful money of Canada (\$85,000,000).

The Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Debentures of any denomination may be exchanged for

an equal aggregate principal amount of Debentures in any other authorized denomination or denominations.

The whole, or if this Debenture is a denomination in excess of \$1,000, any part which is \$1,000 or an integral multiple thereof, of the principal of this Debenture is convertible into Common Shares, at the option of the holder hereof, upon surrender of this Debenture at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario, at any time prior to 5:00 p.m. (Calgary time) on the earliest of: (i) the last Business Day immediately preceding the Maturity Date, (ii) the last Business Day immediately preceding the date specified for redemption of this Debenture and (iii) the last Business Day immediately preceding the Change of Control Purchase Date (as defined in the Indenture), in each case, at a conversion price of \$3.05 (the "**Conversion Price**") per Common Share, being a conversion rate of approximately 327.8689 Common Shares for each \$1,000 principal amount of Debentures so converted, all subject to the terms and conditions and in the manner set forth in the Indenture. The Indenture makes provision for the adjustment of the Conversion Price in the events therein specified. No fractional Common Shares will be issued on any conversion but in lieu thereof, the Corporation will satisfy such fractional interest by a cash payment equal to the fractional interest multiplied by the volume-weighted average price per share for Common Shares for the 20 consecutive Trading Days ending on the fifth Trading Day preceding the date of determination on the Toronto Stock Exchange (or, if the Common Shares are not listed thereon, on such stock exchange on which the Common Shares are listed as may be selected for such purpose by or on behalf of the Directors of the Corporation and approved by the Debenture Trustee, or if the Common Shares are not listed on any stock exchange, then on the over-the-counter market) determined in accordance with the Indenture (the "**Current Market Price**"). Holders converting their Debentures will receive any interest which has accrued in respect thereof from the most recent Interest Payment Date to, but not including, the Date of Conversion.

This Debenture may be redeemed at the option of the Corporation on the terms and conditions set out in the Indenture at the Redemption Price therein and herein set out provided that this Debenture is not redeemable before December 31, 2016 except in the event of the satisfaction of certain conditions after a Change of Control has occurred. On or after December 31, 2016 and prior to the Maturity Date, the Debentures may be redeemed at the option of the Corporation at the redemption price equal to the principal amount of the Debentures (the "**Redemption Price**") provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price exceeds 125% of the Conversion Price, and otherwise on the terms and conditions described in the Indenture. Any accrued and unpaid interest thereon, if any, up to but not including the Redemption Date will be paid in cash.

Upon the occurrence of a Change of Control of the Corporation, the Corporation is required to make an offer to purchase all of the Debentures at a price equal to the principal amount of such Debentures plus accrued and unpaid interest up to, but not including, the date the Debentures are so repurchased (the "**Change of Control Purchase Offer**"). If 90% or more of the principal amount of the Debentures outstanding on the date the Corporation provides the Change of Control Purchase Offer to the Debenture Trustee have been tendered for purchase pursuant to the Offer, the Corporation has the right to redeem all the remaining outstanding Debentures at the same price.

If an Offer for all of the outstanding Debentures is made and 90% or more of the principal amount of all the Debentures (other than Debentures held at the date of the takeover bid by or on behalf of the Offeror, Associates or Affiliates of the Offeror or anyone acting jointly or in concert with the Offeror) are taken up and paid for by the Offeror, the Offeror will be entitled to acquire the Debentures of those holders who did not accept the Offer on the same terms as the Offeror acquired the first 90% of the principal amount of the Debentures.

The Corporation may, on notice as provided in the Indenture, at its option and subject to any required regulatory approvals, elect to satisfy the obligation to repay all or any portion of the principal amount of this Debenture due on the Redemption Date or the Maturity Date, as applicable, by the issue of that number of Common Shares obtained by dividing the principal amount of this Debenture to be paid for in Common Shares pursuant to the exercise by the Corporation of the Common Share Repayment Right by 95% of the Current Market Price on the Redemption Date or Maturity Date, as applicable. Any accrued and unpaid interest thereon, if any, up to but not including the Redemption Date or the Maturity Date, as applicable, will be paid in cash.

The indebtedness evidenced by this Debenture, and by all other Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the Corporation, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment of all Senior Indebtedness, whether outstanding at the date of the Indenture or thereafter created, incurred, assumed or guaranteed.

The principal hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Indenture contains provisions making binding upon all holders of Debentures outstanding thereunder resolutions passed at meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding, which resolutions or instruments may have the effect of amending the terms of this Debenture or the Indenture.

This Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in one of the registers to be kept at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario and in such other place or places and/or by such other registrars (if any) as the Corporation with the approval of the Debenture Trustee may designate. No transfer of this Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their mandatory duly appointed by an instrument in form and substance satisfactory to the Debenture Trustee or other registrar, and upon compliance with such reasonable requirements as the Debenture Trustee and/or other registrar may prescribe and upon surrender of this Debenture for cancellation. Thereupon a new Debenture or Debentures in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

This Debenture shall not become obligatory for any purpose until it shall have been certified by the Debenture Trustee under the Indenture.

If any of the provisions of this Debenture are inconsistent with the provisions of the Indenture, the provisions of the Indenture shall take precedence and shall govern. Capitalized words or expressions used in this Debenture shall, unless otherwise defined herein, have the meaning ascribed thereto in the Indenture.

The Indenture and this Debenture shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein.

**IN WITNESS WHEREOF TWIN BUTTE ENERGY LTD.** has caused this Debenture to be signed by its authorized representatives as of the 13th day of December, 2013.

**TWIN BUTTE ENERGY LTD.**

Per: \_\_\_\_\_  
Name:  
Title:

**(FORM OF DEBENTURE TRUSTEE'S CERTIFICATE)**

Certification Date:

**VALIANT TRUST COMPANY**

Per: \_\_\_\_\_  
(Authorized Officer)

**(FORM OF REGISTRATION PANEL)**

<b>Date of Registration</b>	<b>In Whose Name Registered</b>	<b>Signature of Debenture Trustee or Registrar</b>

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_, whose address and social insurance number, if applicable, are set forth below, this Debenture (or \$ principal amount hereof) of Twin Butte Energy Ltd. standing in the name(s) of the undersigned in the register maintained by the Debenture Trustee with respect to such Debenture and does hereby irrevocably authorize and direct the Debenture Trustee to transfer such Debenture in such register, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Address of Transferee: \_\_\_\_\_

\_\_\_\_\_  
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable:

\_\_\_\_\_

\*If less than the full principal amount of the within Debenture is to be transferred, indicate in the space provided the principal amount (which must be \$1,000 or an integral multiple thereof, unless you hold a Debenture in a non-integral multiple of 1,000, in which case such Debenture is transferable only in its entirety) to be transferred.

1. The signature(s) to this assignment must correspond with the name(s) as written upon the face of this Debenture in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by a Canadian chartered bank or trust company or by a member of an acceptable Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".
2. The registered holder of this Debenture is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Signature of transferring registered holder

\_\_\_\_\_  
Name of Institution

**EXHIBIT "I"**  
**TO CDS GLOBAL DEBENTURE**  
**TWIN BUTTE ENERGY LTD.**

**6.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES**

Initial Aggregate Principal Amount:

\$[•]

CUSIP 901401AA7  
ISIN CA901401AA79

Signature of the Debenture Trustee:

\_\_\_\_\_ Authorization  
Valiant Trust Company

**ADJUSTMENTS**

Date	Amount of Increase	Amount of Decrease	New Principal Amount	Authorization

**SCHEDULE "B"**

**TO THE CONVERTIBLE DEBENTURE INDENTURE BETWEEN**

**TWIN BUTTE ENERGY LTD.**

**AND**

**VALIANT TRUST COMPANY**

**FORM OF REDEMPTION NOTICE**



**SCHEDULE "B"**

**Form of Redemption Notice**

**TWIN BUTTE ENERGY LTD.  
6.25% CONVERTIBLE UNSECURED SUBORDINATED DEBENTURES  
REDEMPTION NOTICE**

TO: Holders of 6.25% Convertible Unsecured Subordinated Debentures (the "**Debentures**") of Twin Butte Energy Ltd. (the "**Corporation**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

Notice is hereby given pursuant to Section 4.3 of the convertible debenture indenture (the "**Indenture**") dated as of December 13, 2013 between the Corporation and Valiant Trust Company (the "**Debenture Trustee**"), that the aggregate principal amount of \$[●] of the \$[●] of Debentures outstanding will be redeemed as of [●] (the "**Redemption Date**"), upon payment of a redemption amount of \$1,000 for each \$1,000 principal amount of Debentures, being equal to the aggregate of (i) \$[●], and (ii) all accrued and unpaid interest thereon to but not including the Redemption Date (collectively, the "**Redemption Price**").

The Redemption Price will be payable upon presentation and surrender of the Debentures called for redemption at the following corporate trust office:

Valiant Trust Company  
310, 606 – 4th Avenue S.W.  
Calgary, Alberta T2P 1T1

Facsimile: (403) 233-2857

Attention: Manager, Client Services

The interest upon the principal amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date, unless payment of the Redemption Price shall not be made on presentation for surrender of such Debentures at the above-mentioned corporate trust office on or after the Redemption Date or prior to the setting aside of the Redemption Price pursuant to the Indenture.

**[Pursuant to Section 2.4(d) of the Indenture, the Corporation hereby confirms that on the date hereof the Current Market Price of the Common Shares is \$●, being an amount greater than 125% of the Conversion Price on the date hereof, and an Officer's Certificate confirming such Current Market Price has been delivered to the Debenture Trustee.]**

**[Pursuant to Section 4.6 of the Indenture, the Corporation hereby irrevocably elects to satisfy its obligation to pay to the holders of Debentures \$● of principal portion of the Redemption Price payable to holders of Debentures in accordance with this notice by issuing and delivering to the holders that number of Common Shares obtained by dividing such principal portion of the Redemption Price by 95% of the then Current Market Price of the Common Shares.]**

**No fractional Common Shares shall be delivered upon the exercise by the Corporation of the above-mentioned redemption right but, in lieu thereof, the Corporation shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Common Shares on the Redemption Date (less any tax required to be deducted, if any).**

DATED: \_\_\_\_\_

**TWIN BUTTE ENERGY LTD.**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "C"**

**TO THE CONVERTIBLE DEBENTURE INDENTURE BETWEEN**

**TWIN BUTTE ENERGY LTD.**

**AND**

**VALIANT TRUST COMPANY**

**FORM OF MATURITY NOTICE**

**SCHEDULE "C"**

**TO THE CONVERTIBLE DEBENTURE INDENTURE BETWEEN**

**TWIN BUTTE ENERGY LTD.**

**AND**

**VALIANT TRUST COMPANY**

**FORM OF MATURITY NOTICE**

TO: Holders of 6.25% Convertible Unsecured Subordinated Debentures (the "**Debentures**") of Twin Butte Energy Ltd. (the "**Corporation**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

Notice is hereby given pursuant to Section 4.11(b) of the convertible debenture indenture (the "**Indenture**") dated as of December 13, 2013 between the Corporation and Valiant Trust Company, as trustee (the "**Debenture Trustee**"), that the Debentures are due and payable as of December 31, 2018 (the "**Maturity Date**") and the Corporation elects to satisfy its obligation to pay to holders of Debentures \$[●] of the principal amount of the Debentures outstanding on the Maturity Date by issuing and delivering to the holders that number of Common Shares equal to the number obtained by dividing such principal amount of the Debentures by 95% of the Current Market Price of Common Shares on the Maturity Date. Any accrued and unpaid interest up to but not including the Maturity Date will be paid in cash.

No fractional Common Shares shall be delivered on exercise by the Corporation of the above mentioned repayment right but, in lieu thereof, the Corporation shall pay the cash equivalent thereof determined on the basis of the Current Market Price of Common Shares on the Maturity Date (less any tax required to be deducted, if any).

DATED: \_\_\_\_\_

**TWIN BUTTE ENERGY LTD.**

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

Name:

Title:

**SCHEDULE "D"**

**TO THE CONVERTIBLE DEBENTURE INDENTURE BETWEEN**

**TWIN BUTTE ENERGY LTD.**

**AND**

**VALIANT TRUST COMPANY**

**FORM OF NOTICE OF CONVERSION**

**SCHEDULE "D"**

**FORM OF NOTICE OF CONVERSION**

TO: Twin Butte Energy Ltd.

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

The undersigned registered holder of 6.25% Convertible Unsecured Subordinated Debentures in the principal amount of \$[●] bearing Certificate No. [●] irrevocably elects to convert such Debentures (or \$[●] principal amount thereof) in accordance with the terms of the convertible debenture indenture (the "**Indenture**") dated as of December 13, 2013 between Twin Butte Energy Ltd. and Valiant Trust Company, as trustee referred to in such Debentures and tenders herewith the Debentures, and, if applicable, directs that the Common Shares of Twin Butte Energy Ltd. issuable upon a conversion be issued and delivered to the Person indicated below. (If Common Shares are to be issued in the name of a Person other than the holder, all requisite transfer taxes must be tendered by the undersigned).

Dated: \_\_\_\_\_  
\_\_\_\_\_  
(Signature of Registered Holder)

If less than the full principal amount of the Debentures, indicate in the space provided the principal amount (which must be \$1,000 or integral multiples thereof).

NOTE: If Common Shares are to be issued in the name of a Person other than the holder, the signature must be guaranteed by a chartered bank, a trust company or by a member of an acceptable Medallion Guarantee Program. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".

(Print name in which Common Shares are to be issued, delivered and registered)

Name: \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

City, Province and Postal Code \_\_\_\_\_

Name of Guarantor: \_\_\_\_\_

Authorized signature: \_\_\_\_\_

**SCHEDULE "E"**

**TO THE DEBENTURE INDENTURE BETWEEN**

**TWIN BUTTE ENERGY LTD.**

**AND**

**VALIANT TRUST COMPANY**

**FORM OF DECLARATION FOR REMOVAL OF U.S. LEGEND**

**SCHEDULE "E"**

**FORM OF DECLARATION FOR REMOVAL OF U.S. LEGEND**

To: Twin Butte Energy Ltd. (the "**Company**") and Valiant Trust Company, as Registrar and Transfer Agent for the 6.25% convertible unsecured subordinated debentures (the "**Debentures**") maturing December 31, 2018 and common shares issuable upon conversion, redemption or maturity of the Debentures (the "**Underlying Shares**") of the Company.

The undersigned Seller (A) acknowledges that the sale of \_\_\_\_\_ Debentures/Underlying Shares of the Company to which this declaration relates, represented by certificate number \_\_\_\_\_, has been made in reliance on Rule 904 of Regulation S under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**"), and (B) certifies that (1) the undersigned is not an "affiliate" (as defined in Rule 405 under the U.S. Securities Act) of the Company; (2) the offer of such securities was not made to a person in the United States and either (a) at the time the buy order was originated, the buyer was outside the United States, or the seller and any person acting on its behalf reasonably believe that the buyer was outside the United States, or (b) the transaction was executed in, on or through the facilities of the Toronto Stock Exchange (or another "designated offshore securities market"), and neither the seller nor any person acting on its behalf knows that the transaction was prearranged with a buyer in the United States; (3) neither the seller nor any person acting on its behalf engaged in any "directed selling efforts" in the United States in connection with the offer and sale of such securities; (4) the sale is bona fide and not for the purpose of "washing off" the resale restrictions imposed because the securities are "restricted securities" (as that term is defined in Rule 144(a)(3) under the U.S. Securities Act); (5) the seller does not intend to replace the securities sold in reliance on Rule 904 of Regulation S under the U.S. Securities Act with fungible unrestricted securities; and (6) the contemplated sale is not a transaction, or part of a series of transactions which, although in technical compliance with Regulation S under the U.S. Securities Act, is part of a plan or scheme to evade the registration provisions of the U.S. Securities Act. Terms used herein have the meanings given to them by Regulation S under the U.S. Securities Act.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Seller

Name of Seller (Please Print): \_\_\_\_\_

We have read the foregoing representations of our customer, \_\_\_\_\_ (the "**Seller**"), with regard to our sale, for such Seller's account, of the Debentures/Underlying Shares described therein, and on behalf of ourselves we certify and affirm that (A) we have no knowledge that the transaction had been prearranged with a buyer in the United States, (B) the transaction was executed in, on or through the facilities of the Toronto Stock Exchange (or another "designated offshore securities market") and (C) neither we, nor any person acting on our behalf, engaged in any "directed selling efforts" in connection with the offer and sale of such securities. Terms used herein have the meanings given to them by Regulation S under the U.S. Securities Act.

Name of Firm: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Officer

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



## SCHEDULE B

The Trustee has amended the Proof of Claim filed with the Receiver on, May 15, 2017, in order to add this Schedule B at the request of Bennett Jones LLP. The Trustee has been advised that Bennett Jones LLP represents an Ad-Hoc Committee which represents approximately 24% of the principal amount of holders of the 6.25% Convertible Unsecured Subordinated Debentures due December 31, 2018.

1. All capitalized terms not otherwise defined herein shall bear the meaning given to them in the Convertible Debenture Indenture (the "**Indenture**") between Twin Butte Energy Ltd. ("**Twin Butte**" or the "**Company**") and Valiant Trust Company dated December 13, 2013.
2. On March 30, 2017, FTI Consulting Inc., in its capacity as Receiver of Twin Butte, filed a Receiver's Certificate confirming the completion of the transaction for the sale of all or substantially all of Twin Butte's consolidated assets to West Lake Energy Corp. (the "**Transaction**").
3. The Transaction constitutes a Change of Control pursuant to Article 1.1 of the Indenture, being a sale or other transfer of all or substantially all of the consolidated assets of Twin Butte.
4. Pursuant to Article 2.4(j) of the Indenture, within 30 days following the Transaction (by April 29, 2017) Twin Butte was required to offer to purchase all of the Initial Debentures then outstanding, on the terms and conditions set out in Article 2.4(j) by delivering written notice of the Change of Control to the Debenture Trustee together with a written Change of Control Purchase Offer to purchase on the Change of Control Purchase Date all of the Initial Debentures then outstanding from the holders thereof at a price per Initial Debenture equal to 100% of the principal amount thereof together with accrued and unpaid interest thereon up to but not including the Change of Control Purchase Date.
5. Twin Butte did not deliver written notice of the Change of Control or a Change of Control Purchase Offer on or before April 29, 2017, and as such is in breach of Article 2.4(j) of the Indenture giving rise to a claim by the Debenture Trustee on behalf of the holders of Initial Debentures for damages for breach of the Indenture.
6. Assuming delivery of the written notice of the Change of Control and the Change of Control Purchase Offer on the latest possible delivery date of April 29, 2017, and assuming the earliest possible Expiry Date of May 28, 2017, and assuming an immediate Change of Control Purchase Date of May 29, 2017, the quantum of the Claim of the holders of Initial Debentures for damages amounts to \$92,700,125.07, broken down as follows:
  - a. a Claim (as defined in the Claims Procedure Order granted on April 27, 2017) of \$92,220,726.52, calculated as set forth in Schedule "A" to this Proof of Claim; and
  - b. a Subsequent Claim (as defined in the Claims Procedure Order) of \$451,198.63, being the additional regular interest and interest on overdue interest due from the period between April 28, 2017 and May 29, 2017, calculated as set forth in Appendix 1 to this Proof of Claim.



# **Appendix B**

## **Short Form Prospectus**

No securities regulatory authority has expressed an opinion about these securities and it is an offence to claim otherwise. This short form prospectus constitutes a public offering of these securities only in those jurisdictions where they may be lawfully offered for sale and therein only by persons permitted to sell such securities. These securities have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the "1933 Act"), or any state securities laws. Accordingly, except as permitted by the Underwriting Agreement (as defined herein) and pursuant to an exemption from the registration requirements of the 1933 Act and applicable state securities laws, these securities may not be offered or sold within the United States. This short form prospectus does not constitute an offer to sell or a solicitation of an offer to buy any of these securities within the United States. See "Plan of Distribution".

Information has been incorporated by reference in this short form prospectus from documents filed with securities commissions or similar authorities in Canada. Copies of the documents incorporated herein by reference may be obtained on request without charge from the Vice-President, Finance, Chief Financial Officer and Corporate Secretary of Twin Butte at Twin Butte's head office, Suite 410, 396 – 11th Avenue S.W. Calgary, Alberta T2R 0C5, telephone (403) 215-2692 and are also available electronically at [www.sedar.com](http://www.sedar.com).

New Issue

December 6, 2013

## SHORT FORM PROSPECTUS



**\$85,000,000**

### **6.25% Convertible Unsecured Subordinated Debentures**

Twin Butte Energy Ltd. (the "**Corporation**" or "**Twin Butte**") is hereby qualifying pursuant to this short form prospectus the distribution (the "**Offering**") of \$85,000,000 aggregate principal amount of 6.25% convertible unsecured subordinated debentures (the "**Debentures**").

The Debentures will bear interest at an annual rate of 6.25% payable semi-annually in arrears, on the last day of June and December in each year commencing on June 30, 2014 (each an "**Interest Payment Date**"). The June 30, 2014 interest payment will represent accrued interest for the period from and including the Closing Date (as defined herein), up to, but not including, June 30, 2014. The maturity date will be December 31, 2018 (the "**Maturity Date**") on which date the holders shall be entitled to receive the principal amount of the Debentures at par together with all accrued and unpaid interest thereon. See "*Details of the Offering – Debentures – General*".

### **Debenture Conversion Privilege**

Each Debenture will be convertible into common shares ("**Common Shares**") of the Corporation at the option of the holder thereof at any time prior to 5:00 p.m. (Calgary time) on the earliest of: (i) the Business Day (as defined herein) immediately preceding the Maturity Date, and (ii) the last Business Day immediately preceding the Redemption Date (as defined herein), in each case, at a conversion price of \$3.05 per Common Share (the "**Conversion Price**"), representing a conversion rate of approximately 327.8689 Common Shares per \$1,000 principal amount of Debentures, subject to adjustment in accordance with the Indenture (as defined herein). Upon conversion, holders of Debentures will receive accrued and unpaid interest thereon from and including the last Interest Payment Date up to, but not including, the Conversion Date (as defined herein). Further particulars concerning the conversion privilege, including provisions for the adjustment of the conversion price, are set out under "*Details of the Offering – Debentures – Conversion Privilege*".

The Debentures may not be redeemed by the Corporation before December 31, 2016, except in certain limited circumstances following a Change of Control (as defined herein). On or after December 31, 2016 and prior to the Maturity Date, the Debentures may be redeemed by the Corporation, in whole or in part from time to time, on not more than 60 days' and not less than 30 days' prior written notice, at a redemption price equal to the principal amount thereof plus accrued and unpaid interest thereon, if any, up to, but not including, the date set for redemption, provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price (as defined herein) on the date on which such notice of redemption is given exceeds 125% of the Conversion Price. In the event that a holder of Debentures exercises its conversion right following a notice of redemption by the Corporation, such holder shall be entitled to receive accrued and unpaid interest, in addition to the applicable number of Common Shares to be received on conversion, for the period from and including the latest Interest Payment Date up to, but not including, the Conversion Date. See "*Details of the Offering – Debentures*".

On the Redemption Date or on the Maturity Date, as applicable, subject to the receipt of required regulatory approvals and provided that no Event of Default (as defined herein) has occurred and is continuing, the Corporation may, at its option, on not more than 60 days' and not less than 40 days' prior notice, elect to satisfy its obligation to repay, in whole or in part, the principal amount of the Debentures

which are to be redeemed or which have matured by issuing and delivering Common Shares to the holders of the Debentures. Payment for such Debentures subject to the election would be satisfied by delivering that number of Common Shares obtained by dividing the principal amount of the Debentures subject to the election which are to be redeemed or have matured by 95% of the Current Market Price of the Common Shares on the Redemption Date or Maturity Date, as applicable. Any accrued and unpaid interest thereon, up to but not including the Redemption Date or Maturity Date, as applicable, will be paid in cash. No fractional Common Shares will be issued upon conversion or redemption or at maturity of the Debentures. In lieu thereof, the Corporation will satisfy such fractional interests by a cash payment equal to the fraction of the Common Share multiplied by the Current Market Price of the Common Shares. Further particulars of the interest, redemption, repurchase and maturity provisions of the Debentures are set out under "*Details of the Offering – Debentures*".

**There is currently no market through which the Debentures may be sold and purchasers may not be able to resell Debentures purchased under this short form prospectus. This may affect the pricing of the Debentures in the secondary market, the transparency and availability of trading prices and the liquidity of the Debentures, and the extent of issuer regulation. See "*Risk Factors*".**

The issued and outstanding Common Shares are listed on the Toronto Stock Exchange (the "**TSX**") under the trading symbol "TBE". On November 22, 2013, the last trading day prior to the public announcement of the Offering, the closing price of the Common Shares on the TSX was \$2.24 and on December 5, 2013, the last complete trading day on which the Common Shares traded prior to the filing of this short form prospectus, the closing price of the Common Shares on the TSX was \$2.25. The Corporation has received conditional approval to list the Debentures distributed under this short form prospectus and the Common Shares issuable upon conversion or redemption or at maturity of the Debentures (together with the Debentures, the "**Offered Securities**") on the TSX. Such listings are subject to the Corporation fulfilling all the listing requirements of the TSX on or before February 27, 2014. The offering price of the Debentures was determined by negotiation among the Corporation and National Bank Financial Inc. ("**NBF**"), on its own behalf and on behalf of Peters & Co. Limited, Canaccord Genuity Corp., GMP Securities L.P., CIBC World Markets Inc., RBC Dominion Securities Inc., Scotia Capital Inc. and TD Securities Inc. (collectively, the "**Underwriters**").

**Price: \$1,000 per Debenture**

	<b>Price to the Public</b>	<b>Underwriters' Fee <sup>(1)</sup></b>	<b>Net Proceeds to the Corporation <sup>(2)</sup></b>
Per Debenture	\$1,000	\$40	\$960
Total	\$85,000,000	\$3,400,000	\$81,600,000

Notes:

- (1) The Underwriters' Fee (as defined herein) for the Debentures is 4.0% of the gross proceeds from the issuance of the Debentures and is payable in full on the Closing Date.
- (2) Before deducting expenses of the Offering estimated at \$550,000, which will be paid from the general funds of the Corporation. See "*Plan of Distribution*".

The Underwriters, as principals, conditionally offer the Debentures, subject to prior sale, if, as and when issued by the Corporation and accepted by the Underwriters in accordance with the conditions contained in the Underwriting Agreement referred to under "*Plan of Distribution*" and subject to approval of certain legal matters relating to the Offering on behalf of the Corporation by Burnet, Duckworth & Palmer LLP and on behalf of the Underwriters by Torys LLP (collectively, "**Counsel**"). The Corporation has been advised by the Underwriters that, in connection with the Offering, the Underwriters may effect transactions that stabilize or maintain the market price of the Offered Securities at levels other than those that might otherwise prevail in the open market. Such transactions, if commenced, may be discontinued at any time. See "*Plan of Distribution*".

Subscriptions for Debentures will be received subject to rejection or allotment in whole or in part and the right is reserved to close the subscription books at any time without notice. It is expected that the closing of the Offering will occur on or about December 13, 2013, or on such later date as the Corporation and the Underwriters may agree, but in any event not later than the date that is 42 days after the date of the Final Passport System Decision Document (as defined herein) (such applicable date, the "**Closing Date**"). Except in certain limited circumstances: (i) Debentures will be registered and represented electronically through the non-certificated inventory of CDS Clearing and Depository Services Inc. ("**CDS**") or its nominee under the book-based system administered by CDS; (ii) no certificates evidencing Debentures will be issued to purchasers thereof; and (iii) purchasers of Debentures will receive only a customer confirmation from the Underwriter or other registered dealer who is a CDS participant and from or through whom a beneficial interest in the Debentures is purchased. See "*Details of the Offering – Book-entry, Delivery and Form*".

**The Underwriters propose to offer the Debentures initially at the offering price specified above. After a reasonable effort has been made to sell all the Debentures at the price specified, the Underwriters may subsequently reduce the selling price of the Debentures to investors from time to time in order to sell any of the Debentures remaining unsold. Any such reduction will not affect the proceeds received by the Corporation. See "*Plan of Distribution*".**

The earnings coverage ratio in respect of the Debentures for the 12 month period ended September 30, 2013 was less than one-to-one. The earnings coverage ratio as at September 30, 2013 resulted in a deficiency of approximately 1.5 times for the 12 months ended September 30, 2013. See "*Earnings Coverage Ratio*".

Each of NBF and CIBC World Markets Inc. are, directly or indirectly, wholly owned subsidiaries of Canadian chartered banks that are lenders to Twin Butte, and to which Twin Butte is currently indebted. Consequently, Twin Butte may be considered a "connected issuer" of such Underwriters within the meaning of applicable Canadian securities legislation. See "*Relationship Between the Corporation and Certain Underwriters*" and "*Use of Proceeds*".

An investment in the Debentures, including the Common Shares issuable upon conversion or redemption or at maturity of the Debentures, is subject to certain risks inherent in the Corporation's involvement in the exploration for, and the acquisition, development and production of, oil and natural gas reserves. Investors should carefully consider the risks described under the heading "*Risk Factors*" in the AIF (as defined herein) incorporated by reference in this short form prospectus, the risks identified elsewhere in this short form prospectus, including under the heading "*Risk Factors*", and the documents incorporated by reference herein prior to making an investment in the Debentures.

The Debentures may be sold only in those jurisdictions where offers and sales are permitted. This short form prospectus is not an offer to sell or a solicitation of an offer to buy the Debentures in any jurisdiction where it is unlawful. Closing of the Offering is also subject to a number of conditions, including the approval of the TSX and, among other things, completion of a formal amending agreement in respect of the Credit Facility or the consent of Twin Butte's lenders. See "*Risk Factors – Credit Facility Risk*".

Twin Butte's head office is located at Suite 410, 396 – 11th Avenue S.W. Calgary, Alberta T2R 0C5 and its registered office is located at Suite 2400, 525 – 8th Avenue S.W. Calgary, Alberta T2P 1G1.

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## GLOSSARY OF TERMS

In this short form prospectus, the following terms shall have the meanings set forth below, unless otherwise indicated:

"**ABCA**" means the *Business Corporations Act* (Alberta), R.S.A. 2000, c. B-9, from time to time as amended or re-enacted, including the regulations promulgated thereunder;

"**AIF**" means the annual information form of Twin Butte for the year ended December 31, 2012 dated March 25, 2013;

"**Black Shire**" means Black Shire Energy Inc.;

"**Black Shire Acquisition**" means the acquisition by Twin Butte of all of the issued and outstanding Black Shire Shares on November 5, 2013;

"**Black Shire Shares**" means the class "A" common shares in the capital of Black Shire;

"**Board of Directors**" means the board of directors of the Corporation as it may be comprised from time to time;

"**Business Day**" means a day, other than a Saturday or Sunday, or a statutory holiday, on which major Canadian chartered banks are open for business in Calgary, Alberta;

"**Change of Control**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Repurchase upon a Change of Control*";

"**Change of Control Purchase Date**" means the date specified for purchase in a Debenture Offer;

"**Common Share Interest Payment Election**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Interest Payment Election*";

"**Conversion Date**" means the date on which a Debenture is surrendered for conversion when the register of the Debenture Trustee is open and in accordance with the provisions of the Indenture or, in the case of a Global Debenture, on the date which the Debenture Trustee received notice of and all necessary documentation in respect of the exercise of the conversion rights and, in the case of a Debenture so surrendered by post or other means of transmission, on the date on which it is received by the Debenture Trustee at one of its offices specified in the Indenture; provided that if a Debenture is surrendered for conversion on a day on which the register of Common Shares is closed the person or persons entitled to receive Common Shares shall become the holder or holders of record of such Common Shares as at the date on which such register is next reopened;

"**Credit Facility**" has the meaning set out in Note 1 to the table under "*Consolidated Capitalization of the Corporation*";

"**Current Market Price**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Conversion Privilege*";

"**Debenture Offer**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Repurchase Upon a Change of Control*";

"**Debenture Trustee**" means Valiant Trust Company;

"**Event of Default**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Events of Default*";

"**Final Passport System Decision Document**" means a receipt for this short form prospectus issued in accordance with the Passport System;

"**GAAP**" means the generally accepted accounting principles as set by the Canadian Institute of Chartered Accountants and as permitted by National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, for the preparation of financial statements;



"**Global Debentures**" means the global Debentures issued in the name of CDS, as custodian for the Participants;

"**IFRS**" means International Financial Reporting Standards as adopted by the International Accounting Standards Board, as amended from time to time;

"**Indenture**" means the indenture between the Corporation and the Debenture Trustee governing the terms of the Debentures;

"**Interest Obligation**" means the Corporation's obligation to pay interest on the Debentures in accordance with the Indenture;

"**Offer Price**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Repurchase Upon a Change of Control*";

"**Participant**" means a participant in the depository service of CDS;

"**Passport System**" means the system and procedures for the filing of prospectuses and related materials in one or more Canadian jurisdictions pursuant to Multilateral Instrument 11-102 - *Passport System* and National Policy 11-202 - *Process for Prospectus Reviews in Multiple Jurisdictions*;

"**Redemption Date**" means a date set for the redemption of all or a portion of the Debentures by the Corporation;

"**SEDAR**" means the System for Electronic Document Analysis and Retrieval;

"**Senior Indebtedness**" has the meaning attributed thereto under "*Details of the Offering – Debentures – Subordination*";

"**Subscription Receipts**" means subscription receipts of Twin Butte;

"**Subscription Receipt Offering**" means the offering completed on October 31, 2013 through a syndicate of underwriters pursuant to which Twin Butte issued 35,898,000 Subscription Receipts at a price of \$1.95 per Subscription Receipt for gross proceeds of approximately \$70 million, which proceeds were held in escrow pending completion of the Black Shire Acquisition and were exchanged (in accordance with their terms) on a one for one basis for Common Shares upon the closing of the Black Shire Acquisition on November 5, 2013 and the proceeds from the sale of the Subscription Receipts were released from escrow;

"**subsidiaries**" has the meaning attributed thereto under the ABCA;

"**Tax Act**" means the *Income Tax Act* (Canada), R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.), as amended, including the regulations promulgated thereunder, each as amended from time to time;

"**Underwriters' Fee**" means the fee payable to the Underwriters for the Debentures in the amount of 4.0% of the aggregate principal amount of the Debentures;

"**Underwriting Agreement**" means the underwriting agreement dated as of November 25, 2013 among the Corporation and the Underwriters in respect of the Offering;

"**United States**" or "**U.S.**" means the United States of America, its territories and possession, any state of the United States, and the District of Columbia;

"**U.S. Securities Act**" means the United States *Securities Act of 1933*, as amended; and

"**Waseca**" means Waseca Energy Inc.

Words importing the singular number only include the plural, and vice versa, and words importing any gender include all genders.

All dollar amounts set forth in this short form prospectus are in Canadian dollars, except where otherwise indicated.

## FORWARD-LOOKING STATEMENTS

Certain statements contained in this short form prospectus, and in certain documents incorporated by reference into this short form prospectus, constitute forward-looking statements and forward-looking information (collectively referred to herein as "**forward-looking statements**") within the meaning of applicable Canadian securities laws. Such forward-looking statements relate to future events or Twin Butte's future performance. All statements other than statements of historical fact may be forward-looking statements. Such forward-looking statements are often, but not always, identified by the use of words such as "seek", "anticipate", "budget", "plan", "continue", "estimate", "expect", "forecast", "may", "will", "project", "predict", "potential", "targeting", "intend", "could", "might", "should", "believe" and similar expressions. These statements involve known and unknown risks, uncertainties and other factors that may cause actual results or events to differ materially from those anticipated in such forward-looking statements. Twin Butte believes the expectations reflected in those forward-looking statements are reasonable but no assurance can be given that these expectations will prove to be correct and such forward-looking statements included in, or incorporated by reference into, this short form prospectus should not be unduly relied upon.

In particular, this short form prospectus, and certain of the documents incorporated by reference herein, contain forward-looking statements pertaining to the following:

- the use of proceeds from the Offering;
- completion of the Offering and the timing thereof;
- the impact of previous acquisitions on Twin Butte's operations, reserves, inventory and opportunities, financial condition, access to capital and overall strategy;
- development and drilling plans and the timing of results therefrom;
- recovery factors;
- well completions and the timing thereof;
- land expiries;
- reserve life indexes;
- abandonment and reclamation costs;
- exit production rates for December 31, 2013 at Primate (as defined herein) as well as the expected impact of certain previously encountered reservoir and production issues at Primate on the net present values associated with Twin Butte's reserves;
- capital expenditure programs and the timing thereof;
- the source of funding for Twin Butte's activities including development costs;
- projections of market prices and costs, and exchange and inflation rates;
- supply and demand for oil and natural gas;
- expectations regarding Twin Butte's ability to raise capital and to continually add to reserves through acquisitions, development and optimization;
- treatment under governmental regulatory regimes and tax laws;
- Twin Butte's dividend policy and the beliefs of Twin Butte in regards to the sustainability of such dividend;
- productive capacity of wells, anticipated or expected production rates and anticipated dates of commencement of production and timing of results therefrom;
- fluctuations in depletion, depreciation, and accretion rates;
- expected changes in regulatory regimes in respect of royalty curves and regulatory improvements and the effects of such changes;
- plans to expand recovery from certain of Twin Butte's properties; and
- Twin Butte's business and acquisition strategy, the criteria to be considered in connection therewith and the benefits to be derived therefrom.

The actual results, performance or achievements of Twin Butte could differ materially from those anticipated in these forward-looking statements as a result of the risk factors set forth below and elsewhere in this short form prospectus, and in certain documents incorporated by reference into this short form prospectus, but are not limited to:

- volatility in market prices for oil and natural gas and foreign exchange rates;
- operational risks and liabilities inherent in oil and natural gas operations;
- uncertainties associated with estimating oil and natural gas reserves;

- competition for, among other things, capital, acquisitions of reserves, undeveloped lands and skilled personnel;
- incorrect assessments of the value of acquisitions;
- geological, technical, drilling and processing problems;
- changes in general economic, market and business conditions;
- the accuracy of oil and gas reserves estimates and estimated production levels as they are affected by exploration and development drilling and estimated decline rates;
- additional production, reservoir and other unanticipated issues at Primate;
- the uncertainties in regard to the timing of Twin Butte's exploration and development program;
- unforeseen difficulties in integrating acquired assets into Twin Butte's operations;
- fluctuations in the costs of borrowing;
- political or economic developments;
- ability to obtain regulatory approvals;
- the occurrence of unexpected events;
- the results of litigation or regulatory proceedings that may be brought against Twin Butte;
- changes in income tax laws or changes in tax laws and incentive programs relating to the oil and gas industry; and
- the other factors discussed under "*Risk Factors*".

Statements relating to "reserves" and "resources" are deemed to be forward-looking statements, as they involve the implied assessment, based on certain estimates and assumptions that the resources and reserves described can be profitably produced in the future.

With respect to forward-looking statements contained in this short form prospectus, Twin Butte has made assumptions regarding, among other things:

- that production decline rates will remain consistent with Twin Butte's current estimates;
- that the production mix in respect of oil, natural gas liquids and natural gas will remain consistent with Twin Butte's current estimates;
- that Twin Butte's dividend rate will remain consistent;
- commodity prices and royalty regimes;
- availability of skilled labour;
- timing and amount of capital expenditures;
- future exchange rates; the price of oil and natural gas;
- that additional unanticipated production, reservoir or other issues at Primate will not occur;
- that Twin Butte's third party evaluators will agree with the conclusions reached by Twin Butte on the effects of previously encountered production issues at Primate on Twin Butte's reserves and other matters;
- the impact of increasing competition; conditions in general economic and financial markets;
- access to capital; availability of drilling and related equipment; effects of regulation by governmental agencies; royalty rates and future operating costs.

These forward-looking statements speak only as of the date of this short form prospectus or as of the date specified in the documents incorporated by reference into this short form prospectus, as the case may be.

Twin Butte has included the above summary of assumptions and risks related to forward-looking information provided in this short form prospectus in order to provide investors with a more complete perspective on Twin Butte's current and future operations and such information may not be appropriate for other purposes.

**Readers are cautioned that the foregoing lists of factors are not exhaustive. The forward-looking statements contained in this short form prospectus, and the documents incorporated by reference herein, are expressly qualified by this cautionary statement. Except as required by applicable Canadian securities laws, neither Twin Butte nor any of the Underwriters undertakes any obligation to publicly update or revise any forward-looking statements and readers should also carefully consider the matters discussed under the heading "*Risk Factors*" in this short form prospectus.**

### **NON-GAAP MEASURE**

Twin Butte uses the term "net debt" herein which does not have a standardized meaning prescribed by GAAP and therefore may not be comparable with the calculation of similar measures by other companies. Net debt, as used herein, as it relates to Black Shire, means Black Shire's current assets (not including derivative assets or oil inventory) less current liabilities (not including derivative liabilities), long term debt and cash taxes payable by Black Shire but does not include any proceeds from the exercise of any Black Shire Options (as defined herein) or Black Shire Performance Warrants (as defined herein) or any of Black Shire's transaction costs related to the Black Shire Acquisition, in each case calculated in accordance with GAAP.

### **OIL AND GAS ABBREVIATIONS**

Bbl	barrel
Bbls	barrels
Bbls/d	barrels per day
Boe	barrel of oil equivalent
Mcf	thousand cubic feet

### **BARREL OF OIL EQUIVALENCY**

The terms "Boe" means a barrel of oil equivalent on the basis of 6 Mcf of natural gas to 1 Bbl of oil. Boe's may be misleading, particularly if used in isolation. A Boe conversion ratio of 6 Mcf: 1 Bbl is based on an energy equivalency conversion method primarily applicable at the burner tip and does not represent a value equivalency at the wellhead. Given the value ratio based on the current price of crude oil as compared to natural gas is significantly different from the energy equivalency of 6 Mcf: 1Bbl, utilizing a conversion ratio at 6 Mcf: 1 Bbl may be misleading as an indication of value.

## DOCUMENTS INCORPORATED BY REFERENCE

**Information has been incorporated by reference in this short form prospectus from documents filed with certain securities commissions or similar authorities.** Copies of the documents incorporated herein by reference may be obtained on request without charge from the Vice-President, Finance, Chief Financial Officer and Corporate Secretary of Twin Butte, at Suite 410, 396 – 11th Avenue S.W. Calgary, Alberta T2R 0C5, telephone (403) 215-2692. In addition, copies of the documents incorporated herein by reference may be obtained from the securities commissions or similar authorities in Canada through the SEDAR website at [www.sedar.com](http://www.sedar.com).

The following documents of Twin Butte, filed with the various securities commissions or similar authorities in the jurisdictions where Twin Butte is a reporting issuer, are specifically incorporated by reference into and form an integral part of this short form prospectus:

1. the AIF;
2. the material change report of Twin Butte dated November 26, 2013 with respect to the Offering;
3. the material change report of Twin Butte dated October 15, 2013 with respect to the Subscription Receipt Offering and the Black Shire Acquisition;
4. the material change report dated July 17, 2013 providing, among other things, an update on the reservoir and production issues at certain of Twin Butte's wells at its Primate property in western Saskatchewan;
5. the material change report of Twin Butte dated February 5, 2013 with respect to the announcement of reservoir and production issues at certain of Twin Butte's wells at its Primate property in western Saskatchewan;
6. the unaudited condensed interim financial statements of Twin Butte as at September 30, 2013 and for the three and nine months ended September 30, 2013 and 2012, together with the notes thereto;
7. the management's discussion and analysis of the financial conditions and results of operations of Twin Butte as at and for the three and nine months ended September 30, 2013 and September 30, 2012;
8. the audited financial statements of Twin Butte as at and for the years ended December 31, 2012 and 2011, together with the notes thereto and the auditors' reports thereon;
9. the management's discussion and analysis of the financial conditions and results of operations of Twin Butte as at and for the years ended December 31, 2012;
10. the information circular – proxy statement of Twin Butte dated March 28, 2013, relating to the annual and special meeting of shareholders held on May 15, 2013;
11. the information circular – proxy statement of Twin Butte dated March 23, 2012, relating to the annual meeting of shareholders held on May 17, 2012;
12. the business acquisition report dated November 8, 2012 in respect of the acquisition by Twin Butte, by way of plan of arrangement under the ABCA, of all of the issued and outstanding common shares of Waseca (the "**Waseca Business Acquisition Report**"); and
13. the business acquisition report dated November 8, 2013 in respect of the acquisition by Twin Butte, by way of plan of arrangement under the ABCA, of all of the issued and outstanding Black Shire Shares (the "**Black Shire Business Acquisition Report**").

Any documents of the type referred to above and required by National Instrument 44-101 – *Short Form Prospectus Distributions*, including any material change reports (excluding confidential reports), comparative interim financial statements and comparative annual financial statements (together with the auditors' report thereon), management's discussion and analysis, business

acquisition reports, annual information forms, marketing materials and information circulars filed by Twin Butte, as the case may be, with the securities commissions or similar authorities in the provinces of Canada subsequent to the date of this short form prospectus shall be deemed to be incorporated by reference in this short form prospectus.

**Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this short form prospectus to the extent that a statement contained herein or in any other subsequently filed document which also is, or is deemed to be, incorporated by reference herein modifies or supersedes such statement. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes. The making of a modifying or superseding statement shall not be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this short form prospectus.**

### **MARKETING MATERIALS**

Any "template version" of any "marketing materials" (as such terms are defined under applicable Canadian securities laws) that are utilized by the Underwriters in connection with the Offering are not part of this short form prospectus to the extent that the contents of the template version of the marketing materials have been modified or superseded by a statement contained in this short form prospectus. Any template version of any marketing materials that has been, or will be, filed on SEDAR before the termination of the distribution under the Offering (including any amendments to, or an amended version of, any template version of any marketing materials) is deemed to be incorporated into this short form prospectus.

## SUMMARY OF THE OFFERING

*The following is a brief summary of some of the terms of the Offering and should be read in conjunction with the detailed information contained elsewhere in this short form prospectus. For a more complete description of the terms of the Debentures, see "Details of the Offering – Debentures":*

- Closing Date:** On or about December 13, 2013.
- Use of Proceeds:** The estimated net proceeds from the Offering, after deducting the Underwriters' Fee, but prior to deducting the estimated expenses of the Offering payable by the Corporation, will be approximately \$81,600,000. The Corporation will use such net proceeds to repay a portion of the bank indebtedness under the Credit Facility. See "*Use of Proceeds*".
- Listing and Trading:** The Corporation has received conditional approval to list the Debentures distributed under this short form prospectus and the Common Shares issuable upon conversion or redemption or at maturity of the Debentures on the TSX. Such listings are subject to the Corporation fulfilling all the listing requirements of the TSX on or before February 27, 2014.
- Risk Factors:** See "*Risk Factors*" herein and the risks identified elsewhere in the information included or incorporated by reference in this short form prospectus for a discussion of the factors that should be carefully considered before making a decision to invest in the Debentures.
- Issue:** \$85,000,000 aggregate principal amount of 6.25% convertible unsecured subordinated debentures.
- Price:** \$1,000 per Debenture.
- Maturity Date:** December 31, 2018.
- Interest:** The Debentures will bear interest at an annual rate of 6.25% payable semi-annually in arrears, on the last day of June and December in each year commencing on June 30, 2014. The first payment will represent accrued interest for the period from and including the Closing Date up to, but not including, June 30, 2014.
- Conversion Privilege:** Each Debenture will be convertible at the option of the holder thereof into fully paid and non-assessable Common Shares at any time prior to 5:00 p.m. (Calgary time) on the earliest of: (i) the last Business Day immediately preceding the Maturity Date and (ii) the last Business Day immediately preceding any Redemption Date, in each case, at the Conversion Price, representing a conversion rate of approximately 327.8689 Common Shares per \$1,000 principal amount of Debentures, subject to adjustment in accordance with the Indenture. Interest will be paid on conversion from and including the last Interest Payment Date up to, but not including, the Conversion Date. Holders converting their Debentures will become holders of record of Common Shares on the date of conversion provided that, if a Debenture is surrendered for conversion on a day on which the register of Common Shares is closed, the person entitled to receive Common Shares shall become the holder of record of such Common Shares as at the date on which such register is next reopened. Notwithstanding the foregoing, no Debentures may be converted on an Interest Payment Date or during the five Business Days preceding June 30 and December 31 in each year, commencing June 30, 2014,

as the registers of the Debenture Trustee will be closed during such periods. The Conversion Price is subject to adjustment in certain circumstances. See "*Details of the Offering – Debentures – Conversion Privilege*".

**Redemption and Purchase:**

The Debentures may not be redeemed by the Corporation before December 31, 2016, except in certain limited circumstances following a Change of Control. See "*Details of the Offering – Debentures – Repurchase upon a Change of Control*". On or after December 31, 2016 and prior to the Maturity Date, the Debentures may be redeemed by the Corporation, in whole or in part from time to time, on not more than 60 days' and not less than 30 days' prior written notice, at a redemption price equal to the principal amount thereof plus accrued and unpaid interest thereon, if any, up to, but not including, the date set for redemption, provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price on the date on which such notice of redemption is given exceeds 125% of the Conversion Price. In the event that a holder of Debentures exercises their conversion right following a notice of redemption by the Corporation, such holder shall be entitled to receive accrued and unpaid interest, in addition to the applicable number of Common Shares to be received on conversion, for the period from the latest Interest Payment Date up to, but not including, the date of conversion.

In the case of redemption of less than all of the Debentures, the Debentures to be redeemed will be selected by the Debenture Trustee on a *pro rata* basis or in such other manner as the Debenture Trustee deems equitable, subject to regulatory approvals.

The Corporation will have the right to purchase Debentures for cancellation in the market, by tender or by private contract, at any time, subject to regulatory requirements. See "*Details of the Offering – Debentures – Redemption and Purchase*".

**Payment upon Redemption or at Maturity:**

On any Redemption Date or on the Maturity Date, as applicable, the Corporation will repay the indebtedness represented by the Debentures by paying to the Debenture Trustee in lawful money of Canada an amount equal to the principal amount of the outstanding Debentures, together with accrued and unpaid interest thereon, if any, up to but not including such Redemption Date or the Maturity Date, as applicable.

On any Redemption Date or on the Maturity Date, as applicable, the Corporation may, at its option, on not more than 60 days' and not less than 40 days' prior notice and subject to any required regulatory approvals, and provided that no Event of Default has occurred and is continuing, elect to satisfy its obligation to repay, in whole or in part, the principal amount of the Debentures which are to be redeemed or which have matured by issuing and delivering Common Shares to the holders of the Debentures. Payment for such Debentures subject to the election would be satisfied by delivering that number of Common Shares obtained by dividing the principal amount of the Debentures subject to the election which are to be redeemed or have matured by 95% of the Current Market Price of the Common Shares on the Redemption Date or the Maturity Date, as the case may be. Any accrued and unpaid interest thereon up to but not including the Redemption Date or Maturity Date, as applicable, will be paid in cash. In the event a holder of Debentures exercises its conversion rights following delivery of a notice of redemption by the Corporation, such holder shall be entitled to receive the applicable number of Common Shares to be received on conversion on the last Business Day



immediately preceding the Redemption Date, as well as payment of interest from the last Interest Payment Date up to, but not including, the date of conversion. No fractional Common Shares will be issued upon redemption or at maturity of the Debentures; in lieu thereof, the Corporation will satisfy such fractional interests by a cash payment equal to the fraction of the Common Share multiplied by the Current Market Price of the Common Shares. See "*Details of the Offering – Debentures – Payment upon Redemption or at Maturity*".

**Rank:**

The Debentures will be direct, unsecured obligations of the Corporation and will be fully subordinated to all Senior Indebtedness, as more particularly described below under "*Subordination*". The Debentures will rank *pari passu* with one another and will rank *pari passu* with all other existing and future unsecured subordinated indebtedness of the Corporation to the extent subordinated on the same terms. The Indenture will not restrict the ability of the Corporation or its subsidiaries from incurring additional indebtedness, including Senior Indebtedness, or from mortgaging, pledging or charging their respective properties to secure any indebtedness or liabilities, including Senior Indebtedness. See "*Details of the Offering – Debentures – Rank*".

**Subordination:**

The payment of the principal and premium, if any, of, and interest on, the Debentures will be subordinated and postponed, and subject in right of payment in the circumstances referred to below and more particularly as set forth in the Indenture, to the full and final payment of all Senior Indebtedness of the Corporation.

The Indenture will provide that in the event of any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization or other similar proceedings relative to the Corporation, or to its property or assets, or in the event of any proceedings for voluntary liquidation, dissolution or other winding-up of the Corporation, whether or not involving insolvency or bankruptcy, or any marshalling of the assets and liabilities of the Corporation, then holders of Senior Indebtedness will receive payment in full before the holders of Debentures will be entitled to receive any payment or distribution of any kind or character, whether in cash, property or securities, which may be payable or deliverable in any such event in respect of any of the Debentures or any unpaid interest accrued thereon. The Indenture will also provide that the Corporation will not make any payment, and the holders of the Debentures will not be entitled to demand, institute proceedings for the collection of, or receive any payment or benefit (including, without any limitation, by set-off, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of indebtedness represented by the Debentures: (a) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures; or (b) at any time when a default or an event of default has occurred under the Senior Indebtedness and is continuing or upon the acceleration of Senior Indebtedness, unless the Senior Indebtedness has been repaid in full. See "*Details of the Offering – Debentures – Subordination*".

**Change of Control:**

Within 30 days following the occurrence of a Change of Control, the Corporation will be required to make the Debenture Offer at a price equal to the Offer Price. See "*Details of the Offering – Debentures – Repurchase upon a Change of Control*".

In addition to the requirement for the Corporation to make a Debenture Offer, and subject to regulatory approval, in the event of a Change of Control in which 10% or more of the consideration for the Common Shares in the

transaction or transactions constituting a Change of Control consists of: (i) cash (other than cash payments for fractional Common Shares and cash payments made in respect of dissenters' appraisal rights); (ii) equity securities (including trust units, limited partnership units or other participating securities of a trust, limited partnership or similar entity) that are not traded or intended to be traded immediately following such transactions on a stock exchange; or (iii) other property that is not traded or intended to be traded immediately following such transactions on a stock exchange, during the period beginning 10 trading days before the anticipated date on which the Change of Control becomes effective and ending 30 days after the Debenture Offer is delivered, holders of Debentures may elect to convert their Debentures and, subject to certain limitations, receive, subject to and upon completion of the Change of Control, in addition to the number of Common Shares they would otherwise be entitled to receive as set out under "*Details of the Offering – Debentures – Conversion Privilege*", an additional number of Common Shares per \$1,000 principal amount of Debentures as set out in a table in the Indenture. See "*Details of the Offering – Debentures – Cash Change of Control*".

**Interest Payment Election:**

Unless an Event of Default has occurred and is continuing, the Corporation may elect, from time to time, subject to applicable regulatory approval, to satisfy its obligation to pay all or any portion of the Interest Obligation on an Interest Payment Date by delivering sufficient Common Shares to the Debenture Trustee for sale, to satisfy the Interest Obligation or portion thereof, as applicable, on the Interest Payment Date, in which event holders of the Debentures will be entitled to receive a cash payment equal to the interest payable from the proceeds of the sale of such Common Shares. See "*Details of the Offering – Debentures – Interest Payment Election*".

**Events of Default:**

The Indenture will provide that an event of default in respect of the Debentures will occur if certain events described in the Indenture occur, including if any one or more of the following described events has occurred and is continuing: (i) failure for 30 days to pay interest on the Debentures when due; (ii) failure to pay principal or premium, if any (whether by payment in cash or delivery of Common Shares), on the Debentures when due, whether at maturity, upon redemption, on a Change of Control, by declaration or otherwise; (iii) default in the delivery, when due, of any Common Shares or other consideration, including any Make-Whole Premium (as defined herein), payable upon conversion with respect to the Debentures, which default continues for 15 days; (iv) default in the observance or performance of any other covenant or condition of the Indenture and the failure to cure (or obtain a waiver for) such default for a period of 30 days after notice in writing has been given by the Debenture Trustee or from holders of not less than 25% of the aggregate principal amount of the Debentures specifying such default and requiring the Corporation to rectify or obtain a waiver for same; (v) certain events of bankruptcy, insolvency or reorganization of the Corporation under bankruptcy or insolvency laws; and (vi) if an event of default occurs or exists under any agreement evidencing indebtedness for borrowed money (other than non-recourse debt) of the Corporation and as a result of such event of default (a) indebtedness for borrowed money thereunder in excess of \$10,000,000 has become due and payable before the date it would otherwise have been due and payable, and (b) the holders of such indebtedness are entitled to commence, and have commenced, the enforcement of security they hold for such indebtedness (if any) or the exercise of any other creditors' remedies to collect such indebtedness.

If an Event of Default has occurred and is continuing, the Debenture Trustee may, in its discretion, and will, upon the request of holders of not less than 25% in principal amount of the then-outstanding Debentures, declare the principal of (and premium thereon, if any) and interest on all outstanding Debentures to be immediately due and payable. See "*Details of the Offering – Debentures – Events of Default*".

## TWIN BUTTE ENERGY LTD.

### Twin Butte's Business

Twin Butte is a Calgary, Alberta based dividend paying, value oriented intermediate oil and gas producer with a significant low risk, high rate of return drilling inventory focused on large original oil and gas in-place play types. With a stable decline production base, Twin Butte believes it is well positioned to provide its shareholders with a sustainable dividend with growth potential over both the short and long term. Twin Butte is committed to continually enhance its asset quality while focusing on the sustainability of its dividend. See "*General Development of the Business*", "*Description of the Business*" and "*Statement of Reserves Data and Other Oil and Gas Information*" in the AIF.

Twin Butte's head office is located at Suite 410, 396 – 11th Avenue S.W. Calgary, Alberta T2R 0C5 and its registered office is located at Suite 2400, 525 – 8th Avenue S.W. Calgary, Alberta T2P 1G1.

## RECENT DEVELOPMENTS

### Amendment to the Articles of Twin Butte

On May 15, 2013, Twin Butte amended its articles to change the rights, privileges, restrictions and conditions in respect of the Common Shares, to enable Twin Butte to issue Common Shares as payment of all or any portion of dividends declared on the Common Shares (referred to herein as "**stock dividends**") for those shareholders who elect to receive stock dividends instead of cash dividends.

### Lone Pine Resources Inc.

Gordon Howe the Vice President, Land of Twin Butte is a former officer of Lone Pine Resources Inc. ("**Lone Pine**") and David Fitzpatrick, a director of Twin Butte, is a current director of Lone Pine. On September 25, 2013, Lone Pine commenced proceedings in the Court of Queen's Bench of Alberta under the *Companies' Creditors Arrangement Act* ("**CCAA**") and ancillary proceedings under Chapter 15 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. Lone Pine, Lone Pine Resources Canada Ltd. and all other subsidiaries of Lone Pine are parties to the CCAA and Chapter 15 proceedings. As of the date hereof, such proceedings remain ongoing.

### Primate Property

Certain of Twin Butte's wells at its Primate property in western Saskatchewan ("**Primate**") have experienced reservoir and production issues as announced by Twin Butte in both January and July of this year. As a result, production at Primate has decreased from approximately 3,210 Bbls/d as at December 31, 2012 to current production (based on field estimates) of approximately 920 Bbls/d. Based on internal type curves and management estimates, and assuming no unanticipated production, reservoir or other issues at Primate are encountered and no further drilling is commenced at Primate, Twin Butte currently expects December 31, 2013 exit production at Primate to range from approximately 700 Bbls/d to approximately 900 Bbls/d. Other than the increased capital costs associated with attending to the various reservoir and production issues at Primate, Twin Butte does not believe such issues (by themselves) have had (or will have) a material impact on the net present values ascribed to Twin Butte's reserves set forth in the AIF.

### The Black Shire Acquisition

Twin Butte completed the Black Shire Acquisition on November 5, 2013. Black Shire was a private company with a focused asset base in the greater Provost area of Alberta, producing approximately 7,000 Boe/d (93 percent medium gravity oil). The greater Provost area is directly adjacent to Twin Butte's core Lloydminster heavy oil area.

Pursuant to the Black Shire Acquisition, Twin Butte acquired all of the issued and outstanding Black Shire Shares for total net consideration of approximately \$358 million, including the assumption of approximately \$107.6 million of net debt at closing. Pursuant to the Black Shire Acquisition, holders of Black Shire Shares received, for each Black Shire Share held: (i) 0.697 of a Common Share (the "**Share Consideration**"); and (ii) \$2.00 in cash (the "**Cash Consideration**"). Twin Butte issued approximately 54 million Common Shares and paid an aggregate of approximately \$155 million to acquire all of the issued and

outstanding Black Shire Shares, including the Black Shire Shares issuable upon surrender of the Black Shire Options (as defined below) and Black Shire Performance Warrants (as defined below) pursuant to the Black Shire Arrangement, subject in all cases to applicable tax withholdings. Pursuant to the Black Shire Arrangement, all of the outstanding options to acquire Black Shire Shares ("**Black Shire Options**") and performance warrants to acquire Black Shire Shares ("**Black Shire Performance Warrants**") were surrendered to Black Shire for cancellation in consideration for the issuance of one (1) Black Shire Share for each Black Shire Option and/or Black Shire Performance Warrant surrendered, which Black Shire Shares were subsequently acquired by Twin Butte for the Share Consideration and the Cash Consideration, subject to withholding by Black Shire from the Cash Consideration, and as required, the Share Consideration, payable to such holders, the applicable exercise price of such Black Shire Options and/or Black Shire Performance Warrants, which aggregated approximately \$16.9 million, and applicable tax withholdings.

The Cash Consideration for the Black Shire Arrangement was partially funded through the Subscription Receipt Offering pursuant to which Twin Butte issued 35,898,000 Subscription Receipts at a price of \$1.95 per Subscription Receipt for gross proceeds of approximately \$70 million, which proceeds were held in escrow pending completion of the Black Shire Acquisition. In accordance with their terms, each Subscription Receipt was exchanged for one Common Share upon the closing of the Black Shire Acquisition on November 5, 2013 and the proceeds from the sale of the Subscription Receipts were released from escrow.

Immediately after the completion of the Black Shire Acquisition, Twin Butte and Twin Butte Acquisition Ltd. (a wholly-owned subsidiary of Twin Butte) amalgamated under the ABCA continuing as "Twin Butte Energy Ltd." and the borrowing base of the Credit Facility was increased to \$400 million. See the Black Shire Business Acquisition Report incorporated by reference herein for further information on Black Shire and the Black Shire Acquisition.

## **DESCRIPTION OF SHARE CAPITAL**

The following is a description of the rights, privileges, restrictions and conditions attaching to Twin Butte's share capital.

### **Common Shares**

Holders of Common Shares are entitled to one vote per share at meetings of shareholders of Twin Butte, to receive dividends if, as and when declared by the Board of Directors and to receive pro rata the remaining property and assets of Twin Butte upon its dissolution, liquidation or winding-up, subject to the rights of shares having priority over the Common Shares.

If the Board of Directors declare a dividend on the Common Shares payable in whole or in part in fully paid and non-assessable Common Shares, the number of Common Shares to be issued in satisfaction of the stock dividend shall be determined by dividing: (A) the dollar amount of the particular stock dividend; by (B) 95% of the "Average Market Price" of a Common Share on the TSX. The "Average Market Price" is calculated by dividing the total value of the Common Shares traded on the TSX by the total volume of the Common Shares traded on the TSX over the five trading day period immediately prior to the payment date of the applicable stock dividend on the Common Shares.

There are currently 342,344,383 Common Shares issued and outstanding.

### **Preferred Shares**

Each series of preferred shares shall consist of such number of shares and have such rights, privileges, restrictions and conditions as may be determined by the Board of Directors prior to the issuance thereof. With respect to the payment of dividends and distribution of assets in the event of liquidation, dissolution or winding-up of Twin Butte, whether voluntary or involuntary, the preferred shares are entitled to preference over the Common Shares and any other shares ranking junior to the preferred shares from time to time and may also be given such other preferences over the Common Shares and any other shares ranking junior to the preferred shares as may be determined at the time of creation of such series. No preferred shares are currently issued and outstanding.

## **CONSOLIDATED CAPITALIZATION OF THE CORPORATION**

The following table sets forth the consolidated capitalization of Twin Butte as at September 30, 2013: (i) before giving effect to the Subscription Receipt Offering, the Black Shire Acquisition and the Offering; (ii) after giving effect to the Subscription

Receipt Offering and the Black Shire Acquisition; and (iii) after giving effect to the Subscription Receipt Offering, the Black Shire Acquisition and the Offering.

	As at September 30, 2013 before giving effect to the Subscription Receipt Offering, the Black Shire Acquisition and the Offering	As at September 30, 2013 after giving effect to the Subscription Receipt Offering and the Black Shire Acquisition <sup>(3)</sup>	As at September 30, 2013 after giving effect to the Subscription Receipt Offering, the Black Shire Acquisition and the Offering <sup>(3)(4)</sup>
<b>Debt</b>			
Credit Facility <sup>(1)(2)</sup>			
Authorized	\$280,000,000	\$400,000,000	\$400,000,000
Credit Facility Drawn	\$180,000,000	\$359,000,000	\$277,000,000
Debtures <sup>(5)</sup>	N/A	N/A	\$85,000,000
<b>Shareholder Equity</b>			
Share Capital			
Common Shares <sup>(6)(7)(8)</sup> (unlimited)	\$531,314,000 (252,059,194 Common Shares)	\$711,035,000 (341,969,470 Common Shares)	\$711,035,000 (341,969,470 Common Shares)
Preferred Shares (unlimited)	\$Nil (Nil Preferred Shares)	\$Nil (Nil Preferred Shares)	\$Nil (Nil Preferred Shares)

Notes:

- (1) At September 30, 2013, Twin Butte's dedicated bank facility (the "**Credit Facility**") consisted of a revolving line of credit of \$255 million and an operating line of credit of \$25 million with a revolving period currently expiring on April 29, 2014, extendible annually at the request of Twin Butte for a further 364 days, subject to approval of the lenders and repayable one year after the expiry of the revolving period. The Credit Facility is with a syndicate of Canadian chartered and international banks and provides that advances may be made by way of Canadian prime rate and U.S. base rate loans, bankers' acceptances, LIBOR Loans, or standby letters of credit/guarantees. Interest rates on Canadian prime rate loans fluctuate based on a pricing grid and range from Bank of Canada prime plus 1.0% to the Bank of Canada rate prime plus 2.5%, depending upon Twin Butte's debt to earnings before interest, taxes, depreciation and amortization ("**EBITDA**") ratio for the preceding twelve months in categories ranging from one to greater than three times. A debt to EBITDA ratio of less than one has interest payable at the Bank of Canada's prime lending rate plus 1%. A debt to EBITDA ratio greater than three has interest payable at the Bank of Canada's prime lending rate plus 2.5%. The borrowing base of the Credit Facility is determined based on, among other things, Twin Butte's current reserve report, results of operations, current and forecasted commodity prices and the current economic environment. The Credit Facility is subject to semi-annual review by the lenders and is secured by a \$750 million demand debenture in respect of all of Twin Butte's assets and a general assignment of book debts in respect of all accounts of Twin Butte. Subsequent to September 30, 2013, and in connection with the Black Shire Acquisition, the borrowing base of the Credit Facility was increased to an aggregate of \$400 million. As at December 5, 2013, an aggregate of approximately \$326 million was outstanding under the Credit Facility. See "*Risk Factors – Credit Facility Arrangements*" in the AIF.
- (2) The aggregate net proceeds of the Offering will be used to pay down outstanding indebtedness under the Credit Facility. See "*Use of Proceeds*" in this short form prospectus.
- (3) Based on the issuance of 35,898,000 Subscription Receipts (and the exchange for an equal number of Common Shares) pursuant to the Subscription Receipt Offering for aggregate gross proceeds of \$70,001,100 less the applicable underwriters' fee of \$3,150,049.50 and expenses of the Subscription Receipt Offering of \$350,000.
- (4) The Debentures may be converted, at the option of the holder, into Common Shares. See "*Details of the Offering – Debentures – Conversion Privilege*".
- (5) Represents the face value of the Debentures without fair value adjustments determined in accordance with IFRS. Under IFRS, the Debentures will be included as a liability measured initially at their fair value and subsequently at amortized cost, with the remainder (representing the value of the conversion feature) included as equity, both of which are net of allocated issue costs. For accounting purposes, the portion of the Debentures classified as a liability will be accreted over the term of the Debentures to increase the carrying value of the liability up to the principal balance of the outstanding Debentures at the Maturity Date with the accretion recognized as interest expense.
- (6) The foregoing table does not include 640,434 options to acquire Common Shares outstanding as of the date hereof at weighted average exercise price of \$2.72.
- (7) The foregoing table does not include 5,634,270 share awards granted pursuant to Twin Butte's share award incentive plan. On the vesting date of such awards, Twin Butte may settle any amount payable by issuing Common Shares from the treasury of Twin Butte.
- (8) The foregoing table does not include 307,038 Common Shares issued pursuant to Twin Butte's dividend reinvestment plan or stock dividend program, and 67,915 Common Shares issued pursuant to Twin Butte's share award incentive plan subsequent to September 30, 2013.

### **EARNINGS COVERAGE RATIO**

After giving effect to the issuance of the Debentures to be distributed under this short form prospectus subsequent to the respective calculation period as if the issuance and changes had occurred at the beginning of the calculation period, and all servicing costs that have been, or are expected to be, incurred in connection therewith and after giving effect to the Offering (including the associated use of proceeds therefrom as described under "*Use of Proceeds*"), the Corporation's interest requirements for the 12 months ended December 31, 2012 and September 30, 2013 were \$8.8 million and \$10.7 million, respectively, and the Corporation's net earnings before deducting interest and income taxes for the 12 months ended December

31, 2012 was \$25.9 million, while the Corporation's net loss before deducting interest and income taxes for the 12 months ended September 30, 2013 was \$15.8 million. This results in interest coverage of approximately 3.0 times for the 12 months ended December 31, 2012, and a deficiency of approximately 1.5 times for the 12 months ended September 30, 2013. The incremental dollar amount of income before interest and income taxes required to achieve an earning coverage ratio of one-to-one for the period ended September 30, 2013 would be \$26.5 million, assuming deferred income tax expense is calculated at a rate of 26%.

Under IFRS, the Debentures will be classified on the Corporation's balance sheet as a liability, with a portion allocated to equity related to the conversion feature and with the related interest expensed as incurred and financing charges amortized, using the effective interest method.

The following table sets out the earnings coverage ratios discussed above in accordance with IFRS.

(\$000s, except Earnings Coverage Ratio)

	<b>For the 12 months ended December 31, 2012</b>	<b>For the 12 months ended September 30, 2013</b>
Interest Expense <sup>(1)</sup>	8,766	10,677
Capitalized Interest	0	0
<b>Denominator for Earnings Coverage Ratio</b>	<b>8,766</b>	<b>10,677</b>
Net Income (Loss)	31,530	(32,985)
Income Tax Expense (Recovery)	(14,389)	6,495
Interest Expense	8,766	10,677
<b>Numerator for Earnings Coverage Ratio</b>	<b>25,907</b>	<b>(15,813)</b>
<b>Earnings Coverage Ratio</b>	<b>2.96</b>	<b>(1.48)</b>

Note:

- (1) Includes a full 12 months of interest expense under IFRS as if the Debentures were issued at the beginning of the calculation period.

The Corporation's cash flow before interest expense for the periods ended December 31, 2012 and September 30, 2013 was \$143.6 million and \$147.6 million, respectively, for an interest coverage ratio of 19.0 times and 15.6 times, respectively. Cash flow before interest provides an indication of the funds generated by the Corporation's principal business activities and is defined as "cash from operating activities" prior to "interest paid", "change in non-cash working capital related to operating activities" and "expenditures on decommissioning liabilities" in the Corporation's statements of cash flows.

The following table sets out the cash coverage ratios discussed above.

(\$000s, except Cash Coverage Ratio)

	<b>For the 12 months ended December 31, 2012</b>	<b>For the 12 months ended September 30, 2013</b>
Cash interest paid <sup>(1)</sup>	7,556	9,468
Capitalized Interest	0	0
<b>Denominator for Cash Coverage Ratio</b>	<b>7,556</b>	<b>9,468</b>
Cash flow from operating activities	131,767	128,774
Expenditures on decommissioning liability	1,140	2,315
Changes in non-cash working capital	3,127	7,045
Cash Interest paid	7,556	9,468
<b>Numerator for Cash Coverage Ratio</b>	<b>143,590</b>	<b>147,602</b>
<b>Cash Coverage Ratio</b>	<b>19.00</b>	<b>15.59</b>

Note:

- (1) Includes a full 12 months of cash expenditures for interest as if the Debentures were issued at the beginning of the calculation period. Cash interest paid does not include non-cash finance charges, specifically the amortization of the liability portion of the Debentures under IFRS.

**PRIOR SALES**

The following table summarizes the issuances by Twin Butte of Common Shares or securities convertible into Common Shares in the twelve month period prior to the date hereof.

<u>Date of Issuance</u>	<u>Number and Type of Securities</u>	<u>Issue Price per Security (\$)</u>
December 7, 2012	136,304 Common Shares <sup>(1)</sup>	\$2.25
December 10, 2012	10,456 Common Shares	\$2.72
December 11, 2012	6,519 Common Shares	\$2.68
December 12, 2012	18,600 Common Shares	\$2.68
December 13, 2012	6,519 Common Shares	\$2.64
December 13, 2012	12,399 Common Shares	\$2.64
December 17, 2012	246,122 Common Shares <sup>(2)</sup>	\$2.48
January 7, 2013	6,817 Common Shares	\$2.71
January 15, 2013	250,907 Common Shares <sup>(2)</sup>	\$2.48
January 17, 2013	470,457 Common Shares	\$2.66
January 18, 2013	323,450 Common Shares <sup>(1)</sup>	\$2.55
January 22, 103	43,212 Common Shares <sup>(1)</sup>	\$2.61
January 29, 2013	20,575 Common Shares <sup>(1)</sup>	\$2.66
February 7, 2013	23,675 Common Shares <sup>(1)</sup>	\$2.23
February 15, 2013	205,263 Common Shares <sup>(2)</sup>	\$2.10
March 15, 2013	210,373 Common Shares <sup>(2)</sup>	\$2.13
April 5, 2013	221,283 Common Shares <sup>(1)</sup>	\$2.35
April 8, 2013	36,689 Common Shares	\$2.40
April 9, 2013	12,322 Common Shares	\$2.35
April 11, 2013	39,217 Common Shares <sup>(1)</sup>	\$2.41
April 12, 2013	4,480 Common Shares <sup>(1)</sup>	\$2.40
April 15, 2013	163,415 Common Shares <sup>(2)</sup>	\$2.28
April 26, 2013	23,187 Common Shares <sup>(1)</sup>	\$2.33
May 15, 2013	198,448 Common Shares <sup>(2)</sup>	\$2.03
May 22, 2013	18,086 Common Shares <sup>(1)</sup>	\$2.32
June 11, 2013	117,432 Common Shares <sup>(1)</sup>	\$2.26
June 17, 2103	276,580 Common Shares <sup>(2)</sup>	\$2.11
June 17, 2013	203 Common Shares <sup>(2)</sup>	\$2.11
June 18, 2013	7,059 Common Shares	\$2.26
July 15, 2013	171,628 Common Shares <sup>(2)</sup>	\$2.25
July 15, 2013	49,320 Common Shares <sup>(2)</sup>	\$2.25
July 18, 2013	47,160 Common Shares <sup>(1)</sup>	\$1.81
July 19, 2013	43,299 Common Shares	\$1.79
July 23, 2013	1,997 Common Shares <sup>(1)</sup>	\$1.81
July 25, 2013	12,916 Common Shares <sup>(1)</sup>	\$1.76
August 15, 2013	72,774 Common Shares <sup>(2)</sup>	\$1.57
August 15, 2013	234,069 Common Shares <sup>(2)</sup>	\$1.57
August 20, 2013	67,462 Common Shares	\$1.74
September 9, 2013	73,395 Common Shares <sup>(1)</sup>	\$1.87
September 10, 2012	27,033 Common Shares <sup>(1)</sup>	\$1.90
September 13, 2013	8,122 Common Shares <sup>(1)</sup>	\$1.96
September 16, 2013	71,174 Common Shares <sup>(2)</sup>	\$1.86
September 16, 2013	225,617 Common Shares <sup>(2)</sup>	\$1.86
September 19, 2013	34,848 Common Shares <sup>(1)</sup>	\$2.06
September 27, 2013	2,000 Common Shares	\$2.07
October 15, 2013	64,905 Common Shares <sup>(2)</sup>	\$2.01
October 15, 2013	65,183 Common Shares <sup>(2)</sup>	\$2.01
October 31, 2013	35,898,000 Subscription Receipts <sup>(5)</sup>	\$1.95
November 5, 2013	54,012,276 Common Shares <sup>(6)</sup>	\$2.08
November 5, 2013	35,898,000 Common Shares <sup>(7)</sup>	N/A
November 15, 2013	114,231 Common Shares <sup>(2)</sup>	2.11
November 15, 2013	62,719 Common Shares <sup>(2)</sup>	2.11
November 20, 2013	67,915 Common Shares <sup>(1)</sup>	2.12



Notes:

- (1) Common Shares issued on exercise of share awards and/or options.
- (2) Common Shares issued pursuant to Twin Butte's dividend reinvestment plan or stock dividend program. No proceeds are received by Twin Butte when Common Shares are issued under the dividend reinvestment plan or the stock dividend program.
- (3) Common Shares issued to acquire, by way of plan of arrangement under the ABCA, all of the issued and outstanding common shares of Waseca.
- (4) The foregoing table does not include 3,255,380 share awards granted pursuant to Twin Butte's share award incentive plan in the twelve months preceding this short form prospectus.
- (5) Issued pursuant to the Subscription Receipt Offering.
- (6) Common Shares issued to acquire, by way of plan of arrangement under the ABCA, all of the issued and outstanding Black Shire Shares.
- (7) Issued on conversion of the Subscription Receipts.

### MARKET FOR SECURITIES

The outstanding Common Shares trade on the TSX under the trading symbol "TBE". The following sets out the high and low trading prices and aggregate trading volume for the Common Shares on the TSX as reported by the TSX for the periods indicated:

<u>Period</u>	<u>High</u>	<u>Low</u>	<u>Volume</u>
<b>2012</b>			
December	2.89	2.49	13,604,708
<b>2013</b>			
January	2.84	2.51	24,895,309
February	2.40	1.98	39,418,870
March	2.49	2.09	42,349,547
April	2.46	2.20	17,714,203
May	2.36	2.11	31,261,850
June	2.29	2.165	15,779,278
July	2.41	1.60	61,709,474
August	1.90	1.60	26,232,510
September	2.17	1.80	18,949,063
October	2.36	2.01	45,729,993
November	2.29	2.07	41,541,122
December (1 to 5)	2.27	2.09	5,210,869

Note:

- (1) On December 5, 2013, the last complete trading day on which the Common Shares traded prior to the filing of this short form prospectus, the closing price of the Common Shares on the TSX was \$2.25.

### DETAILS OF THE OFFERING

#### Debentures

The Debentures will be issued under and pursuant to the provisions of the Indenture. The following description of the Debentures is a summary of their material attributes and characteristics and is subject to the detailed provisions of the Indenture and is qualified in its entirety by reference to the Indenture. Following the Closing Date, the Indenture will be available for inspection at the offices of the Corporation and will be filed on SEDAR at [www.sedar.com](http://www.sedar.com).

#### General

The Debentures will be limited to an aggregate principal amount of \$85,000,000. The Corporation may, however, from time to time, without the consent of the holders of any outstanding Debentures, issue debentures in addition to the Debentures offered hereby.

The Debentures will be dated as of the Closing Date. The Debentures will be issuable only in denominations of \$1,000 and integral multiples thereof. The Debentures have a maturity date of December 31, 2018 and on that date, the holders shall be entitled to receive the principal amount of the Debentures at par together with all accrued and unpaid interest thereon.

The Debentures will initially be issued in global form and registered in the name of CDS or its nominee, and purchasers of Debentures hereunder will receive only beneficial interests in such Debentures in book-entry form through the facilities of CDS. Holders of beneficial interests in the Debentures will not have the right to receive physical certificates evidencing their ownership of Debentures except under certain circumstances described under "*Details of the Offering – Debentures – Book-entry, Delivery and Form*".

The Debentures will bear interest from the date of issue at 6.25% per annum, which will be payable semi-annually on June 30 and December 31 in each year, commencing on June 30, 2014, computed on the basis of a 365-day or 366-day year, as the case may be. The first payment will represent accrued interest for the period from the Closing Date up to, but not including, June 30, 2014. Interest on the Debentures will be payable in lawful money of Canada as specified in the Indenture.

Unless an Event of Default has occurred and is continuing, the Corporation may elect, from time to time, subject to applicable regulatory approval, to satisfy its obligation to pay all or any portion of the Interest Obligation on an Interest Payment Date by delivering sufficient Common Shares to the Debenture Trustee for sale, to satisfy the Interest Obligation, or portion thereof, as applicable, on the applicable Interest Payment Date, in which event holders of the Debentures will be entitled to receive a cash payment equal to the interest payable from the proceeds of the sale of such Common Shares. See "*Details of the Offering – Debentures – Interest Payment Election*" below.

The Indenture will not contain a requirement for the Corporation to increase the amount of interest or other payments to holders of Debentures should the Corporation become required to withhold amounts in respect of income or similar taxes on payment of interest or other amounts.

Principal on the Debentures will be payable in lawful money of Canada or, at the Corporation's option and subject to applicable regulatory approval and provided no Event of Default has occurred and is continuing, by delivery of Common Shares to satisfy, in whole or in part, the Corporation's obligation to repay principal under the Debentures, as further described under "*Details of the Offering – Debentures – Payment upon Redemption or at Maturity*" and "*Details of the Offering – Debentures – Redemption and Purchase*".

The Debentures will be the Corporation's direct obligation and will not be secured by any mortgage, pledge, hypothec or other charge and will be subordinated to the Senior Indebtedness, as described under "*Details of the Offering – Debentures – Subordination*". The Indenture will not restrict the Corporation or its subsidiaries from incurring additional indebtedness for borrowed money or from mortgaging, pledging or charging its assets to secure any indebtedness.

The Debentures will be transferable, and may be presented for conversion, at the principal offices of the Debenture Trustee in Calgary, Alberta and Toronto, Ontario.

Under the Indenture, an original purchaser of Debentures under the Offering will have a contractual right of rescission upon the conversion by such purchaser of the principal amount of such Debentures into Common Shares in accordance with the terms of the Indenture to receive the amount paid for the Debentures if this short form prospectus (including the documents incorporated by reference herein) and any amendment contains a misrepresentation or is not delivered to such purchaser, provided such remedy for rescission is exercised within 180 days of closing of the Offering. See "*Statutory and Contractual Rights of Withdrawal and Rescission*".

### ***Conversion Privilege***

Each Debenture will be convertible at the option of the holder thereof into fully paid and non-assessable Common Shares at any time prior to 5:00 p.m. (Calgary time) on the earliest of: (i) the last Business Day immediately preceding the Maturity Date and (ii) the last Business Day immediately preceding the Redemption Date (as defined herein), in each case, at the Conversion Price, representing a conversion rate of approximately 327.8689 Common Shares per \$1,000 principal amount of Debentures, subject to adjustment in accordance with the Indenture. Interest will be paid on conversion from, and including, the last Interest Payment Date, up to, but not including, the Conversion Date.

Holders converting their Debentures will become holders of record of Common Shares on the date of conversion provided that, if a Debenture is surrendered for conversion on a day on which the register of Common Shares is closed, the person entitled to receive Common Shares shall become the holder of record of such Common Shares as at the date on which such register is next reopened. Notwithstanding the foregoing, no Debentures may be converted on an Interest Payment Date or during the five business days preceding June 30 and December 31 in each year, commencing June 30, 2014, as the registers of the Debenture Trustee will be closed during such periods. Subject to the provisions thereof, the Indenture will provide for the adjustment of the Conversion Price in certain events including: (i) the subdivision or consolidation of the outstanding Common Shares; (ii) the issuance of Common Shares or securities convertible into Common Shares by way of stock dividend, distribution or otherwise other than an issue of securities to holders of Common Shares who have elected to receive dividends in securities of the Corporation in lieu of receiving cash dividends paid in the ordinary course; (iii) the issuance of options, rights or warrants to all or substantially all the holders of Common Shares entitling them to acquire Common Shares or other securities convertible into Common Shares at less than 95% of the then Current Market Price of the Common Shares; (iv) the distribution to all holders of Common Shares of any securities, evidences of indebtedness or assets (other than cash dividends and equivalent dividends in securities paid in lieu of cash dividends paid in the ordinary course); (v) the payment to all holders of Common Shares in respect of an issuer bid for Common Shares by the Corporation to the extent that the market value of the payment exceeds the then market price of the Common Shares on the date of expiry of the bid; and (vi) the payment of cash dividends or distributions to holders of Common Shares above the current monthly dividend rate of \$0.016 per Common Share proportionally adjusted in the case of an applicable period that is not one month (which would be \$0.048 per Common Share for a quarterly dividend, \$0.096 per Common Share for a semi-annual dividend or \$0.192 per Common Share for an annual dividend).

Subject to the provisions thereof, the Indenture will provide for the adjustment of the Conversion Price in the event that the Corporation pays a dividend or makes a distribution to all holders of Common Shares consisting of capital stock of, or similar equity interests in, a subsidiary or other business of the Corporation (other than on issue of securities to holders of Common Shares who have elected to receive dividends in securities of the Corporation in lieu of receiving cash dividends paid in the ordinary course) in which event the conversion rate will be adjusted based on the market value of the securities so distributed relative to the market value of the Common Shares.

Provided the Common Shares are then listed on the TSX (or such other recognized stock exchange), the term "**Current Market Price**" will be defined in the Indenture to mean, on any day, the volume weighted average trading price of the Common Shares on the TSX (or such other recognized stock exchange) for the 20 consecutive trading days ending on the fifth trading day preceding such date.

Subject to prior regulatory approval, if required, there will be no adjustment of the Conversion Price in respect of any event described in (ii), (iii), (iv) or (vi) above if the holders of the Debentures are allowed to participate as though they had converted their Debentures prior to the applicable record date or effective date. The Corporation will not be required to make adjustments in the Conversion Price unless the cumulative effect of such adjustments would change the Conversion Price by at least 1%. However, any adjustments that are less than 1% of the Conversion Price will be carried forward and taken into account when determining subsequent adjustments.

In the case of: (i) any reclassification, capital reorganization or change (other than a change resulting only from consolidation or subdivision) of the Common Shares; (ii) the Corporation's amalgamation, arrangement, consolidation or merger with or into any other entity; (iii) any sale, transfer or other disposition of the Corporation's properties and assets as, or substantially as, an entirety to any other entity; or (iv) the Corporation's liquidation, dissolution or winding-up, the terms of the conversion privilege will be adjusted so that each Debenture will, after such reclassification, capital reorganization, change, amalgamation, arrangement, consolidation, merger, sale, transfer, disposition, liquidation, dissolution or winding-up, be exercisable for the kind and amount of the Corporation's securities or property, or of such continuing, successor or purchaser entity, as the case may be, which the holder thereof would have been entitled to receive as a result of such reclassification, capital reorganization, change, amalgamation, arrangement, consolidation, merger, sale, transfer, disposition, liquidation, dissolution or winding-up if on the effective date thereof it had been the holder of the number of Common Shares into which the Debenture was convertible prior to the effective date thereof. The Corporation shall give notice to the holders of Debentures at least 30 days prior to the effective date of such transaction in writing and by release to a business newswire stating the consideration into which the Debentures will be convertible after the effective date of such transaction.

No fractional Common Shares will be issued upon any conversion of the Debentures; in lieu thereof, the Corporation will satisfy such fractional interests by a cash payment equal to the fraction of the Common Share multiplied by the Current Market Price of the Common Shares.

### ***Redemption and Purchase***

The Debentures may not be redeemed by the Corporation before December 31, 2016, except in certain limited circumstances following a Change of Control. See "*Details of the Offering – Debentures – Repurchase upon a Change of Control*" below. On or after December 31, 2016 and prior to the Maturity Date, the Debentures may be redeemed by the Corporation, in whole or in part from time to time, on not more than 60 days' and not less than 30 days' prior written notice, at a redemption price equal to the principal amount thereof plus accrued and unpaid interest thereon, if any, up to, but not including, the date set for redemption, provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price on the date on which such notice of redemption is given exceeds 125% of the Conversion Price. In the event that a holder of Debentures exercises their conversion right following a notice of redemption by the Corporation, such holder shall be entitled to receive accrued and unpaid interest, in addition to the applicable number of Common Shares to be received on conversion, for the period from the latest Interest Payment Date up to, but not including, the date of conversion.

In the case of redemption of less than all of the Debentures, the Debentures to be redeemed will be selected by the Debenture Trustee on a *pro rata* basis or in such other manner as the Debenture Trustee deems equitable, subject to regulatory approvals.

The Corporation will have the right to purchase Debentures for cancellation in the market, by tender or by private contract, at any time, subject to regulatory requirements.

### ***Payment upon Redemption or at Maturity***

On any Redemption Date or on the Maturity Date, as applicable, the Corporation will repay the indebtedness represented by the Debentures by paying to the Debenture Trustee in lawful money of Canada an amount equal to the principal amount of the outstanding Debentures, together with accrued and unpaid interest thereon, if any, up to but not including such Redemption Date or the Maturity Date, as applicable. On any Redemption Date or on the Maturity Date, as applicable, the Corporation may, at its option, on not more than 60 days' and not less than 40 days' prior notice and subject to any required regulatory approvals, provided that no Event of Default has occurred and is continuing, elect to satisfy its obligation to repay, in whole or in part, the principal amount of the Debentures which are to be redeemed or which have matured by issuing and delivering Common Shares to the holders of the Debentures. Payment for such Debentures subject to the election would be satisfied by delivering that number of Common Shares obtained by dividing the principal amount of the Debentures subject to the election which are to be redeemed or have matured by 95% of the Current Market Price of the Common Shares on the Redemption Date or Maturity Date, as applicable. Any accrued and unpaid interest thereon, up to and including the Redemption Date or Maturity Date, as applicable, will be paid in cash. In the event a holder of Debentures exercises its conversion rights following delivery of a notice of redemption by the Corporation, such holder shall be entitled to receive the applicable number of Common Shares to be received on conversion on the last Business Day immediately preceding the Redemption Date.

No fractional Common Shares will be issued upon redemption or at maturity of the Debentures; in lieu thereof, the Corporation will satisfy such fractional interests by a cash payment equal to the fraction of the Common Share multiplied by the Current Market Price of the Common Shares.

### ***Cancellation***

All Debentures converted, redeemed or purchased will be cancelled and may not be reissued or resold.

### ***Rank***

The Debentures will be direct, unsecured obligations of the Corporation and will be fully subordinated to all Senior Indebtedness, as more particularly described below under "*Subordination*". The Debentures will rank *pari passu* with one another and will rank *pari passu* with all other existing and future unsecured subordinated indebtedness of the Corporation to the extent subordinated on the same terms. The Indenture will not restrict the ability of the Corporation or its subsidiaries from incurring additional indebtedness, including Senior Indebtedness, or from mortgaging, pledging or charging their respective properties to secure any indebtedness or liabilities, including Senior Indebtedness.

### ***Subordination***

The payment of the principal and premium, if any, of, and interest on, the Debentures will be subordinated and postponed, and subject in right of payment in the circumstances referred to below and more particularly as set forth in the Indenture, to the full and final payment of all Senior Indebtedness of the Corporation. "**Senior Indebtedness**" of the Corporation will be defined in the Indenture and will include all obligations, liabilities and indebtedness of the Corporation which would, in accordance with IFRS, be classified upon a consolidated balance sheet of the Corporation as liabilities of the Corporation and, whether or not so classified, shall include (without duplication): (a) indebtedness of the Corporation or its subsidiaries for borrowed money; (b) obligations of the Corporation evidenced by bonds, debentures, notes or other similar instruments; (c) obligations of the Corporation or its subsidiaries arising pursuant or in relation to bankers' acceptances, letters of credit, letters of guarantee, performance bonds and surety bonds (including payment and reimbursement obligations in respect thereof) or indemnities issued in connection therewith; (d) obligations of the Corporation under any swap, hedging or other similar contracts or arrangements; (e) obligations of the Corporation under guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the Senior Indebtedness or other obligations of any other person which would otherwise constitute Senior Indebtedness within the meaning of this definition; (f) all indebtedness of the Corporation representing the deferred purchase price of any property including, without limitation, purchase money mortgages; (g) accounts payable to trade creditors; (h) all renewals, extensions and refinancing of any of the foregoing; (i) all declared but unpaid dividends or distributions; and (j) all costs and expenses incurred by or on behalf of the holder of any Senior Indebtedness in enforcing payment or collection of any such Senior Indebtedness, including enforcing any security interest securing the same. "Senior Indebtedness" shall not include any indebtedness that would otherwise be Senior Indebtedness if it is expressly stated to be subordinate to or rank *pari passu* with the Debentures.

The Indenture will provide that in the event of any insolvency or bankruptcy proceedings, or any receivership, liquidation, reorganization or other similar proceedings relative to the Corporation, or to its property or assets, or in the event of any proceedings for voluntary liquidation, dissolution or other winding-up of the Corporation, whether or not involving insolvency or bankruptcy, or any marshalling of the assets and liabilities of the Corporation, then holders of Senior Indebtedness will receive payment in full before the holders of Debentures will be entitled to receive any payment or distribution of any kind or character, whether in cash, property or securities, which may be payable or deliverable in any such event in respect of any of the Debentures or any unpaid interest accrued thereon. The Indenture will also provide that the Corporation will not make any payment, and the holders of the Debentures will not be entitled to demand, institute proceedings for the collection of, or receive any payment or benefit (including, without any limitation, by set-off, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of indebtedness represented by the Debentures: (a) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures; or (b) at any time when a default or an event of default has occurred under the Senior Indebtedness and is continuing or upon the acceleration of Senior Indebtedness, unless the Senior Indebtedness has been repaid in full.

The Debenture Trustee and the Corporation will also be authorized (and obligated upon a request from the Corporation) under the Indenture to enter into subordination agreements on behalf of the holders of Debentures with any holder of Senior Indebtedness.

### ***Repurchase upon a Change of Control***

Within 30 days following the occurrence of a Change of Control, the Corporation will be required to make a cash offer to purchase all of the Debentures (the "**Debenture Offer**") at a price equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon (the "**Offer Price**"). A Change of Control shall include: (i) an acquisition by a person or group of persons acting jointly or in concert (within the meaning of Multilateral Instrument 62-104 – *Take-Over Bids and Issuer Bids* ("**MI 62-104**") and in Ontario, the *Securities Act* (Ontario) and Ontario Securities Commission Rule 62-504 – *Take-Over Bids and Issuer Bids* ("**OSC Rule 62-504**") of ownership of, or voting control or direction over, more than 50% of the issued and outstanding Common Shares; or (ii) the sale or other transfer of all or substantially all of the Corporation's consolidated assets, excluding a sale, merger, reorganization or other similar transaction if the previous holders of the Common Shares hold at least 50% of the voting control in such merged, reorganized or other continuing entity (each a "**Change of Control**").

The Indenture will contain notification and repurchase provisions requiring the Corporation to give written notice to the Debenture Trustee of the occurrence of a Change of Control within 30 days of such event together with the Debenture Offer. The Debenture Trustee will thereafter promptly mail to each holder of Debentures a notice of the Change of Control together with a copy of the Debenture Offer to repurchase all outstanding Debentures.

If Debentures representing 90% or more of the aggregate principal amount of the Debentures outstanding on the date of the giving of notice of the Change of Control are tendered for purchase following a Change of Control (other than Debentures held at the date of the take-over bid by or on behalf of the offeror, associates or affiliates of the offeror or any one acting jointly or in concert with the offeror), the Corporation will have the right to redeem all remaining Debentures in cash on the purchase date at the Offer Price. Notice of such redemption must be given to the Debenture Trustee by the Corporation within ten days following expiry of the right of the holders of the Debentures to require repurchase after the Change of Control and, as soon as possible thereafter, by the Debenture Trustee to the holders of Debentures not tendered for purchase.

The Corporation will comply with the requirements of Canadian securities laws and regulations to the extent such laws and regulations are applicable in connection with the repurchase of Debentures in the event of a Change of Control. Beneficial ownership will be determined in accordance with MI 62-104. The term "person" includes any syndicate or group that would be deemed to be a "person" under MI 62-104.

### ***Cash Change of Control***

In addition to the requirement for the Corporation to make a Debenture Offer in the event of a Change of Control, if a Change of Control occurs on or before December 31, 2017 in which 10% or more of the consideration for the Common Shares in the transaction or transactions constituting a Change of Control consists of: (i) cash (other than cash payments for fractional Common Shares and cash payments made in respect of dissenters' appraisal rights); (ii) equity securities (including trust units, limited partnership units or other participating securities of a trust, limited partnership or similar entity) that are not traded or intended to be traded immediately following such transactions on a recognized stock exchange; or (iii) other property that is not traded or intended to be traded immediately following such transactions on a recognized stock exchange, then subject to regulatory approvals, during the period beginning 10 trading days before the anticipated date on which the Change of Control becomes effective and ending 30 days after the Debenture Offer is delivered, holders of Debentures will be entitled to convert their Debentures, subject to certain limitations, and receive, subject to and upon completion of the Change of Control, in addition to the number of Common Shares they would otherwise be entitled to receive as set out under "*Details of the Offering – Debentures – Conversion Privilege*" above, an additional number of Common Shares per \$1,000 principal amount of Debentures as set out below (in each case, a "**Make-Whole Premium**"), subject to regulatory approvals.

The number of additional Common Shares per \$1,000 principal amount of Debentures constituting the relevant Make-Whole Premium will be determined by reference to the table below and is based on the date on which the Change of Control becomes effective (the "**Effective Date**") and the price (the "**Stock Price**") paid per Common Share in the transaction constituting the Change of Control. If holders of Common Shares receive (or are entitled and able in all circumstances to receive), only cash in the transaction, the Stock Price will be the cash amount paid per Common Share. Otherwise, the Stock Price will be equal to the Current Market Price of the Common Shares immediately preceding the Effective Date of such transaction.

The following table shows what the Make-Whole Premium would be for each hypothetical Stock Price and Effective Date set out below, expressed as additional Common Shares per \$1,000 principal amount of Debentures. For greater certainty, the Corporation will not be obliged to pay the Make-Whole Premium other than by issuance of Common Shares upon conversion, subject to the provision relating to adjustment of the Conversion Price in certain circumstances and following the completion of certain types of transactions described under "*Details of the Offering – Debentures – Conversion Privilege*" above.

### **Make-Whole Premium Upon a Change of Control (Number of Additional Common Shares per \$1,000 Debenture)**

<b>Stock Price</b>	<b>Effective Date</b>				
	December 31, 2013	December 31, 2014	December 31, 2015	December 31, 2016	December 31, 2017
<b>\$2.20</b>	126.68	126.68	126.68	126.68	126.68
<b>\$2.40</b>	99.34	96.24	91.79	88.80	88.80
<b>\$2.60</b>	77.69	74.13	68.90	61.86	56.75
<b>\$2.80</b>	60.89	57.12	51.35	43.31	29.27
<b>\$3.00</b>	47.76	44.09	37.96	29.48	11.34

<b>\$3.20</b>	37.80	33.94	28.00	19.32	3.16
<b>\$3.40</b>	29.95	26.10	20.52	11.95	0.57
<b>\$3.60</b>	23.68	20.17	14.87	6.74	0.05
<b>\$3.80</b>	18.92	15.46	10.69	3.19	0.00
<b>\$4.00</b>	14.98	11.92	7.68	1.29	0.00
<b>\$4.20</b>	12.03	9.14	5.37	0.35	0.00
<b>\$4.40</b>	9.55	7.03	3.78	0.07	0.00
<b>\$4.60</b>	7.67	5.35	2.56	0.00	0.00
<b>\$4.80</b>	6.12	4.11	1.76	0.00	0.00
<b>\$5.00</b>	4.86	3.11	1.14	0.00	0.00
<b>\$5.20</b>	3.93	2.35	0.73	0.00	0.00
<b>\$5.40</b>	3.12	1.76	0.44	0.00	0.00
<b>\$5.60</b>	2.48	1.30	0.25	0.00	0.00
<b>\$5.80</b>	1.99	0.96	0.12	0.00	0.00
<b>\$6.00</b>	1.57	0.69	0.06	0.00	0.00
<b>\$6.20</b>	1.22	0.48	0.03	0.00	0.00
<b>\$6.40</b>	0.97	0.33	0.00	0.00	0.00
<b>\$6.60</b>	0.76	0.22	0.00	0.00	0.00
<b>\$6.80</b>	0.59	0.13	0.00	0.00	0.00
<b>\$7.00</b>	0.44	0.08	0.00	0.00	0.00
<b>\$7.20</b>	0.34	0.04	0.00	0.00	0.00
<b>\$7.40</b>	0.25	0.02	0.00	0.00	0.00

The actual Stock Price and Effective Date may not be set out in the table, in which case:

- (a) if the actual Stock Price on the Effective Date is between two Stock Prices in the table or the actual Effective Date is between two Effective Dates in the table, the Make-Whole Premium will be determined by a straightline interpolation between the Make-Whole Premiums set out for the two Stock Prices and the two Effective Dates in the table based on a 365-day year, as applicable;
- (b) if the Stock Price on the Effective Date exceeds \$7.40 per Common Share, subject to adjustment as described below, the Make-Whole Premium will be zero; and
- (c) if the Stock Price on the Effective Date is less than \$2.20 per Common Share, subject to adjustment as described below, the Make-Whole Premium will be zero.

The Stock Prices set out in the table above will be adjusted as of any date on which the Conversion Price of the Debentures is adjusted. The adjusted Stock Prices will equal the Stock Prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the conversion price as so adjusted and the denominator of which is the conversion price immediately prior to the adjustment giving rise to the Stock Price adjustment. The number of additional Common Shares set out in the table above will be adjusted in the same manner as the Conversion Price as set out above under "*Details of the Offering – Debentures – Conversion Privilege*", other than by operation of an adjustment to the Conversion Price by adding the Make-Whole Premium as described above. Holders of the Debentures will not be entitled to a Make-Whole Premium in connection with any Cash Change of Control occurring after December 31, 2017.

#### ***Interest Payment Election***

Unless an Event of Default has occurred and is continuing, the Corporation may elect, from time to time, subject to applicable regulatory approval, to satisfy its obligation to pay all or any portion of the Interest Obligation on an Interest Payment Date by

delivering sufficient Common Shares to the Debenture Trustee for sale, to satisfy the Interest Obligation, or portion thereof, as applicable, on the Interest Payment Date, in which event holders of the Debentures will be entitled to receive a cash payment equal to the interest payable from the proceeds of the sale of such Common Shares (the "**Common Share Interest Payment Election**").

The Indenture will provide that, upon the Corporation making a Common Share Interest Payment Election, the Debenture Trustee will: (i) accept delivery from the Corporation of Common Shares; (ii) accept bids with respect to, and consummate sales of, such Common Shares, each as the Corporation shall direct in its absolute discretion through investment banks, brokers or dealers identified by the Corporation; (iii) invest the proceeds of such sales in debentures issued or guaranteed by the Government of Canada which mature prior to the applicable Interest Payment Date, and use the proceeds received from investment in such permitted government debentures, together with any additional cash provided by the Corporation, to satisfy the Interest Obligation; and (iv) perform any other action necessarily incidental thereto.

The Indenture will set out the procedures to be followed by the Corporation and the Debenture Trustee in order to effect the Common Share Interest Payment Election. If a Common Share Interest Payment Election is made, the sole right of a holder of Debentures in respect of interest will be to receive a cash payment equal to the interest owed on his Debentures from the Debenture Trustee out of the proceeds of the sale of Common Shares (plus any amount received by the Debenture Trustee from the Corporation) in full satisfaction of the Interest Obligation, and the holder of such Debentures will have no further recourse to the Corporation in respect of the Interest Obligation.

Notwithstanding the foregoing, neither the Corporation making the Common Share Interest Payment Election nor the consummation of sales of Common Shares will: (i) result in the holders of the Debentures not being entitled to receive, on the applicable Interest Payment Date, cash in an aggregate amount equal to the interest payable on such Interest Payment Date; or (ii) entitle or require such holders to receive any Common Shares in satisfaction of the Interest Obligation.

#### ***Modification***

The rights of the holders of Debentures may be modified in accordance with the terms of the Indenture. For that purpose, among others, the Indenture will contain certain provisions which make binding on all holders of outstanding Debentures, resolutions passed at meetings of the holders of outstanding Debentures by votes cast thereat by holders of not less than 66 $\frac{2}{3}$ % of the principal amount of the then-outstanding Debentures present at the meeting or represented by proxy, or rendered by instruments in writing signed by the holders of not less than 66 $\frac{2}{3}$ % of the principal amount of the then-outstanding Debentures. Under the Indenture, certain amendments of a technical nature or which are not prejudicial to the rights of the holders of the Debentures may be made to the Indenture without the consent of the holders of the Debentures.

#### ***Consolidation, Mergers or Sales of Assets***

The Indenture will provide that the Corporation may not, without the consent of the holders of the Debentures, consolidate or amalgamate with or merge into any person or sell, convey, transfer or lease all or substantially all of the Corporation's properties and assets to another person (other than the Corporation's direct or indirect wholly-owned subsidiaries) unless:

- (a) the resulting, surviving, continuing or transferee person expressly assumes all of the Corporation's obligations under the Debentures and Indenture;
- (b) if such resulting, surviving, continuing or transferee person is organized otherwise than under the laws of Canada, any province or territory thereof, the United States or any state or district thereof, it attorns to the jurisdiction of the courts of Alberta;
- (c) the Debentures will be valid and binding obligations of the resulting, surviving, continuing or transferee person entitling the holders thereof, as against such person, to all the rights of holders of Debentures under the Indenture;
- (d) after giving effect to the transaction, no Event of Default, and no event that, after notice or lapse of time, or both, would become an Event of Default, will occur; and



(e) such other conditions as may be described in the Indenture are met,

provided, however, that the sale, conveyance, transfer or lease (in a single transaction or a series of related transactions) of the properties or assets of one or more subsidiaries (other than to the Corporation or another direct or indirect wholly-owned subsidiary) which, if such properties or assets were directly owned by the Corporation, would constitute all or substantially all of the properties and assets of the Corporation on a consolidated basis, shall be deemed to be a sale, conveyance, transfer or lease of all or substantially all of the properties and assets of the Corporation.

Although such transactions are permitted under the Indenture, certain of the foregoing transactions could constitute a Change of Control, which would require the Corporation to offer to purchase the Debentures as described above. An assumption of the Corporation's obligations under the Debentures and the Indenture by such resulting, surviving, continuing or transferee person or Corporation might be deemed for Canadian federal income tax purposes to be an exchange of the Debentures for new debentures by the holders thereof, resulting in recognition of gain or loss for such purposes and possibly other adverse tax consequences to the holders. Holders should consult their own tax advisors regarding the tax consequences of such an assumption.

### ***Events of Default***

The Indenture will provide that an event of default ("**Event of Default**") in respect of the Debentures will occur if certain events described in the Indenture occur, including if any one or more of the following described events has occurred and is continuing: (i) failure for 30 days to pay interest on the Debentures when due; (ii) failure to pay principal or premium, if any (whether by payment in cash or delivery of Common Shares), on the Debentures when due, whether at maturity, upon redemption, on a Change of Control, by declaration or otherwise; (iii) default in the delivery, when due, of any Common Shares or other consideration, including any Make-Whole Premium, payable upon conversion with respect to the Debentures, which default continues for 15 days; (iv) default in the observance or performance of any other covenant or condition of the Indenture and the failure to cure (or obtain a waiver for) such default for a period of 30 days after notice in writing has been given by the Debenture Trustee or from holders of not less than 25% of the aggregate principal amount of the Debentures specifying such default and requiring the Corporation to rectify or obtain a waiver for same; (v) certain events of bankruptcy, insolvency or reorganization of the Corporation under bankruptcy or insolvency laws; and (vi) if an event of default occurs or exists under any agreement evidencing indebtedness for borrowed money (other than non-recourse debt) of the Corporation and as a result of such event of default (a) indebtedness for borrowed money thereunder in excess of \$10,000,000 has become due and payable before the date it would otherwise have been due and payable, and (b) the holders of such indebtedness are entitled to commence, and have commenced, the enforcement of security they hold for such indebtedness (if any) or the exercise of any other creditors' remedies to collect such indebtedness.

If an Event of Default has occurred and is continuing, the Debenture Trustee may, in its discretion, and will, upon the request of holders of not less than 25% in principal amount of the then-outstanding Debentures declare the principal of (and premium, if any) and interest on all outstanding Debentures to be immediately due and payable. In certain cases, the holders of more than 50% of the principal amount of the Debentures then-outstanding may, on behalf of the holders of all Debentures, waive any Event of Default and/or cancel any such declaration upon such terms and conditions as such holders shall prescribe.

### ***Offers for Debentures***

The Indenture will contain provisions to the effect that if an offer is made for the Debentures which is a take-over bid for Debentures within the meaning of MI 62-104 and in Ontario, the *Securities Act* (Ontario) and OSC Rule 62-504 if the Debentures were considered equity securities, and not less than 90% of the principal amount of the then-outstanding Debentures (other than Debentures held at the date of the take-over bid by or on behalf of the offeror or associates or affiliates of the offeror) are taken up and paid for by the offeror, the offeror will be entitled to acquire the Debentures held by those who did not accept the offer on the terms offered by the offeror.

### ***Discharge of the Indenture***

The Corporation may satisfy and discharge the Corporation's obligations under the Indenture in certain circumstances, including by delivering to the Debenture Trustee for cancellation all outstanding Debentures or by depositing with the Debenture Trustee, or the paying agent, if applicable, after the Debentures have become due and payable, whether at stated maturity or any redemption date, or any purchase date, or a Change of Control Purchase Date (to the extent applicable), or upon conversion or otherwise, cash

or Common Shares (as applicable under the terms of the Indenture) sufficient to pay the principal and premium of and all accrued and unpaid interest owing under all of the outstanding Debentures and paying all other sums payable under the Indenture.

### ***Calculations in Respect of Debentures***

The Corporation is responsible for making all calculations called for under the Debentures. These calculations include, but are not limited to, determination of the Current Market Price of Common Shares. The Corporation will make all these calculations in good faith and, absent manifest error, the Corporation's calculations are final and binding on holders of Debentures and the Debenture Trustee. The Corporation will provide a schedule of the Corporation's calculations to the Debenture Trustee and the Debenture Trustee is entitled to conclusively rely upon the accuracy of the Corporation's calculations without independent verification.

### ***No Personal Liability of Board of Directors, Officers, Employees, subsidiaries, Incorporators and Shareholders***

No past, present or future director, officer, employee or shareholder of the Corporation or any successor, as such, shall have any liability for any of the obligations of the Corporation under the Debentures or the Indenture or for any claim based on, in respect of or by reason of, such obligations or their creation. Each holder of Debentures by accepting a Debenture waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Debentures.

### ***Book-entry, Delivery and Form***

The Debentures will be issued as Global Debentures held by, or on behalf of, CDS, as custodian for its Participants.

All Debentures will initially be represented in the form of Global Debentures registered in the name of CDS or its nominee. Purchasers of Debentures represented by Global Debentures will not receive Debentures in definitive form. Rather, purchasers of such Debentures will receive only beneficial interests in such Debentures in "book-entry only" form (unless the Corporation elects or is required pursuant to the Indenture to prepare and deliver definitive Debentures in fully-registered form). Beneficial interests in the Global Debentures will be represented through book-entry accounts of Participants. Each purchaser of a Debenture represented by a Global Debenture will receive a customer confirmation of purchase from the Underwriter or registered dealer from whom the Debenture is purchased in accordance with the practices and procedures of the selling Underwriter or registered dealer. The practices of registered dealers may vary, but generally customer confirmations are issued promptly after execution of a customer order. CDS will be responsible for establishing and maintaining book-entry accounts for its Participants having interests in Global Debentures.

If CDS notifies the Corporation that it is unwilling or unable to continue as depository in connection with the Global Debentures, or if at any time CDS ceases to be a clearing agency or otherwise ceases to be eligible to be a depository and the Corporation and the Debenture Trustee are unable to locate a qualified successor, or if the Corporation elects, in its sole discretion, to terminate the book-entry system, with the consent of the Debenture Trustee, or if under certain circumstances described in the Indenture, an Event of Default has occurred, beneficial owners of Debentures represented by Global Debentures at such time will receive Debentures in registered and definitive form (the "**Definitive Debentures**").

### ***Transfer and Exchange of Debentures***

Transfers of beneficial ownership in Debentures represented by Global Debentures will be effected through records maintained by CDS for such Debentures or its nominees (with respect to interests of Participants) and on the records of Participants (with respect to interests of persons other than Participants). Unless the Corporation elects or is required pursuant to the Indenture to prepare and deliver Definitive Debentures, beneficial owners who are not Participants in the Depository's book entry system, but who desire to purchase, sell or otherwise transfer beneficial ownership of or other interests in Global Debentures, may do so only through Participants in CDS' book-entry system. The ability of a beneficial owner of an interest in a Debenture represented by a Global Debenture to pledge the Debenture or otherwise take action with respect to such owner's interest in a Debenture represented by a Global Debenture (other than through a Participant) may be limited due to the lack of a physical certificate.

Registered holders of Definitive Debentures may transfer such Debentures upon payment of taxes or other charges incidental thereto, if any, by executing and delivering a form of transfer together with the Debentures to the registrar for the Debentures at its principal offices in Calgary, Alberta or such other city or cities as may from time to time be designated by the Corporation,

whereupon new Debentures will be issued in authorized denominations in the same aggregate principal amount as the Debentures so transferred, registered in the names of the transferees. No transfer of a Definitive Debenture will be registered on any Interest Payment Date or during the five business days preceding the Interest Payment Date or on any date of redemption or during the five business days preceding a date of redemption.

### ***Payments***

Payments of interest and principal on each Global Debenture will be made to CDS or its nominee, as the case may be, as the registered holder of the Global Debenture. As long as CDS or its nominee is the registered owner of a Global Debenture, CDS or its nominee, as the case may be, will be considered the sole legal owner of the Global Debenture for the purposes of receiving payments of interest and principal on the Debentures and for all other purposes under the Indenture and Debentures. Interest payments on Global Debentures will be made by electronic funds transfer or by cheque on the day interest is payable and delivered to CDS or its nominee, as the case may be.

The Corporation understands that CDS or its nominee, upon receipt of any payment of interest or principal in respect of a Global Debenture, will credit Participants' accounts, on the date on which interest or principal is payable, with payments in amounts proportionate to their respective beneficial interest in the principal amount of such Global Debenture as shown on the records of CDS or its nominee. The Corporation also understands that payments of interest and principal by Participants to the owners of beneficial interests in such Global Debenture held through such Participants will be governed by standing instructions and customary practices, as is the case with Debentures held for the accounts of customers in bearer form or registered in "street name" and will be the responsibility of such Participants. The Corporation's responsibility and liability in respect of payments on Debentures represented by the Global Debenture is limited solely and exclusively, while the Debentures are registered in Global Debenture form, to making payment of any interest and principal due on such Global Debenture to CDS or its nominee.

If Definitive Debentures are issued instead of or in place of Global Debentures, payments of interest on each Definitive Debenture will be made by electronic funds transfer, if agreed to by the holder of the Definitive Debenture, or by cheque dated the Interest Payment Date and mailed to the address of the holder appearing in the register maintained by the Debenture Trustee at least one business day prior to the applicable Interest Payment Date. Payment of principal at maturity will be made at the principal office of the Debenture Trustee in Calgary, Alberta (or in such other city or cities as may from time to time be designated by the Corporation) against surrender of the Definitive Debentures, if any.

### ***Governing Laws***

The Indenture and Debentures will be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein.

## **PLAN OF DISTRIBUTION**

Pursuant to the Underwriting Agreement, the Corporation has agreed to issue and sell \$85,000,000 aggregate principal amount of Debentures to the Underwriters, and the Underwriters have severally and not jointly, nor jointly and severally, agreed to purchase \$85,000,000 aggregate principal amount of Debentures from the Corporation on the Closing Date. Delivery of the Debentures to be issued on the Closing Date is conditional upon payment by the Underwriters of \$1,000 per Debenture to the Corporation. The Underwriting Agreement provides that the Corporation will pay the Underwriters' Fee of \$40 per Debenture, for an aggregate fee payable by the Corporation of \$3,400,000, in consideration for the Underwriters' services in connection with the Offering. The terms of the Offering were determined by negotiation among the Corporation and NBF, on its own behalf, and on behalf of the other Underwriters.

The Corporation has received conditional approval to list the Debentures distributed under this short form prospectus and the Common Shares issuable upon conversion or redemption or at maturity of the Debentures on the TSX. Such listings are subject to the Corporation fulfilling all the listing requirements of the TSX on or before February 27, 2014.

The obligations of the Underwriters under the Underwriting Agreement are several and not joint, nor joint and several, and may be terminated at their discretion upon the occurrence of certain stated events. If an Underwriter fails to purchase the Debentures which it has agreed to purchase, the remaining Underwriter(s) may terminate their obligation to purchase their allotment of Debentures, or may, but are not obligated to, purchase the Debentures not purchased by the Underwriter or Underwriters which

fail to purchase; provided, however, that in the event that the percentage of the total number of Debentures which one or more Underwriters has failed or refused to purchase is 9% or less of the total number of the Debentures which the Underwriters have agreed to purchase, the other Underwriters shall be obligated severally to purchase on a *pro rata* basis the Debentures which would otherwise have been purchased by the one or more Underwriters which failed or refused to purchase. The Underwriters are, however, obligated to take up and pay for all Debentures if any are purchased under the Underwriting Agreement. The Underwriting Agreement also provides that the Corporation will indemnify the Underwriters and their directors, officers, agents, shareholders and employees against certain liabilities and expenses.

The Debentures will be issued in "book entry only" form and must be purchased or transferred through a Participant. See "*Details of the Offering – Book-entry, Delivery and Form*".

The Corporation has been advised by the Underwriters that, in connection with the Offering, the Underwriters may effect transactions that stabilize or maintain the market price of the Offered Securities at levels other than those that might otherwise prevail in the open market. Such transactions, if commenced, may be discontinued at any time.

The Underwriters propose to offer the Debentures initially at the offering price specified herein. After a reasonable effort has been made to sell all of the Debentures at the price specified, the Underwriters may subsequently reduce the selling prices to investors from time to time in order to sell any of the Debentures remaining unsold. Any such reductions will not affect the proceeds received by the Corporation.

Twin Butte has agreed that, prior to 90 days after the closing date of the Offering, it shall not issue any Common Shares, or financial instruments or other securities convertible or exchangeable into Common Shares, other than: (i) grants of share awards pursuant to Twin Butte's share award incentive plan; (ii) Common Shares issuable on exercise of outstanding share options granted under Twin Butte's stock option plan; (iii) Common Shares issuable pursuant to outstanding share awards granted under Twin Butte's share aware incentive plan; or (iv) as required pursuant to Twin Butte's dividend reinvestment plan or stock dividend program, without the prior written consent of NBF and Peters & Co. Limited, on behalf of the Underwriters, which consent shall not be unreasonably withheld.

The Debentures have not been and will not be registered under the U.S. Securities Act or any state securities laws, and accordingly may not be offered or sold within the United States except in transactions exempt from the registration requirements of the U.S. Securities Act and applicable state securities laws. Except as permitted in the Underwriting Agreement, the Underwriters will not offer or sell the Debentures within the United States. The Underwriting Agreement permits the Underwriters, through their U.S. broker-dealer affiliates, to offer and resell Debentures that they have acquired pursuant to the Underwriting Agreement to "qualified institutional buyers" (as such term is defined in Rule 144A under the U.S. Securities Act ("**Rule 144A**")) in the United States, provided that such offers and resales are made in accordance with Rule 144A under the U.S. Securities Act and similar exemptions under applicable state securities laws. Moreover, the Underwriting Agreement provides that the Underwriters may offer and sell the Debentures outside the United States only in accordance with Rule 903 of Regulation S under the U.S. Securities Act.

This short form prospectus does not constitute an offer to sell or a solicitation of an offer to buy any of the Debentures within the United States. In addition, until 40 days after the commencement of the Offering, an offer or sale of Debentures or Common Shares issuable upon conversion thereof within the United States by any dealer (whether or not participating in the Offering) may violate the registration requirements of the U.S. Securities Act if such offer or sale is made otherwise than in accordance with an exemption from the registration requirements of the U.S. Securities Act.

#### **USE OF PROCEEDS**

The net proceeds to the Corporation from the sale of the Debentures hereunder are estimated to be \$81,600,000 (after deducting the Underwriters' Fee of \$3,400,000, but prior to deducting the estimated expenses of the Offering of \$550,000). The net proceeds of the Offering will be used to repay a portion of the bank indebtedness under the Credit Facility. See "*Relationship Between the Corporation and Certain Underwriters*".

Twin Butte's current indebtedness under the Credit Facility has been incurred in the normal course of business and operations in connection with previous acquisitions, capital and other expenditures made by Twin Butte. The Credit Facility and Twin Butte's indebtedness thereunder, which totalled approximately \$326 million as at December 5, 2013, is described under the heading

"*Consolidated Capitalization of the Corporation*". For the year ended December 31, 2012, the Corporation incurred an aggregate of \$93 million of capital expenditures, including \$37 million on drilling and completions, \$35 million on acquisitions, \$14 million on equipping and facilities and \$7 million on land, seismic and other. For the nine months ended September 30, 2013, the Corporation incurred an aggregate of \$43 million of capital expenditures, including \$45 million on drilling and completions, \$nil on acquisitions, \$21 million on equipping and facilities and \$6 million on land, seismic and other, net of \$29 million received on property dispositions.

The use of the net proceeds of the Offering by the Corporation is consistent with the Corporation's stated business objectives, including those set forth under the heading "*Description of the Business*" in the AIF. There is no particular significant event or milestone that must occur for Twin Butte's business objectives to be accomplished. While Twin Butte believes that it has the skills and resources necessary to accomplish its stated business objectives, participation in the exploitation of, exploration for and development of oil and natural gas has a number of inherent risks. See "*Risk Factors*" in this short form prospectus and in the AIF. While the Corporation intends to use the net proceeds as stated above, there may be circumstances that are not known at this time where a reallocation of the net proceeds may be advisable for business reasons that management believes are in the Corporation's best interests. In addition, Twin Butte is required to comply with covenants under the Credit Facility which include (among other things) the prohibition on the incurrence by Twin Butte of certain non-permitted indebtedness, including the Debentures. Pursuant to the terms of the Underwriting Agreement, completion of the Offering is subject to (among other things): (i) the consent of the lenders required pursuant to the Credit Facility in respect of the issuance of the Debentures has been obtained; or (ii) an amendment has been made to the Credit Facility on terms satisfactory to the Underwriters, acting reasonably, to permit the issuance of the Debentures without the consent of the lenders. See "*Risk Factors - Credit Facility Risk*".

#### **RELATIONSHIP BETWEEN THE CORPORATION AND CERTAIN UNDERWRITERS**

NBF and CIBC World Markets Inc. are, directly or indirectly, affiliates of banks or other financial institutions which are Twin Butte's lenders and to which Twin Butte is presently indebted under the Credit Facility (the "**Lenders**"). Consequently, Twin Butte may be considered to be a "connected issuer" of such Underwriters for the purposes of securities regulations in certain provinces.

As at December 5, 2013, an aggregate of approximately \$326 million was outstanding under the Credit Facility. Twin Butte has complied with the terms of the Credit Facility and none of the Lenders have waived any breach by Twin Butte of such agreement since its execution, other than a unanimous waiver by the Lenders on May 30, 2013 waiving certain commodity hedges entered into by Twin Butte which exceeded amounts contemplated by the Credit Facility. The Credit Facility is secured by a \$750 million demand debenture in respect of all of Twin Butte's assets and a general assignment of book debts in respect of all accounts of Twin Butte. Twin Butte's financial position has not substantially changed since the indebtedness under the Credit Facility was incurred. The decision to offer the Debentures and the determination of the terms of the Offering were made through negotiations between Twin Butte and NBF, on its own behalf and on behalf of the other Underwriters. The Lenders did not have any involvement in such decision or determination; however, the Lenders have been advised of the Offering and the terms thereof. The net proceeds of the Offering will be used to repay a portion of the indebtedness of the Corporation under the Credit Facility. See "*Use of Proceeds*".

#### **CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS**

In the opinion of Counsel, the following is, as of the date hereof, a summary of the principal Canadian federal income tax considerations pursuant to the Tax Act generally applicable to the holding and disposition of Debentures and Common Shares by a purchaser who acquires a beneficial interest in the Debentures pursuant to this Offering (a "**holder**"). This summary is based on the facts set out in this short form prospectus and is applicable to a holder who, for the purposes of the Tax Act and at all relevant times: (i) deals at arm's length with and is not affiliated with the Corporation and the Underwriters; (ii) holds the Debentures, and will hold the Common Shares issuable on the conversion, redemption or maturity of the Debentures, as capital property; and (iii) has not and will not enter into a "derivative forward agreement" as such term is defined in the Proposed Amendments (defined herein) in respect of the Debentures and the Common Shares. The Debentures and Common Shares generally should be considered to be capital property to a holder provided that the holder does not hold such Debentures and Common Shares in the course of carrying on a business of buying and selling securities and has not acquired them in one or more transactions considered to be an adventure or concern in the nature of trade.

This summary is based on the current provisions of the Tax Act, all specific proposals to amend the Tax Act publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date hereof ("**Proposed Amendments**"), and the current

published administrative policies and assessing practices of the Canada Revenue Agency ("CRA"). Except for the Proposed Amendments, this summary does not take into account or anticipate any changes in law, whether by legislative, governmental or judicial action, nor does it take into account other federal or any provincial, territorial or foreign income tax legislation or considerations. There can be no assurance that any Proposed Amendments will be enacted in the form publicly announced or at all.

**This summary is not exhaustive of all possible Canadian federal income tax considerations applicable to an investment in Debentures. Moreover, the income and other tax consequences of acquiring, holding or disposing of Debentures and Common Shares will vary depending on a prospective holder's particular circumstances including the province in which the holder resides or carries on business. Accordingly, this summary is of a general nature only and is not intended to constitute legal or tax advice to any particular prospective holder. Prospective holders should consult their own tax advisors for advice with respect to the income tax consequences of an investment in Debentures, based on their particular circumstances.**

### **Holders Resident in Canada**

Subject to the foregoing limitations and exclusions, the following discussion applies to a holder of Debentures and Common Shares who, at all relevant times, is or is deemed to be resident in Canada for purposes of the Tax Act and any applicable income tax convention (a "**Canadian Holder**").

Certain Canadian Holders not otherwise considered to hold their Debentures or Common Shares as capital property may be entitled to make the irrevocable election permitted by subsection 39(4) of the Tax Act to have their Debentures and Common Shares and all other "Canadian securities" as defined in the Tax Act owned or subsequently acquired by them treated as capital property. Any such holder should consult its own tax advisor prior to making such an election. This summary is not applicable to: (i) "financial institutions" as defined in the Tax Act for the purposes of the mark-to-market rules; (ii) "specified financial institutions" as defined in the Tax Act; (iii) a person an interest in which would be a "tax shelter investment" as defined in the Tax Act; or (iv) persons whose functional currency for purposes of the Tax Act is the currency of a country other than Canada. In addition, this summary does not address the deductibility of interest by a holder of Debentures or Common Shares on funds borrowed or debt incurred to acquire the Debentures. Any such holder should consult its own tax advisor with respect to an investment in the Offered Securities.

### **Taxation of Holders of Debentures**

#### ***Taxation of Interest on Debentures***

A Canadian Holder of Debentures that is a corporation, partnership, unit trust or any trust of which a corporation or a partnership is a beneficiary will be required to include in computing its income for a taxation year any interest on the Debentures: (i) that accrues or that is deemed to accrue to it to the end of the particular taxation year; or (ii) that has become receivable by or is received by the Canadian Holder before the end of that taxation year, except to the extent that such interest was included in computing the Canadian Holder's income for a preceding taxation year.

Any other Canadian Holder of Debentures (including an individual, other than certain trusts) will be required to include in computing income for a taxation year all interest on the Debentures that is received or receivable by the Canadian Holder in that taxation year (depending upon the method regularly followed by the Canadian Holder in computing income), except to the extent that the interest was included in the Canadian Holder's income for a preceding taxation year. In addition, if at any time a Debenture should become an "investment contract" (as defined in the Tax Act) in relation to a Canadian Holder, such Canadian Holder would be required to include in computing income for a taxation year any interest that accrues to the Canadian Holder on the Debenture up to the end of any "anniversary day" (as defined in the Tax Act) in that year to the extent such interest was not otherwise included in the Canadian Holder's income for that year or a preceding taxation year.

Upon a conversion, redemption or repayment at maturity of a Debenture, interest accrued thereon to the date of conversion, redemption or repayment and that would otherwise be payable after that date will be included in computing the Canadian Holder's income, except to the extent such amount was included in computing the Canadian Holder's income for that or a previous taxation year.

In the event that a premium is paid to a Canadian Holder of Debentures upon repayment of the principal of the Debentures, the fair market value of such premium will generally be deemed to be interest received at that time by such Canadian Holder if such premium is paid by the Corporation because of the repayment by it to the Canadian Holder of Debentures before their maturity and to the extent that such premium can reasonably be considered to relate to, and does not exceed the value at that time of, the interest that would have been paid or payable by the Corporation on the Debentures for taxation years of the Corporation ending after that time.

As described above under the heading "*Details of the Offering – Debentures – Interest Payment Election*", the Corporation may elect to pay interest by issuing Common Shares to the Debenture Trustee for sale, in which event a Canadian Holder would be entitled to a cash payment equal to the interest owed to the Canadian Holder from the proceeds of sale of such Common Shares by the Debenture Trustee. If the Corporation were to pay interest in this manner, the Canadian federal tax consequences to a Canadian Holder would generally be the same as those described above.

A Canadian Holder that is throughout the year a "Canadian-controlled private corporation" (as defined in the Tax Act) may be liable to pay an additional refundable tax at a rate of 6 2/3% on certain investment income, including interest income.

### ***Exercise of the Conversion Privilege***

Generally, a Canadian Holder that converts a Debenture into Common Shares pursuant to its right of conversion under the terms of the Debenture will be deemed not to have disposed of the Debenture and, accordingly, will not realize a capital gain (or a capital loss) upon such conversion.

Under the current administrative practice of the CRA, a Canadian Holder who, upon conversion of a Debenture, receives cash not in excess of \$200 in lieu of a fraction of a Common Share may either treat this amount as proceeds of disposition of a portion of the Debenture, thereby realizing a capital gain (or a capital loss), or reduce the adjusted cost base of the Common Shares that the Canadian Holder receives upon conversion by the amount of the cash received.

The aggregate cost to a Canadian Holder of the Common Shares acquired upon exercise of such holder's right to convert a Debenture should generally be equal to the aggregate of the adjusted cost base to the Canadian Holder of the Debenture immediately before the conversion, minus any reduction of adjusted cost base for cash received in lieu of fractional shares as discussed above. Generally, the adjusted cost base to a Canadian Holder of Common Shares at any time should be determined by averaging the cost of such Common Shares with the adjusted cost base of any other Common Shares owned by the Canadian Holder as capital property at such time.

### ***Other Disposition of Debentures***

A disposition or deemed disposition of a Debenture by a Canadian Holder, including a redemption, payment at maturity or purchase for cancellation (but not including by the conversion of a Debenture into Common Shares pursuant to the Canadian Holder's conversion privilege as described above), will result in the Canadian Holder realizing a capital gain (or, subject to certain rules in the Tax Act, a capital loss) equal to the amount by which the proceeds of disposition, net of any amount otherwise required to be included in the Canadian Holder's income as interest, exceed (or are less than) the aggregate of the adjusted cost base to the Canadian Holder thereof and any reasonable costs of disposition. Such capital gain (or capital loss) will be subject to the tax treatment described below under "*Holders Resident in Canada – Taxation of Holders of Common Shares – Taxation of Capital Gains and Capital Losses*".

If the Corporation pays any amount upon the redemption, purchase or maturity of a Debenture by issuing Common Shares to the Canadian Holder (but not including by the conversion of a Debenture into Common Shares pursuant to the Canadian Holder's conversion privilege as described above), the Canadian Holder's proceeds of disposition of the Debenture will be equal to the fair market value, at the time of disposition of the Debenture, of the Common Shares and any other consideration so received (except consideration received in satisfaction of accrued interest). The cost to the Canadian Holder of the Common Shares so received will be equal to the fair market value of such Common Shares. Generally, the adjusted cost base to a Canadian Holder of Common Shares at any time will be determined by averaging the cost of such Common Shares with the adjusted cost base of any other Common Shares owned by the Canadian Holder as capital property at such time.

Upon a disposition or deemed disposition of a Debenture, interest accrued thereon to the date of disposition and not yet due will be included in computing the income of the Canadian Holder as described above under "*Holders Resident in Canada – Taxation of Holders of Debentures – Taxation of Interest on Debentures*", except to the extent such amount was otherwise included in the Canadian Holder's income, and will be excluded in computing the Canadian Holder's proceeds of disposition of the Debenture.

## **Taxation of Holders of Common Shares**

### *Disposition of Common Shares*

A disposition or a deemed disposition of a Common Share (other than a disposition to the Corporation, or a tax-deferred disposition) by a Canadian Holder will generally result in the Canadian Holder realizing a capital gain (or, subject to certain rules in the Tax Act, a capital loss) equal to the amount by which the proceeds of disposition of the Common Share exceed (or are less than) the aggregate of the adjusted cost base to the Canadian Holder thereof and any reasonable costs of disposition.

### *Taxation of Capital Gains and Capital Losses*

Generally, one half of any capital gain (a "**taxable capital gain**") realized by a Canadian Holder in a taxation year is required to be included in the Canadian Holder's income for that year, and one-half of any capital loss (an "**allowable capital loss**") realized by a Canadian Holder in a taxation year is required to be deducted against taxable capital gains realized by the Canadian Holder in that year. Allowable capital losses in excess of taxable capital gains for a particular taxation year generally may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year from net taxable capital gains realized in such years, to the extent and under the circumstances described in the Tax Act.

If the Canadian Holder is a corporation, any capital loss realized on the disposition of a Common Share may in certain circumstances be reduced by the amount of any dividends which have been received or which are deemed to have been received on the Common Share. Similar rules may apply where a corporation is a member of a partnership or a beneficiary of a trust that owns Common Shares, whether directly or indirectly through another partnership or trust.

Taxable capital gains realized by a Canadian Holder who is an individual (including certain trusts) may give rise to a liability for alternative minimum tax depending on the Canadian Holder's circumstances.

A Canadian Holder that is throughout the year a "Canadian-controlled private corporation" (as defined in the Tax Act) may be liable to pay an additional refundable tax at a rate of 6 2/3% on certain investment income, including taxable capital gains.

### *Receipt of Dividends on Common Shares*

Dividends received or deemed to be received on Common Shares held by a Canadian Holder will be included in the Canadian Holder's income for the purposes of the Tax Act.

Such dividends received by a Canadian Holder that is an individual (including most trusts) should be subject to the gross-up and dividend tax credit rules in the Tax Act normally applicable to dividends received from taxable Canadian corporations, including the enhanced gross-up and dividend tax credit in respect of dividends designated by the Corporation as "eligible dividends".

Taxable dividends received by a Canadian Holder who is an individual (other than certain trusts) may result in such Canadian Holder being liable for alternative minimum tax under the Tax Act. **Canadian Holders who are individuals should consult their own tax advisors in this regard.**

A Canadian Holder that is a corporation is required to include such dividends in computing its income and generally should be entitled to deduct the amount of such dividends in computing its taxable income. The Tax Act imposes a 33 1/3% refundable tax on dividends received (or deemed to be received) in a taxation year by Canadian Holders that are either "private corporations" or "subject corporations". Canadian Holders that are either "private corporations" or "subject corporations" should consult their tax advisors in this regard.



## **Holders Not Resident in Canada**

Subject to the limitations and exclusions discussed above, the following summary applies to a holder of Debentures and Common Shares who, at all relevant times is neither resident nor deemed to be resident in Canada for purposes of the Tax Act or any applicable income tax convention and does not, and is not deemed to, use or hold the Debentures and Common Shares in carrying on a business in Canada (a "**Non-Canadian Holder**"). This discussion does not apply to an insurer who carries on an insurance business in Canada and elsewhere or an authorized foreign bank (as defined in the Tax Act).

### ***Taxation of Interest on Debentures***

A Non-Canadian Holder should not be subject to Canadian withholding tax in respect of amounts paid or credited or deemed to have been paid or credited by the Corporation as, on account or in lieu of payment of, or in satisfaction of, interest or principal on the Debentures, except as described below under "*Risk Factors – Withholding Tax*".

### ***Exercise of the Conversion Privilege***

The conversion of a Debenture into Common Shares pursuant to the exercise of the conversion privilege by a Non-Canadian Holder will be deemed not to constitute a disposition of the Debenture and, accordingly, a Non-Canadian Holder will not recognize a capital gain (or a capital loss) on such conversion. See "*Risk Factors – Withholding Tax*".

Upon conversion of a Debenture, interest accrued thereon to the date of conversion will be subject to Canadian federal income tax considerations described under "*Holders Not Resident in Canada – Taxation of Interest on Debentures*".

### ***Receipt of Dividends on Common Shares***

Where a Non-Canadian Holder receives or is deemed to receive a dividend on Common Shares, the amount of such dividend will be subject to Canadian withholding tax at the rate of 25% of the gross amount of the dividend unless the rate is reduced under the provisions of an applicable income tax convention between Canada and the Non-Canadian Holder's country of residence. For instance, where the Non-Canadian Holder is a resident of the United States that is entitled to benefits under the Canada-United States Income Tax Convention (1980) as amended, and is the beneficial owner of the dividends, the rate of Canadian withholding tax applicable to dividends generally should be reduced to 15%.

### ***Taxation of Holders on Disposition of Debentures***

A Non-Canadian Holder will not be subject to tax under the Tax Act in respect of any capital gain realized by such Non-Canadian Holder on a disposition or deemed disposition of a Debenture (including as a result of a redemption, payment on maturity or purchase for cancellation) or a Common Share unless the Debenture or Common Share constitutes "taxable Canadian property" (as defined in the Tax Act) to the Non-Canadian Holder at the time of disposition and the Non-Canadian Holder is not entitled to relief under an applicable income tax treaty or convention.

As long as the Common Shares are then listed on a "designated stock exchange" (as defined in the Tax Act) (which currently includes the TSX), the Debentures and the Common Shares generally will not constitute taxable Canadian property of a Non-Canadian Holder unless, at any time during the 60-month period immediately preceding the disposition or deemed disposition: (i) the Non-Canadian Holder, persons with whom the Non-Canadian Holder did not deal at arm's length, or the Non-Canadian Holder together with all such persons, owned 25% or more of the issued shares of any class or series of the capital stock of the Corporation; and (ii) more than 50% of the fair market value of the Common Shares was derived directly or indirectly from real or immovable property situated in Canada, Canadian resource properties (as defined in the Tax Act), timber resource properties (as defined in the Tax Act) or options or interests in respect of any such property.

Notwithstanding the foregoing, in certain circumstances set out in the Tax Act, shares which are not otherwise taxable Canadian property could be deemed to be taxable Canadian property.

**Non-Canadian Holders who dispose of Common Shares that are taxable Canadian property should consult their own tax advisors with respect to the requirement to file a Canadian income tax return in respect of the disposition, and whether such shares constitute "treat-protected property", in their particular circumstances.**

## ELIGIBILITY FOR INVESTMENT

In the opinion of Counsel, provided the Debentures or Common Shares are listed on a designated stock exchange (which currently includes the TSX) on the Closing Date, the Debentures will be qualified investments for trusts governed by registered retirement savings plans ("RRSPs"), registered retirement income funds ("RRIFs"), deferred profit sharing plans, registered education savings plans, registered disability savings plans (except, in the case of Debentures, a deferred profit sharing plan to which the Corporation, or an employer that does not deal at arm's length with the Corporation, has made a contribution) and tax-free savings accounts ("TFSA") (collectively, "Deferred Plans"). Common Shares issuable upon the conversion or redemption or at maturity of the Debentures will be qualified investments under the Tax Act for Deferred Plans provided the Common Shares are listed on a designated stock exchange at the time of their issuance.

Notwithstanding the foregoing, an annuitant under a RRSP or RRIF or the holder of a TFSA, as the case may be, that holds Debentures or Common Shares, will be subject to a penalty tax if such Debentures or Common Shares are a "prohibited investment" for the purposes of the Tax Act. The Debentures or Common Shares will generally be a "prohibited investment" if the annuitant or the holder, as the case may be: (i) does not deal at arm's length with the Corporation for the purposes of the Tax Act; (ii) has a "significant interest" (within meaning of the Tax Act) in the Corporation; or (iii) has a "significant interest" (within the meaning of the Tax Act) in a corporation, partnership or trust with which the Corporation does not deal at arm's length for the purposes of the Tax Act. Proposed amendments to the Tax Act contained in Bill C-4 (which received Second Reading and was referred to the Standing Committee on Finance on October 29, 2013) propose to delete the condition in (iii) above.

**Prospective holders should consult their own tax advisors regarding their particular circumstances.**

## RISK FACTORS

**An investment in the Offered Securities is subject to certain risks due to the nature of the Corporation's involvement in the exploration for, and the acquisition, development and production of, oil and natural gas reserves. Investors should carefully consider the risks described under the heading "Risk Factors" in the AIF incorporated by reference in this short form prospectus, the risks identified elsewhere in this short form prospectus and the documents incorporated by reference herein and the risk factors set forth below prior to making an investment in the Debentures.**

### Market for Debentures

There is currently no market through which the Debentures may be sold and purchasers may not be able to resell Debentures purchased under this short form prospectus. There can be no assurance that an active trading market will develop for the Debentures after completion of the Offering, or if developed, that such a market will be sustained at the price level of the Offering.

The Corporation has received conditional approval to list the Debentures distributed under this short form prospectus and the Common Shares issuable upon conversion or redemption or at maturity of the Debentures on the TSX. Such listings are subject to the Corporation fulfilling all the listing requirements of the TSX on or before February 27, 2014.

### Volatility of Market Price of Common Shares

The market price of the Common Shares may be volatile. The volatility may affect the ability of holders of Common Shares to sell the Common Shares at an advantageous price. Market price fluctuations in the Common Shares may be due to the Corporation's operating results failing to meet the expectations of securities analysts or investors in any quarter, downward revision in securities analysts' estimates, governmental regulatory action, adverse change in general market conditions or economic trends, acquisitions, dispositions or other material public announcements by the Corporation or its competitors, along with a variety of additional factors, including, without limitation, those set forth under "*Forward-looking Statements*". In addition, the market price for securities in the stock markets can experience significant price and trading fluctuations. These fluctuations can result in volatility in the market prices of securities that is often unrelated or disproportionate to changes in operating performance. These broad market fluctuations may adversely affect the market prices of the Common Shares.

### **Existing and Prior Ranking Indebtedness**

The Debentures will be subordinate to Senior Indebtedness of the Corporation. The Debentures will also be effectively subordinate to claims of creditors of the Corporation's subsidiaries, except to the extent that the Corporation is a creditor of such subsidiaries ranking at least *pari passu* with such creditors. In the event of the Corporation's insolvency, bankruptcy, liquidation, reorganization, dissolution or winding up, its assets would be made available to satisfy the obligations of the creditors of such Senior Indebtedness before being available to pay the Corporation's obligations to the holders of the Debentures. Accordingly, all or a substantial portion of the Corporation's assets could be unavailable to satisfy the claims of the holders of the Debentures.

The Corporation's ability to meet its debt-service requirements will depend on its ability to generate cash in the future, which depends on many factors, including the Corporation's financial performance, debt-service obligations, working capital and future capital-expenditure requirements. In addition, the Corporation's ability to borrow funds in the future and to make payments on outstanding debt will depend on the satisfaction of covenants in then existing credit agreements and other agreements. A failure to comply with any covenants or obligations under the Corporation's consolidated indebtedness could result in a default, which, if not cured or waived, could result in the acceleration of the relevant indebtedness. If such indebtedness were to be accelerated, there can be no assurance that the Corporation's assets would be sufficient to repay such indebtedness in full. There can also be no assurance that the Corporation will generate cash flow in amounts sufficient to pay outstanding indebtedness or to fund any other liquidity needs.

### **Repayment of the Debentures**

The Corporation may not be able to refinance the principal amount of the Debentures in order to repay the principal outstanding or may not have generated enough cash from operations to meet this obligation. The Corporation may, at its option, on not more than 60 days' and not less than 40 days' prior notice and subject to any required regulatory approvals, unless an Event of Default has occurred and is continuing, elect to satisfy its obligation to repay, in whole or in part, the principal amount of the Debentures which are to be redeemed or which have matured by issuing and delivering Common Shares to the holders of the Debentures. There is no guarantee that the Corporation will be able to repay the outstanding principal amount in cash at maturity of the Debentures.

### **Prevailing Yields on Similar Debentures**

Prevailing yields on similar Debentures will affect the market value of the Debentures. Assuming all other factors remain unchanged, the market value of the Debentures will decline as prevailing yields for similar Debentures rise, and will increase as prevailing yields for similar Debentures decline.

### **Redemption on a Change of Control**

The Corporation will be required to offer to purchase for cash all outstanding Debentures upon the occurrence of a Change of Control. However, it is possible that following a Change of Control, the Corporation will not have sufficient funds at that time to make the required purchase of outstanding Debentures or that restrictions contained in other indebtedness will restrict those purchases. See "*Details of the Offering – Debentures – Repurchase Upon a Change of Control*". In addition, the Corporation's ability to purchase the Debentures in such an event may be limited by law, by the Indenture, by the terms of other present or future agreements relating to indebtedness, and agreements that the Corporation may enter into in the future which may replace, supplement or amend the Corporation's future debt. The Corporation's future credit agreements or other agreements may contain provisions that could prohibit the purchase of the Debentures by the Corporation. The Corporation's failure to purchase the Debentures would constitute an Event of Default under the Indenture, which might constitute a default under the terms of the Corporation's other indebtedness at that time.

If a holder of Debentures converts its Debentures in connection with a Change of Control, the Corporation may, in certain circumstances, be required to increase the conversion rate, as described under "*Details of the Offering – Debentures – Cash Change of Control*". While the increased conversion rate is designed, *inter alia*, to compensate a holder of Debentures for the lost option time value of its Debentures as a result of a Change of Control in certain circumstances, the increased conversion rate amount is only an approximation of such lost value and may not adequately compensate the holder for such loss. In addition, in some circumstances as described under "*Details of the Offering – Debentures – Cash Change of Control*", no adjustment will be made.

### **Absence of Covenant Protection**

The Indenture will not restrict the Corporation or any of its subsidiaries from incurring additional indebtedness or from mortgaging, pledging or charging its assets to secure any indebtedness. The Indenture will not contain any provisions specifically intended to protect holders of the Debentures in the event of a future leveraged transaction involving the Corporation or any of its subsidiaries.

### **Redemption Prior to Maturity**

On or after December 31, 2016 and prior to the Maturity Date, the Debentures may be redeemed by the Corporation, in whole or in part from time to time, on not more than 60 days' and not less than 30 days' prior written notice, at a redemption price equal to the principal amount thereof plus accrued and unpaid interest thereon, if any, up to, but not including, the date set for redemption, provided that, in the case of a redemption on or after December 31, 2016 and prior to December 31, 2017, the Current Market Price on the date on which such notice of redemption is given exceeds 125% of the Conversion Price. See "*Details of the Offering – Debentures – Redemption and Purchase*". Holders of Debentures should assume that this redemption option will be exercised if the Corporation is able to refinance at a lower interest rate or it is otherwise in the interest of the Corporation to redeem the Debentures.

### **Dilutive Effects on Holders of Common Shares**

The Corporation expects to issue Common Shares upon conversion or redemption or at maturity of the Debentures. Additionally, the Corporation may issue Common Shares in connection with the payment of interest on the Debentures. Accordingly, holders of Common Shares may suffer dilution.

### **Conversion Right Following Certain Transactions**

In the event of certain transactions, pursuant to the terms of the Indenture, each Debenture will become convertible into securities, cash or property receivable by a holder of Common Shares in such transactions. This change could substantially reduce or eliminate any potential future value of the conversion privilege associated with the Debentures. For example, if the Corporation were acquired in a cash merger, each Debenture would become convertible solely into cash and would no longer be convertible into securities whose value would vary depending on future prospects and other factors. See "*Details of the Offering – Debentures – Conversion Privilege*".

### **Credit Risk**

The likelihood that purchasers of the Debentures will receive payments owing to them under the terms of the Debentures will depend on the Corporation's financial health and creditworthiness at the time of such payments.

### **Credit Facility Risk**

Twin Butte is required to comply with covenants under the Credit Facility which include (among other things) the prohibition on the incurrence by Twin Butte of certain non-permitted indebtedness, including the Debentures. Pursuant to the terms of the Underwriting Agreement, completion of the Offering is subject to (among other things): (i) the consent of the lenders required pursuant to the Credit Facility in respect of the issuance of the Debentures has been obtained; or (ii) an amendment has been made to the Credit Facility on terms satisfactory to the Underwriters, acting reasonably, to permit the issuance of the Debentures without the consent of the lenders.

Twin Butte has had discussions with the lending syndicate of the Credit Facility with regards to the provision of the necessary amendments to the Credit Facility to permit the issuance of the Debentures and Twin Butte anticipates such amendments will become effective on or prior to the Closing Date. There is a risk that Twin Butte may not be able to receive the consent of its lenders and/or finalize the necessary amendments to its Credit Facility as currently anticipated, or on terms acceptable to it, or at all. There also can be no assurances that as a result of such proposed amendments and/or consents, the borrowing base of the Credit Facility will be maintained at current levels or any additional condition or covenants will be imposed by Twin Butte's lenders. Any reduction in the borrowing base of the Credit Facility could have a material adverse effect on Twin Butte's ability to fund continued growth and operations and could result in a portion, or all, of Twin Butte's bank indebtedness being required to be repaid.

## **Change in Tax Laws**

The Indenture will not contain a requirement that the Corporation increase the amount of interest or other payments to holders of Debentures in the event that the Corporation is required to withhold amounts in respect of income or similar taxes on payment of interest or other amounts on the Debentures. At present, no amount is required to be withheld from such payments to holders of Debentures resident in Canada or a non-resident of Canada who deal at arm's length with the Corporation, but no assurance can be given that applicable income tax laws or treaties will not be changed in a manner that may require the Corporation to withhold amounts in respect of tax payable on such amounts.

## **Withholding Tax**

Effective January 1, 2008, the Tax Act was amended to generally eliminate withholding tax on interest paid or credited to non-residents of Canada with whom the payor deals at arm's length. However, Canadian withholding tax continues to apply to payments of "participating debt interest". For purposes of the Tax Act, participating debt interest is generally interest that is paid on an obligation where all or any portion of such interest is contingent or dependent on the use of or production from property in Canada or is computed by reference to revenue, profit, cash flow, commodity price or any similar criterion.

Under the Tax Act, when a debenture or other debt obligation issued by a person resident in Canada is assigned or otherwise transferred by a non-resident person to a person resident in Canada (which would include a conversion of the obligation or payment at maturity), the amount, if any, by which the price for which the obligation was assigned or transferred exceeds the price for which the obligation was issued is deemed to be a payment of interest on that obligation made by the person resident in Canada to the non-resident (an "excess"). The deeming rule does not apply in respect of certain "excluded obligations", although it is not clear whether a particular convertible debenture would qualify as an "excluded obligation". If a convertible debenture is not an "excluded obligation", issues that arise are whether any excess would be considered to exist, whether any such excess which is deemed to be interest is "participating debt interest", and if the excess is participating debt interest, whether that results in all interest on the obligation being considered to be participating debt interest.

The CRA has stated that no excess, and therefore no participating debt interest, would in general arise on the conversion of a "traditional convertible debenture" and therefore, there would be no withholding tax in such circumstances (provided that the payor and payee deal at arm's length for purposes of the Tax Act). The CRA has published guidance on what it believes to be a "traditional convertible debenture" for these purposes. The Debentures should generally meet the criteria set forth in CRA's published guidance; however, there can be no assurance that amounts paid or payable by the Corporation to a Holder of Debentures on account of interest or any "excess" amount will not be subject to Canadian withholding tax at 25% (subject to any reduction in accordance with a relevant tax treaty).

## **The Corporation may use the proceeds of this Offering for purposes other than those set out in this short form prospectus**

The Corporation currently intends to allocate the proceeds received from the Offering as described under "*Use of Proceeds*" in this short form prospectus. However, management will have discretion in the actual application of the proceeds, and may elect to allocate proceeds differently from that described in "*Use of Proceeds*" if it is believed it would be in the best interests of the Corporation to do so if circumstances change. The failure by management to apply these funds effectively could have a material adverse effect on the business of the Corporation.

## **Forward-looking information may prove inaccurate**

Investors are cautioned not to place undue reliance on forward-looking information. By its nature, forward-looking information involves numerous assumptions, known and unknown risks and uncertainties, of both a general and specific nature, that could cause actual results to differ materially from those suggested by the forward-looking information or contribute to the possibility that predictions, forecasts or projections will prove to be materially inaccurate.

Additional information on the risks, assumptions and uncertainties are found in this short form prospectus under the heading "*Forward-Looking Statements*".

### **INTEREST OF EXPERTS**

Certain legal matters relating to the Offering will be passed upon by Burnet, Duckworth & Palmer LLP on behalf of Twin Butte, and by Torys LLP on behalf of the Underwriters. As at the date hereof, the partners and associates of Burnet, Duckworth & Palmer LLP, as a group, and Torys LLP, as a group, own, respectively directly or indirectly, less than 1% of the Common Shares. John Brussa, a director of Twin Butte, is a partner of Burnet, Duckworth & Palmer LLP.

Reserve estimates by McDaniel & Associates Consultants Ltd. in respect of Twin Butte are incorporated by reference herein in the AIF. Reserve estimates of McDaniel & Associates Consultants Ltd. in respect of Waseca are incorporated by reference herein in the Waseca Business Acquisition Report. As at the date hereof, the partners and associates of McDaniel & Associates Consultants Ltd., as a group, own, directly or indirectly, less than 1% of the Common Shares.

Reserve estimates by GLJ Petroleum Consultants Ltd. in respect of Black Shire are incorporated by reference herein in the Black Shire Business Acquisition Report. As at the date hereof, the partners and associates of GLJ Petroleum Consultants Ltd., as a group, own, directly or indirectly, less than 1% of the Common Shares.

PricewaterhouseCoopers LLP, Chartered Accountants, are the auditors of Twin Butte. PricewaterhouseCoopers LLP has confirmed that they are independent of Twin Butte, in accordance with the relevant rules and related interpretation prescribed by the Institute of Chartered Accountants of Alberta.

As of March 6, 2012 and during the period covered by the financial statements of Waseca on which PricewaterhouseCoopers LLP reported, PricewaterhouseCoopers LLP were the auditors of Waseca and have confirmed that they were independent with respect to Waseca in accordance with the relevant rules and related interpretation prescribed by the Institute of Chartered Accountants of Alberta.

As of November 5, 2013 and during the period covered by the financial statements of Black Shire on which Mackay LLP reported, Mackay LLP were the auditors of Black Shire and have confirmed that they were independent with respect to Black Shire in accordance with the relevant rules and related interpretation prescribed by the Institute of Chartered Accountants of Alberta.

### **AUDITORS, TRANSFER AGENT AND REGISTRAR**

The auditors of Twin Butte are PricewaterhouseCoopers LLP, Chartered Accountants, Suite 2700, 205 – 5th Avenue S.W., Calgary, Alberta T2P 4B9.

The transfer agent and registrar for the Common Shares is Valiant Trust Company at its principal offices in Calgary, Alberta and Toronto, Ontario.

## **STATUTORY AND CONTRACTUAL RIGHTS OF WITHDRAWAL AND RESCISSION**

Securities legislation in certain of the provinces of Canada provides purchasers with the right to withdraw from an agreement to purchase securities. This right may be exercised within two business days after receipt or deemed receipt of a prospectus and any amendment. In several of the provinces, the securities legislation further provides a purchaser with remedies for rescission or, in some jurisdictions, revisions of the price or damages if the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that the remedies for rescission, revisions of the price or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province for the particulars of these rights or consult with a legal advisor.

In addition, original purchasers of Debentures will have the benefit of a contractual right of rescission exercisable following the issuance of the Common Shares to such purchasers on conversion of the Debentures in accordance with the terms of the Indenture. See "*Details of the Offering – Debentures*".

**CERTIFICATE OF THE CORPORATION**

Dated: December 6, 2013

This short form prospectus, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this short form prospectus as required by the securities legislation of each of the Provinces of Canada, other than Québec.

**TWIN BUTTE ENERGY LTD.**

(signed) "*James Saunders*"  
President and Chief Executive  
Officer and Director

(signed) "*R. Alan Steele*"  
Vice-President, Finance, Chief  
Financial Officer and Corporate  
Secretary

**ON BEHALF OF THE BOARD OF DIRECTORS**

(signed) "*Thomas J. Greschner*"  
Director

(signed) "*John Brussa*"  
Director



**CERTIFICATE OF THE UNDERWRITERS**

Dated: December 6, 2013

To the best of our knowledge, information and belief, this short form prospectus, together with the documents incorporated by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this short form prospectus as required by the securities legislation of each of the Provinces of Canada, except Québec.

**National Bank Financial Inc.**

By: "*Tom MacInnis*"

**Peters & Co. Limited**

By: "*J.G. (Jeff) Lawson*"

**Canaccord Genuity Corp.**

By: "*David Vankka*"

**GMP Securities L.P.**

By: "*Christopher Graham*"

**CIBC World Markets Inc.**

By: "*Michael Freeborn*"

**RBC Dominion Securities Inc.**

By: "*Greg Heath*"

**Scotia Capital Inc.**

By: "*David Baboneau*"

**TD Securities Inc.**

By: "*Scott W. Barron*"

# **Appendix C**

## **Twin Butte Press Release**

## Twin Butte Energy Ltd. announces \$85 million bought deal convertible debenture offering

/NOT FOR DISTRIBUTION TO U.S. NEWS SERVICES OR DISSEMINATION IN THE UNITED STATES/

CALGARY, Nov. 25, 2013 /CNW/ - Twin Butte Energy Ltd. (TSX: TBE) ("**Twin Butte**") announced today that it has entered into an agreement to sell, on a bought deal basis to a syndicate of underwriters co-led by National Bank Financial Inc. and Peters & Co. Limited, \$85 million aggregate principal amount of 6.25% convertible unsecured subordinated debentures, due December 31, 2018 (the "**Debentures**") at a price of \$1,000 per Debenture.

The net proceeds of the offering will be used to reduce bank indebtedness providing Twin Butte with additional financial flexibility through the diversification of its indebtedness and interest rate certainty on a portion of its core debt.

The Debentures will bear interest at a rate of 6.25% per annum, payable semi-annually in arrears on the last day of June and December in each year commencing on June 30, 2014, and will mature on December 31, 2018 (the "**Maturity Date**"). The Debentures will be convertible at the holder's option into common shares of Twin Butte ("**Common Shares**") at any time prior to the earlier of the Maturity Date and the date fixed for redemption at a conversion price of \$3.05 per Common Share (the "**Conversion Price**"), subject to adjustment in certain circumstances. The Debentures will not be redeemable before December 31, 2016. On or after December 31, 2016 but prior to December 31, 2017, the Debentures will be redeemable at Twin Butte's option at par plus accrued and unpaid interest, provided that the weighted average trading price of the Common Shares on the Toronto Stock Exchange during the 20 consecutive trading days ending on the fifth trading day preceding the date on which notice of redemption is given is not less than 125% of the Conversion Price. On or after December 31, 2017 but prior to the Maturity Date, the Debentures will be redeemable at Twin Butte's option at par plus accrued and unpaid interest. Twin Butte shall provide not more than 60 nor less than 30 days' prior notice of redemption.

The offering is expected to close on or about December 13, 2013, and is subject to the receipt of all necessary regulatory and other third party approvals, including approval of the Toronto Stock Exchange. The Debentures will be offered in each of the provinces of Canada other than Québec by way of a short-form prospectus and in the United States on a private placement basis pursuant to exemptions from the registration requirements under Rule 144A of the United States Securities Act of 1933.

### About Twin Butte

Twin Butte is a value oriented, intermediate producer with a significant and growing scalable and repeatable drilling inventory focused on large original oil in-place conventional medium and heavy oil exploitation. With a stable low decline production base Twin Butte is well positioned to live within cash flow while providing shareholders with a sustainable dividend and moderate per share production growth potential over the long term.

*This news release does not constitute an offer to sell or the solicitation of an offer to buy the securities in the United States, in any province or territory of Canada or in any other jurisdiction. The securities have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**") or any U.S. state securities laws and may not be offered or sold in the United States absent registration or absent an applicable exemption from the registration requirements of the U.S. Securities Act and applicable U.S. state securities laws. There shall be no sale of securities in any jurisdiction in which an offer to sell, a solicitation of an offer to buy or a sale would be unlawful.*

### Forward-Looking Statement Advisory

*In the interest of providing Twin Butte's shareholders and potential investors with information regarding Twin Butte, including management's assessment of the future plans and operations of Twin Butte, certain statements contained in this news release constitute forward-looking statements or information (collectively "forward-looking statements") within the meaning of applicable securities legislation. Forward-looking statements are typically identified by words such as "anticipate", "continue", "estimate", "expect", "forecast", "may", "will", "project", "could", "plan", "intend", "should", "believe", "outlook", "potential", "target" and similar words suggesting future events or future performance. In particular, this news release contains, without limitation, forward-looking statements pertaining to the following: the use of proceeds of the offering and the anticipated closing date of the offering.*

*With respect to forward-looking statements contained in this news release, Twin Butte has made assumptions regarding, among other things: the timing of closing and regulatory and third party approvals for the offering; and the satisfaction of the conditions to closing the offering, including, if required, the consent of Twin Butte's lenders under its credit facility and the Toronto Stock Exchange.*

*Although Twin Butte believes that the expectations reflected in the forward looking statements contained in this news release, and the assumptions on which such forward-looking statements are made, are reasonable, there can be no assurance that such expectations will prove to be correct. Readers are cautioned not to place undue reliance on forward-looking statements included in this news release, as there can be no assurance that the plans, intentions or expectations upon which the forward-looking statements are based will occur. By their nature, forward-looking statements involve numerous assumptions, known and unknown risks and uncertainties that contribute to the possibility that the predictions, forecasts, projections and other forward-looking statements will not occur, which may cause Twin Butte's actual performance and financial results in future periods to differ materially from any estimates or projections of future performance or results expressed or implied by such forward-looking statements. These risks and uncertainties include, among other things, the following: that the offering may not close when planned (or at all) or on the terms and conditions set forth herein; the failure of Twin Butte to obtain all necessary regulatory and third party approvals (including the Toronto Stock Exchange) for the offering; the failure of Twin Butte to secure, if required, the consent of its lenders under its credit facility to proceed with the offering; volatility in market prices for oil and natural gas; the general economic conditions in Canada, the U.S. and globally; and the other factors described under "Risk Factors" in Twin Butte's most recently filed Annual Information Form available in Canada at [www.sedar.com](http://www.sedar.com). Readers are cautioned that this list of risk factors should not be construed as exhaustive.*

*The forward-looking statements contained in this news release speak only as of the date of this news release. Except as expressly required by applicable securities laws, Twin Butte does not undertake any obligation to publicly update or revise any forward looking statements, whether as a result of new information, future events or otherwise. The forward-looking statements contained in this news release are expressly qualified by this cautionary statement.*

SOURCE: Twin Butte Energy Ltd.

%SEDAR: 00001562E

#### For further information:

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