UNANIMOUS SHAREHOLDERS’ AGREEMENT

**THIS SHAREHOLDERS’ AGREEMENT** is made as of this \_\_\_ day of **[Month]**, 201\*.

**AMONG:**

**[NTD: Insert company name],** a corporation incorporated under the laws of **[NTD: Insert jurisdiction of incorporation]**

(the“**Corporation**”)

and

The Person(s) identified as “Founders” on Schedule “A” hereto

(collectively, as further defined below,

the “**Shareholders**”, and each individually a “**Shareholder**”)

and

The Person(s), identified as “Investors” on Schedule “B” hereto

(collectively, as further defined below,

the “**Shareholders**”, and each individually a “**Shareholder**”)

and

Such other persons (if any) who become Shareholders or Principals after the date hereof in accordance with the provisions of this Agreement.

**WHEREAS:**

The parties currently own all of the issued and outstanding shares of the Corporation as set forth in Schedule “C”, and have entered into this Agreement to record their agreement as to the manner in which the Corporation’s affairs are to be conducted and to grant certain rights and obligations with respect to the ownership of the shares of the Corporation.

**NOW THEREFORE** in consideration of the foregoing, the respective covenants of the Parties herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Article 1**

**INTERPRETATION**

**Section 1.1 Defined Terms.**

Capitalized terms set forth herein shall have the meanings attributed thereto in this Agreement, and in addition the following terms have the following meanings:

**“Accountant”** means [Insert Name of Accounting Firm] or such successor as accountant of the Corporation as shall be determined by the Board of Directors from time to time.

**“Act”** means the Business Corporations Act (Ontario).

**“Affiliate”** has the meaning given to it in the Act.

**“Agreement”** means this shareholders agreement and all schedules attached to it as amended, modified, restated, replaced or supplemented from time to time.

**“Arm’s Length”** has the meaning given to it in the Income Tax Act (Canada).

**“Articles”** means the articles of incorporation of the Corporation dated [**Insert Date of Incorporation**], as amended to the date of this Agreement, and as may be amended, replaced or superseded from time to time in accordance with this Agreement.

**“Authorization”** means, with respect to a Person, any order, permit, approval, consent, waiver, licence or similar authorization of any Governmental Entity having jurisdiction over the Person.

**“Available Securities”** has the meaning ascribed thereto in Section 6.1(2).

**“Budget”** has the meaning ascribed thereto in Section 3.6(a).

**“Business Day”** means any day of the year, other than a Saturday, Sunday or day on which major banks are closed for business in Toronto, Ontario.

**“By-laws”** means the by-laws of the Corporation, as amended to the date of this Agreement, and as may be amended, replaced or superseded from time to time in accordance with this Agreement.

**“Closing Date”** has the meaning ascribed thereto in Section 6.1(9).

**“Common Shares”** means the common shares in the capital of the Corporation and includes the common shares of the Corporation currently issued, as well as any additional common shares in the capital of the Corporation that may be issued from time to time, but, unless required to be calculated on a fully diluted basis in accordance with Section 1.8 below, such term does not include common shares into which other securities issued by the Corporation may be converted unless and until such rights of conversion have been exercised and such common shares issued in respect thereof.

**“Contract”** means any agreement, contract, licence, undertaking, engagement or commitment of any nature, written or oral.

**“Control”** or “**control**” means, in relation to any Person, the ownership, directly or indirectly, of voting securities or other interests in such Person entitling the holder to exercise control and direction in law over the activities of such Person, and “**change of control**” has a corresponding meaning. Ownership by any Person together with their related persons of more than 50% of the votes attaching to all outstanding securities of such Person shall be deemed to constitute control of such Person.

**“Corporation”** means [**NTD: Insert name of Corporation**] and any successor corporation resulting from any amalgamation, merger, arrangement or other corporate reorganization.

**“CPOA”** has the meaning ascribed thereto in Section 6.5(4).

**“Directors”** means the individuals who are elected or appointed as directors of the Corporation in accordance with this Agreement.

**“Disabled”** means such suffering from a state of mental or physical disability, illness or disease as prevents a Founder from carrying out his normal duties to the Corporation as required under the terms of his employment, as certified (at the request of the Directors) by up to two (2) medical doctors.

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**“ESOP”** means the employee stock option plan of the Corporation, as adopted and amended by the Directors from time to time, providing for the issuance of options to acquire not more than [XX]% of the Shares of the Corporation on a fully diluted basis (inclusive of previously granted options) and having such conditions as to term to expiry, vesting conditions and exercise price as are determined by the Directors.

**“Excluded Securities”** means Shares or other securities issued or proposed to be issued by the Corporation: (i) upon the exercise of conversion or exchange rights of other securities issued by the Corporation; (ii) issued in accordance with the ESOP, or any other bona fide stock option plan of the Corporation or similar equity compensation plan approved by the Directors from time to time; (iii) to any Person in consideration for the purchase by the Corporation of any of the assets of such Person approved by a majority of the Directors; (iv) on any IPO approved by a majority of the Directors; (v) as a stock dividend or upon any subdivision of Common Shares, provided that the securities issued pursuant to such stock dividend or subdivision are limited to additional Common Shares; (vi) issued in connection with bona fide bank debt, equipment financing or non‑equity interim financing transactions with conventional institutional lenders entered into in the ordinary course of their lending business and approved by a majority of the Directors; (vii) issued in connection with bona fide acquisitions, mergers, corporate partnering or similar transactions, the terms of which are approved by a majority of the Directors; (viii) [**NTD: Insert details of any ongoing or proposed financing**] issued to complete the initial funding closed [**NTD: Insert Date of closing**] up to an aggregate value of $**\*\*** in capital at $\*\* per share after taking into account closed subscriptions; and (ix) completion of a follow on financing, provided such closing occurs prior to [**NTD: Insert Outside Date for Closing**], 20\*\*, involving the subscription for up to $\*\* in Common Shares at an issue price of not less than $\*\* for an aggregate of not more than \*\* Common Shares.

**“Extraordinary Resolution”** means in respect of an action pursuant to which this Agreement requires the approval of the Directors, an action to which (a) at a properly constituted meeting of the Board of Directors at least two-thirds (2/3) of the Directors pre sent have given their approval by resolution; or (b) all of the Directors have consented by an instrument or instruments in writing;

**“Forced Shareholder”** has the meaning ascribed thereto in Section 6.5(4).

**“Founder Nominee”** has the meaning ascribed thereto in Section 3.1(1) (b).

**“Founder Voting Agent”** has the meaning ascribed thereto in Section 7.2(2).

**“Founders”** means [**NTD: Insert Names of Founders]**, except to the extent that they are an Inactive Founder.

**“GAAP”** means accounting principles generally accepted in Canada as recommended in the Handbook of the Canadian Institute of Chartered Accountants, at the relevant time applied on a consistent basis.

**“Governmental Entity”** means (i) any international, multinational, national, federal, provincial, state, municipal, local or other governmental or public department, central bank, court, commission, board, bureau, agency, domestic or foreign, (ii) any subdivision or authority of any of the above, (iii) any stock exchange and (iv) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above.

**“IFRS”** means International Financial Reporting Standards.

**“Inactive Event”** has the meaning ascribed thereto in Section 7.1(1).

**“Inactive Founder”** has the meaning ascribed thereto in Section 7.1(1).

**“Independent Director”** means an individual that is not: (a) a Shareholder (other than through the exercise of options or rights granted to such individual solely as a result of being a director of the Corporation); (b) a shareholder of a Shareholder or an Affiliate of a Shareholder; (c) a professional adviser to, or an officer or employee of, the Corporation or any Shareholder; (d) a party to any written or oral contract (other than customary agreements relating to such individual’s participation on the Board, including any stock or other compensation relating thereto) with the Corporation or any Shareholder; (e) a director or officer of any Shareholders; or (f) an individual not dealing at arm’s length with any Person described under (a), (b), (c), (d) or (e) above.

**“Independent Nominee”** has the collective meanings ascribed thereto in Section 3.1(1)(d) and Section 3.1.(1)(e).

**“Investor Majority”** means Investors holding shares representing in aggregate 50% plus one or more of the votes attaching to the Shares held by all the Investors.

**“Investor Nominee”** has the meaning ascribed thereto in Section 3.1(1)(c).

**“Investors”** means any those Persons listed in Schedule “B” attached hereto and any other Person who deals at Arm’s Length with the Corporation and acquires Shares after the date hereof and becomes a party to this Agreement pursuant to Section 2.6 below.

**“IPO”** means an initial public offering, whether on a treasury or secondary basis, resulting in the holding of equity of the Corporation, directly or indirectly, by the public, or a transaction giving rise to a stock market listing or over-the-counter quotation of equity of the Corporation, directly or indirectly, and includes an amalgamation, securities exchange take-over bid or other transaction having a similar result, and an offering of units of an income trust or similar offering where the trust, directly or indirectly, owns equity of the Corporation.

**“Laws”** means applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, principles of common and civil law and equity, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international, (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, decrees and awards of any Governmental Entity, and (iii) policies, practices and guidelines of, or Contracts with, any Governmental Entity, which, although not actually having the force of law, are considered by such Governmental Entity as requiring compliance as if having the force of law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used.

**“Lien”** means (i) any mortgage, charge, pledge, hypothecation, security interest, assignment by way of security, encumbrance, lien (statutory or otherwise), hire purchase agreement, conditional sale agreement, deposit arrangement, title retention agreement or arrangement; (ii) any trust arrangement, (iii) any arrangement which creates a right of set-off out of the ordinary course of business, (iv) any option, warrant, right or privilege capable of becoming a Transfer or (v) any agreement to grant any such rights or interests.

**“Major Shareholder”** means any Shareholder holding Shares representing at least [\*] per cent (\*%) of the voting rights attaching to all of the Shares, calculated on a fully diluted basis in accordance with Section 1.8 below.

**“Non-Arm’s Length Person”** has the meaning given to it in the Income Tax Act (Canada)

**“Notice”** has the meaning ascribed thereto in Section 11.1.

**“Offer”** has the meaning ascribed thereto in Section 6.1(1).

**“Offer Acceptance”** has the meaning ascribed thereto in Section 6.1(2).

**“Offer Period”** has the meaning ascribed thereto in Section 4.1(3).

**“Offer Time Period”** has the meaning ascribed thereto in Section 6.1(2).

**“Offered Securities”** has the meaning ascribed thereto in Section 4.1(2).

**“Offering Documents”** has the meaning ascribed thereto in Section 4.1(5).

**“Offering Notice”** has the meaning ascribed thereto in Section 4.1(2).

**“Parties”** means the Corporation and the Shareholders.

**“Permitted Transferee”** means, in respect of any Shareholder, any one or more of: (i) his or her Spouse; (ii) his or her natural born and legally adopted children and all natural born or legally adopted descendants of such children; (iii) a trust, the sole beneficiaries of which are Persons specified in any one or more subsections of this definition, the Shareholder and/or the Principal of such Shareholder, provided that the terms of the trust include a valid condition precedent that any Shares or securities of a Shareholder will vest in the beneficiaries of such trust only if such beneficiaries have complied with the provisions of Section 2.6; and (iv) another Person, where the Shareholder or the Principal controls, directly or indirectly the voting control of the Person.

**“Person”** means a natural person (including as a trustee, executor, administrator, or other legal representative), partnership, limited partnership, limited liability partnership, corporation, limited liability company, unlimited liability company, joint stock company, trust, joint venture, unincorporated association, other entity or Governmental Entity, and pronouns have a similarly extended meaning.

**“Place of Closing”** means the principal offices of the Corporation or such other place as the Vendor and the Purchaser under a Sale Transaction mutually agree.

**“Preference Shares”** [**NTD: Describe preference share terms if applicable if not applicable delete**]

**“Principal”** means, in respect of a Shareholder, a Person who controls, directly or indirectly, the Shareholder, or, where the Shareholder is a trust, a trustee of such trust.

**“Proportionate Interest”** means, for purposes of Article 4 and Article 6 of this Agreement, at any time with respect to a Shareholder, the Shareholder’s rateable ownership of Shares expressed as a percentage, which percentage is determined by dividing the number of voting rights attaching to the Shares owned by the Shareholder by the total number of voting rights attaching to the Shares owned by the other Shareholders (in the case of Article 6, excluding any Selling Shareholders).

**“Purchased Shares”** means the Shares being Transferred pursuant to a Sale Transaction.

**“Purchaser”** means any Person or Persons purchasing or otherwise acquiring Shares pursuant to a Sale Transaction.

**“Related Shareholder”** means, in respect of a Principal, the Shareholder of which such Principal owns, directly or indirectly, securities.

**“Sale Shares”** has the meaning ascribed thereto in Section 6.1(1).

**“Sale Transaction”** has the meaning ascribed thereto in Section 6.1(9).

**“Selling Shareholder”** has the meaning ascribed thereto in Section 6.1(1).

**“Shares”** means any class of shares of the Corporation.

**“Shareholders”** means the Founders and Investors listed in Schedule “A” and Schedule “B” attached hereto respectively and any other Person who acquires Shares after the date hereof.

**“Shareholders Acknowledgement”** means an acknowledgement in the form of Schedule “D” executed by a Shareholder other than a Founder to confirm their acceptance and agreement to be bound by the provisions of this Agreement as specified in Section 2.6.

**“Specified Number”** has the meaning ascribed thereto in Section 6.1(2).

**“Spouse”** means, in relation to any natural person who is an individual, any individual to whom that first mentioned individual is married.

**“Subscription Notice”** has the meaning ascribed thereto in Section 4.1(3).

**“Subsidiary”** has the meaning given to it in the [**NTD: Modify as required if other jurisdiction than Ontario]**, as amended.

**“Time of Closing”** means 10:00 a.m. (Toronto time) or such other time on the Closing Date as the parties to the applicable Sale Transaction agree.

**“Transfer”** means (i) any transfer, sale, assignment, exchange, gift, donation or other disposition of securities where possession, legal title, beneficial ownership or the economic risk or return associated with such securities passes directly or indirectly from one Person to another or to the same Person in a different legal capacity, whether or not for value, whether or not voluntary and however occurring, or (ii) any agreement, undertaking or commitment to effect any of the foregoing, and “Transferred” has a corresponding meaning.

**“Vendor”** means any Person or Persons selling or otherwise disposing of Shares pursuant to a Sale Transaction.

**Section 1.2 Gender and Number.**

Any reference in this Agreement to gender includes all genders. Words importing the singular number only include the plural and vice versa.

**Section 1.3 Headings etc.**

The provision of a Table of Contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect its interpretation. The schedules attached to this Agreement form an integral part of it for all purposes of it.

**Section 1.4** **Currency.**

All references in this Agreement to dollars or to “$” are expressed in Canadian currency unless otherwise specifically indicated.

**Section 1.5 Certain Phrases, etc.**

In this Agreement, (i) the words “including”, “includes” and “include” mean “including (or includes or include) without limitation”, and (ii) the words “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”. The expressions “Article”, “Section” and other subdivision followed by a number mean and refer to the specified Article, Section or other subdivision of the Agreement. In the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”.

**Section 1.6 Accounting Terms**.

All accounting terms not specifically defined in this Agreement are to be interpreted in accordance with GAAP, IFRS, or such other recognized generally acceptable accounting standard adopted by the Corporation from time to time.

**Section 1.7 Statutory References.**

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it as they may have been or may from time to time be amended, re-enacted or superseded.

**Section 1.8 Fully Diluted Basis**

Unless otherwise indicated, whenever ownership or holding of a number of Shares is determined under this Agreement, such determination will be made on a fully diluted basis calculated based on the voting rights attaching to all such Shares and taking into account (without duplication) the issued and outstanding Shares and assuming conversion to or exercise for Shares of all preferred shares, debentures, options, warrants, convertible securities or other rights exercisable or convertible (directly or indirectly) for Shares, other than: (i) any Shares reserved but unallocated under the ESOP, and (ii) any Shares subject to allocated options under the ESOP that, at the time of such calculation, have not vested and are not then exercisable by the holder(s) of such options.

**Article 2**

**IMPLEMENTATION OF AGREEMENT AND TERM**

**Section 2.1 Actions in Accordance with Agreement.**

Each Shareholder will vote its Shares to give effect to this Agreement whether at a meeting of the Shareholders or by written resolution of the Shareholders. Each Principal will vote its securities in the Shareholder of which it is a Principal to (i) give effect to this Agreement, (ii) cause the Shareholder to perform its obligations under this Agreement and (iii) cause the Shareholder to otherwise act in accordance with this Agreement.

**Section 2.2 Conflicts**.

The Shareholders and the Corporation hereby agree that in the event of any inconsistency between the provisions of this Agreement and any provision of the Articles, By-laws or resolutions of the Corporation or of any Subsidiary or of any agreement, offer, promise or other understanding entered into by the parties hereto or some of them, the terms of this Agreement are paramount. Accordingly, the Shareholders and the Corporation hereby waive, for all purposes, their right to enforce and/or require compliance by any other Shareholder in respect of any provision of the Articles, By-laws or resolutions of the Corporation or of any Subsidiary or of any agreement, offer, promise or other understanding entered into by the parties hereto or some of them that are inconsistent with the provisions of this Agreement. In this regard, the Shareholders agree more particularly to use their respective best efforts to ensure that the constating documents of the Corporation and any Subsidiaries reflect the terms of this Agreement and are not amended (other than in accordance with this Agreement) to include provisions that are or could be inconsistent with the provisions hereof, and the Shareholders will vote the Shares held by them so as to cause the constating documents to be amended to resolve any conflict in favour of the terms of this Agreement. The Shareholders also agree that upon the organization of any new Subsidiary, upon the conditions stipulated herein, the Corporation and any other shareholder of such Subsidiary enter into a shareholder agreement or a declaration in lieu thereof, as the case may be, providing for such Subsidiary and its shareholders to be subject to all applicable provisions of this Agreement.

**Section 2.3 Corporation Consent**.

The Corporation consents to this Agreement and is governed by its terms.

**Section 2.4 Share Certificates**.

In addition to any legends required by applicable securities Laws, all certificates representing Shares must bear the following legend:

“The shares represented by this certificate are subject to a shareholders agreement between the Corporation and its shareholders, as may be further amended from time to time, and such shares may not be pledged, sold or otherwise transferred except in accordance with the terms of that agreement. Any transfer made in contravention of such restrictions is null and void. A copy of the agreement is on file at the registered office of the Corporation and available for inspection on request and without charge.”

**Section 2.5 Term of Agreement.**

(1) Subject to Section 2.5(2), this Agreement terminates on the earliest to occur of:

(a) The date one Person acquires all of the issued and outstanding Shares in compliance with this Agreement;

(b) The date an IPO is completed;

(c) The date the Corporation makes a voluntary assignment or otherwise becomes subject to the provisions of the Bankruptcy and Insolvency Act (Canada) or has a receiver appointed for its property and assets; and

(d) The date on which this Agreement is terminated by written agreement of: (i) the Corporation, (ii) Shareholders holding Shares representing a majority of the voting rights attached to the Shares held by the Shareholders, and (iii) an Investor Majority, provided at such time the Investors continue to hold Shares representing at least [\*\*]% of the voting rights attached to the Shares of the Corporation (for certainty, calculated on a fully diluted basis in accordance with Section 1.8)

(2) Even if this Agreement is terminated, each Party is responsible for paying all amounts owing by it under this Agreement prior to the date of termination, including any amounts owing for Shares purchased from other Shareholders under this Agreement.

**Section 2.6 Agreement to be Bound**

Except in connection with an IPO, each Person who becomes a Shareholder must concurrently with becoming a Shareholder execute and deliver to the Corporation a counterpart copy of this Agreement, a Shareholders Acknowledgement, or another written agreement in form and substance satisfactory to the Corporation, agreeing to be bound by this Agreement.

**Section 2.7 Deemed Consent under Articles.**

Each of the Parties (i) consents to a Transfer of Shares made in accordance with this Agreement, and (ii) agrees that this consent satisfies any restriction on the transfer of the Shares contained in the Articles or By-laws and that no further consent is required under the Articles or By-laws for any such Transfer.

**Article 3**

**MANAGEMENT OF THE CORPORATION**

**Section 3.1 Directors of the Corporation. [NTD: To be modified based on number of directors and offices for corporation]**

(1) Subject to this Section 3.1, the number of Directors on the board of Directors of the Corporation shall be fixed at up to [**NTD: Insert number of directors]** Directors, to be constituted as follows:

(a) the Chief Executive Officer of the Corporation (the “CEO”), as appointed from time to time, who shall initially be [**NTD: Insert Name**];

(b) the Founders holding a majority of the Shares held by the Founders from time to time are jointly entitled to nominate one (1) Director, who shall initially be [**NTD: Insert Name**] (the “**Founder Nominee**”);

(c) an Investor Majority is entitled to nominate one (1) Director (the “**Investor Nominee**”), provided the Investors continue to hold Shares representing at least [**NTD: Insert %**] of the voting rights attached to the Shares of the Corporation (for certainty, calculated on a fully diluted basis in accordance with Section 1.8 above);

(d) one (1) Independent Director (the “**Independent Nominee**”) shall be nominated by the Founders within a period of 60 days following the execution of this Agreement; and

(e) one (1) Independent Director (the “**Independent Nominee**”) shall be nominated by the Investor Majority within a period of 60 days following the execution of this Agreement.

(2) If a nominee Director as set forth above resigns or is removed, for any reason, the vacancy will be filled by the election or appointment of a Director nominated as set forth above, provided such Shareholder(s) or Directors are still entitled to do so. The Directors will not transact any business or exercise any of their powers or functions until such vacancy is filled, except to elect or appoint the new Director and to carry on the business of the Corporation in the ordinary course. If a replacement Director is not elected or appointed within 20 Business Days because such Shareholder(s) have failed to nominate a replacement, the Directors then in office are entitled to transact business and exercise all of the powers and functions of the Directors. A decision or action of the majority of the Directors then in office is deemed to be a decision or action of the Directors of the Corporation.

(3) If the Investors cease to hold Shares representing at least \*\*% of the voting rights attached to the Shares of the Corporation (for certainty, calculated on a fully diluted basis in accordance with Section 1.8 above), they shall cease to have the right to nominate Directors as set forth in Section 3.1(1)(d) above, as applicable, and the applicable Directors shall thereafter be nominated and elected by Shareholders holding Shares representing a majority of the voting rights attaching to all of the actual issued and outstanding Shares in each case in accordance with the Act.

(4) Other than as may be unanimously approved by the Directors, no amount is payable by way of salary, bonus or otherwise to any Founder in their capacity as Director for acting as such, other than stock option grants allocated to the Directors in accordance with the ESOP or other equity compensation plan approved by the Directors. Each Director other than officers or employees of the Corporation is entitled to be reimbursed for pre-approved reasonable out-of-pocket expenses incurred in attending directors’ meetings, committee meetings, and shareholders’ meetings.

(5) Each Major Shareholder (or its Principal) may attend all meetings of the board of Directors in a nonvoting observer capacity; provided that the Directors reserve the right, in good faith and with a view to serving the best interests of the Corporation, to exclude such representative from access to any material or meeting or portion thereof if: (i) the board of Directors believes upon advice of counsel that such exclusion is reasonably necessary to preserve the solicitor-client privilege; or (ii) the board of Directors otherwise determines that the exclusion is required in order to deal appropriately with any confidential or other matter coming before the board of Directors. The Corporation shall give such representative copies of all notices, minutes, consents and other materials that it provides to its Directors. Such representative may participate in discussions of matters brought to the board of Directors, but shall not be permitted to vote.

**Section 3.2 Directors’ Meetings.**

(1) Directors’ meetings will be held at least once a calendar quarter unless all Directors agree otherwise.

(2) At least 48 hours’ prior written notice of any Directors’ meeting must be given unless all of the Directors are present or those who are absent waive notice. A Director is not considered present at a meeting where that Director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

(3) The quorum for a meeting of the Directors is a majority of the Directors, including at least [**NTD: Indicate one Founder name and one Investor name]**. Notwithstanding the foregoing, if proper notice of a Directors’ meeting is given, specifying the purpose of or the business to be transacted at the meeting, and a quorum of Directors is not present, the meeting may be adjourned and reconvened on 48 hours written notice to transact the business specified in the original notice, in which case quorum for such meeting of the Directors shall be a majority of the Directors. Subject to the Act, any Directors present at the reconvened meeting constitute a quorum and the business specified in the original notice may be transacted by a majority vote of those Directors in attendance at the reconvened meeting.

**Section 3.3 Shareholder Meetings.**

The quorum for a Shareholders’ meeting is at least two Shareholders present in person or represented by proxy and holding not less than [**NTD: Modify as required** fifty per cent (50%)] of the voting rights attaching to Shares eligible to vote at the meeting.

**Section 3.4 Exercise of Authority**.

Unless otherwise expressly required in this Agreement, all decisions, approvals, determinations and consents of the Directors or the Shareholders required by this Agreement may be decided, approved, determined or consented to by a majority of the votes cast at a Directors’ meeting or Shareholders’ meeting or by written resolution signed by all of the Directors or Shareholders, as the case may be. The Chairman shall not have a casting vote in connection with matters coming before the Directors or the Shareholders at any such meeting.

**Section 3.5 Indemnification**.

The Corporation will indemnify any Director to the fullest extent permitted by the Act. Nothing in this Agreement limits the right of any Director to claim indemnity apart from the provisions of this Agreement, if the Director is entitled to such indemnity. The Directors may obtain and maintain such directors and officer liability insurance as may be approved by them from time to time.

**Section 3.6 Special Board Approval Matters**

No obligation of the Corporation (which, for purposes of this Section, is deemed to include any Subsidiary) will be entered into, no decision will be made, and no action will be taken by or with respect to the Corporation with respect to the following matters without the approval of a [majority of the Directors (and provided for such purpose representatives of both the Founder Nominee and Investor Nominee shall have been invited to be present to vote thereon)].

(a) Approving the annual budget and operating plan of the Corporation (the “Budget”).

(b) Borrowing funds or issuing bonds, debentures or other debt securities in the principal amount in excess of $\*\*, in aggregate, other than as approved in the Budget.

(c) Granting security over any of the Corporation’s assets other than in connection with indebtedness of the Corporation not exceeding $\*\*, in aggregate, other than as approved in the Budget.

(d) Amending the terms of compensation payable to, or paying any bonus to, any senior management of the Corporation (including the Founders), including ESOP awards, other than as approved in the Budget.

(e) Hiring or terminating and determining direct or indirect compensation of any of the Founders, Chief Executive Officer, Chief Financial Officer, Chief Technology Officer, or Vice President of the Corporation, other than as approved in the Budget.

(f) Acquiring or selling any tangible or intangible assets in an amount in excess of $\*\*, in aggregate, other than as approved in the Budget.

(g) Entering into any contract or agreement with any Non-Arm’s Length Person other than on commercially reasonable terms, other than as approved in the Budget.

(h) Making any investment in any entity or acquiring any capital asset (by capital lease or otherwise) with a value in excess of $\*\*, in aggregate, other than as approved in the Budget.

**Section 3.7 Registration Rights**

The Corporation shall not enter into any agreement or instrument under which any person has the right to require it (i) to effect, or to include any securities held by such person in, any registration under the United States Securities Act of 1933, as amended or (ii) to distribute any such securities to the public in Canada, without granting equivalent rights to all of the Founders and the Investors or pursuant to a similar agreement or instrument in favour of the Founders and the Investors.

**Article 4**

**FINANCING THE CORPORATION**

**Section 4.1 Pre-emptive Right Regarding Additional Securities.**

(1) Except as may be unanimously approved by the then elected Directors, any issuance of Shares or other securities of the Corporation other than Excluded Securities is subject to this Section 4.1.

(2) The Corporation must give notice to each Shareholder (an “Offering Notice”) each time an offering of Shares or other securities subject to this Section 4.1 is made. The Offering Notice must specify the terms and conditions of the offering, including (i) the total number of Shares or other securities of the Corporation which are being offered (the “**Offered Securities**”), (ii) the rights, privileges, restrictions, terms and conditions of the Offered Securities (iii) the consideration for each Offered Security and (iv) the closing date which may not be earlier than fifteen (15) Business days from the date the Offering Notice is delivered.

(3) Each Shareholder may subscribe for up to its Proportionate Interest of the Offered Securities. No such Shareholder shall have any right to subscribe for Offered Securities which are not subscribed for by the other Shareholders. These rights may be exercised by delivering an irrevocable and unconditional subscription notice to the Corporation (the “**Subscription Notice**”) within ten (10) Business Days from the date the Offering Notice is delivered to such Shareholder by the Corporation hereunder (the “Offer Period”). The Subscription Notice must specify whether the Shareholder is subscribing for its Proportionate Interest, and if not, the maximum number of Offered Securities such Shareholder is prepared to acquire.

(4) If a Shareholder fails to deliver a Subscription Notice within the Offer Period, then any right of the Shareholder to subscribe for any of the Offered Securities is extinguished.

(5) The Corporation will notify each Shareholder who provided a Subscription Notice of the number of Offered Securities allotted to that Shareholder. Each accepted Subscription Notice constitutes a binding agreement by the Shareholder to purchase and the Corporation to sell to the Shareholder, the number of Offered Securities allotted to the Shareholder, on and subject to the terms of the Offering Notice, including without limitation the execution and delivery of such subscription agreements, shareholders agreements and related agreements, instruments and certificates (“**Offering Documents**”) reasonably required by the Corporation in connection with the completion of such offering.

(6) If not all of the Offered Securities are subscribed for, each Shareholder subscribing for Offered Securities in its Subscription Notice will purchase the allotted number of Offered Securities for which it subscribed and during the 120 calendar day period following the expiry of the Offer Period, the Corporation will be entitled to allot and issue any Offered Securities that are not subscribed for by the Shareholders to any other Persons who are not Shareholders. Any such allotment and issuance must be at the same or a higher price and otherwise on the same terms and conditions as contained in the Offering Notice. If any Offered Securities are not issued within the 120 calendar day period, the Corporation must, before allotting and issuing them to any Person, again comply with this Article 4 including this Section 4.1.

(7) Each Shareholder that has purchased Offered Securities allotted to it, will deliver to the Corporation, at least two (2) Business Days prior to the closing date specified in the Offering Notice, a certified cheque, bank draft or wire transfer of immediately available funds in the full amount of the purchase price for the Offered Securities allotted to that Shareholder. Provided that the applicable Shareholder has paid the purchase price in full and otherwise complied with the terms of the offering and the Offered Securities are shares or other certificated securities, the Corporation will issue to the Shareholder the Offered Securities allotted to that Shareholder as fully paid and non-assessable shares or securities. The Corporation will then deliver to that Shareholder a share certificate representing the shares or securities issued in the name of the Shareholder.

(8) The obligation of the Corporation to issue any Offered Securities to a Shareholder is subject to and conditional on the issuance of such securities being exempt from all registration and prospectus requirements under applicable securities Laws and the Shareholder’s execution and delivery of the Offering Documents in accordance with the terms of the Offering.

(9) Notwithstanding any provision hereof to the contrary, in lieu of complying with the provisions of subsection (2), the Corporation may elect to give notice to the Shareholders within thirty (30) days after the issuance of Offered Securities. Such notice shall describe the type, price, and terms of the Offered Securities. Each Shareholder shall have twenty (20) days from the date notice is given to elect to purchase up to its Proportionate Interest of the Offered Securities, calculated as set forth above before giving effect to the issuance of such Offered Securities. The closing of such sale shall occur within sixty (60) days of the date notice is given to the Shareholders by the Corporation pursuant hereto.

**Article 5**

**RESTRICTIONS ON TRANSFER**

**Section 5.1 Restrictions on Transfer by Shareholders**.

(1) No Shareholder may Transfer any Shares except as expressly permitted by this Agreement.

(2) Any purported Transfer of Shares in violation of this Agreement is void, subject to applicable Laws. The Corporation will not permit such a purported Transfer to be recorded on the share register of the Corporation maintained for the Shares.

(3) To the extent permitted by applicable Law, from the date of any purported Transfer of Shares in violation of this Agreement, all rights attaching to such Shares and all rights attaching to any other Shares of the Shareholders involved with the purported Transfer are suspended and are inoperative until the purported Transfer is rescinded. During such time such Shares may not be voted and no dividends or other distributions may be paid or made on such Shares. These rights are in addition to and not in lieu of any other remedies.

**Section 5.2 Permitted Transfers by Shareholders**.

(1) Subject to this Section 5.2, each Shareholder is entitled to Transfer the whole or any part of its Shares to any of its Permitted Transferees, provided the Shareholder gives prior written notice to the Corporation and the other Shareholders of any such Transfer.

(2) No proposed Transfer to a Permitted Transferee is effective until the Permitted Transferee complies with Section 2.6.

**Section 5.3 Encumbering of Shares.**

No Shareholder may grant a Lien on any of its Shares without the prior written consent of the Directors.

**Section 5.4 Restrictions on Transfer by Principals**.

(1) Without the prior written consent of the Directors but subject to Section 5.5, a Principal shall not:

(a) approve or allow the Transfer of any securities of the Shareholder of which it is a Principal to any Person; or

(b) approve or allow the Shareholder of which it is a Principal to issue any additional securities to any Person, or an existing security holder of the Shareholder, where the effect would result in a change of control of the Shareholder.

(2) Any purported Transfer of securities of a Shareholder, or the issuance of any securities of a Shareholder in violation of this Agreement is void, subject to applicable Law. No Shareholder will permit such a purported Transfer or issuances to be recorded on the register of the Shareholder maintained for such securities.

(3) To the extent permitted by applicable Law, from the date of any purported Transfer of securities of a Shareholder, or the issuance of any securities of a Shareholder, in violation of this Agreement, all rights of that Shareholder are suspended and are inoperative until the purported Transfer or issuance is rescinded. During such time the Shares of such Shareholder may not be voted and no dividends or other distributions may be paid or made on such Shares. These rights are in addition to and not in lieu of any other remedies.

**Section 5.5 Permitted Transfers by Principals**.

(1) Each Principal is entitled to Transfer the whole or any part of its securities in the Shareholder of which it is a Principal to any of its Permitted Transferees. A Principal must give prior written notice to the Corporation and the other Shareholders of any such Transfer.

**Article 6**

**TRANSFERS TO THIRD PARTIES; RIGHT OF FIRST REFUSAL**

**Section 6.1 Right of First Refusal**.

(1) If any one or more Shareholders (the “**Selling Shareholder**”) wants to Transfer all or any portion of its Shares (the “**Sale Shares**”) to any Person that is not a Permitted Transferee, the Selling Shareholder must first offer the Sale Shares to the other Shareholders, and as applicable shall include a copy of any written offer received by the Selling Shareholder (the “Offer”). The entire consideration for the Sale Shares pursuant to the Offer must be payable in cash, wire transfer or certified cheque on the Closing Date. The Offer must be made by notice in writing and specify the consideration per Sale Share. The Offer is not revocable except with the approval of each of the Shareholders.

(2) Each Shareholder may accept the Offer for its Proportionate Interest of the Sale Shares or any other number of Sale Shares in excess of the Proportionate Interest. These rights may be exercised by delivering an irrevocable and unconditional notice to the Selling Shareholder (the “**Offer Acceptance**”) within thirty (30) calendar days from the date the Offer is delivered (the “**Offer Time Period**”). The Offer Acceptance must specify whether the Shareholder is accepting the Offer. If the Shareholder is accepting the Offer, the Offer Acceptance must specify whether the Shareholder is accepting the Offer for its Proportionate Interest, and, if any, the number of Sale Shares for which Offers are not accepted by the other Shareholders (the “**Available Securities**”) that the Shareholder is prepared to acquire. The “Specified Number” of a Shareholder means the number of the Available Securities such Shareholder is willing to acquire.

(3) If a Shareholder fails to deliver an Offer Acceptance by 5:00 p.m. (Eastern Standard Time) on the last day of the Offer Time Period, then any right of the Shareholder to acquire any of the Sale Shares is extinguished.

(4) Upon request of a Shareholder during the Offer Time Period, the Selling Shareholder will disclose to the requesting Shareholder (i) the number of Shareholders that have accepted the Offer, (ii) the identity of those Shareholders, and (iii) their Specified Numbers. The Selling Shareholder will respond to any such request immediately and, in any event, prior to the expiry of the Offer Time Period.

(5) The Available Securities to be purchased, if any, shall be allocated firstly among those of the Shareholders who have elected to subscribe for Available Securities in accordance with the Specified Numbers set forth in their Offer Acceptance.

(6) If there are less Available Securities than the aggregate Specified Numbers, (i) the Available Securities shall be divided pro rata amongst those Shareholders who included Specified Numbers on the basis of their pro rata ownership of Shares, (ii) the Offer Acceptances shall be deemed to be amended accordingly, and (iii) such Shareholders shall purchase an amount of Available Securities as so revised, but not more than such Shareholder’s Specified Number.

(7) If less than all of the Sale Shares are to be sold to the Shareholders under the Offer, the rights of the Shareholders to acquire any of the Sale Shares are extinguished and none of the Sale Shares will be allotted to any of the Shareholders and subject to Section 6.3 ( the Piggy Back Rights), Section 6.2 will apply.

(8) If the Sale Shares are allotted to Shareholders, the Selling Shareholder will notify each Shareholder who accepted the Offer of the number of Sale Shares allotted to that Shareholder. Each Offer Acceptance constitutes a binding agreement by the Shareholder to purchase and the Selling Shareholder to sell to the Shareholder, the number of Sale Shares allotted to the Shareholder, on and subject to the terms of the Offer (assuming the conversion of all Shares in accordance with their terms) and Article 8.

(9) The completion of any transaction of purchase and sale contemplated by this Section 6.1 (a “Sale Transaction”) will take place on the Closing Date in accordance with and subject to Article 8. “Closing Date” means (i) the date which is thirty (30) calendar days after the expiry of the Offer Time Period, or (ii) such earlier or later date as the parties to the Sale Transaction agree in writing.

**Section 6.2 Third Party Sale.**

(1) If an Offer Acceptance is not received for all of the Sale Shares pursuant to Section 6.1, the Selling Shareholder is entitled to sell all but not less than all of the Sale Shares to the Third Party in accordance with the Offer. The Directors are entitled to require proof that the sale to the Third Party took place in accordance with the Third Party’s Eligible Offer. The Corporation will not permit any Transfer of the Sale Shares to be recorded on the share register of the Corporation if the Directors have reason to believe that the transaction was completed otherwise than in accordance with the provisions of the Third Party’s Eligible Offer (assuming the conversion of all Shares in accordance with their terms).

(2) If the Selling Shareholder does not Transfer the Sale Shares to the Third Party within the 180 calendar day period following the expiry of the Offer Time Period, then any future dispositions by the Selling Shareholder will once again be subject to Section 6.1.

**Section 6.3 Piggyback Rights**

(1) In the event that one or more Selling Shareholder is entitled to sell the Sale Shares to a Third Party in accordance with Section 6.2 and the Sale Shares acquired by the Third Party represent more than [fifty(50%)] percent of the Shares, each Shareholder shall have the right to elect to sell all but not less than all of its Shares to the Third Party at the consideration per Sale Share in the Offer and on and subject to the terms of the Offer by giving written notice to the Selling Shareholder within seven (7) days following the Shareholder’s receipt of a written notice from the Selling Shareholder that the rights of the Shareholders to acquire any of the Sale Shares were extinguished in accordance with Section 6.1(7). If one or more Shareholder so elects, then the Selling Shareholder and such Shareholder(s) shall sell all of their Shares to the Third Party. If the purchase and sale transaction is not completed within the 180 calendar day period following the expiry of the Offer Time Period, then any future dispositions by the Selling Shareholder will once again be subject to Section 6.1.

**Section 6.4 Third Party Sale Provisions**

A Transfer of Shares under Section 6.2 is not permitted and the Corporation will not register any such Transfer on the share register maintained for the Shares unless:

(1) Section 2.6 is complied with; and

(2) each Shareholder Transferring Shares to the Third Party has delivered releases to the Corporation and the other Shareholders releasing all claims that the Shareholder may have against the Corporation and the other Shareholders with respect to any matter or thing up to and including the time of closing.

**Section 6.5 Drag Along Rights**.

(1) If a bona fide offer (“**Drag Along Offer**”) is made or proposed to any Shareholders or to the Corporation that provides for the acquisition (either by way of a purchase, amalgamation, arrangement, corporate reorganization, or other means of merger or acquisition) by a bona fide Arm’s Length third party offeror, of all of the then outstanding Shares or that involves the sale or exclusive license of all or substantially all of the assets of the Corporation, at the same price per share (subject to any liquidation preferences set forth in the Articles) and otherwise substantially upon the same terms and conditions for all Shareholders as determined on a class-by-class basis, and the Drag Along Offer is irrevocably accepted or approved by:

(a) a majority of the Directors, including the Founder Nominee and the Investor Nominee; and

(b) holders of [\*\*] per cent [(\*\*%)] of the issued and outstanding Shares,

then any Shareholder who has not accepted or approved the Drag Along Offer is deemed to have done so upon being notified by such third party offeror or the Corporation of the names of Shareholders who have irrevocably accepted or approved such Drag Along Offer and the number of Shares in respect of which they have accepted or approved the Drag Along Offer.

(2) Each Shareholder will participate fully in any such Drag Along Offer and vote in favour of any such transaction or series of transactions and take all actions required in connection therewith including: (i) the execution of any resolutions, agreements and collateral documents; and (ii) any amendment to the Articles. To the maximum extent permitted by law, each Shareholder hereby waives any statutory right of dissent and/or appraisal remedy to which it would otherwise be entitled in connection with any transaction contemplated in this Section.

(3) No Shareholder is obligated to tender Shares pursuant to Section 6.5 unless the liability of the Shareholder with respect to any representation, warranty or covenant made by the Corporation in connection with the Drag Along Offer is limited to the Shareholder’s pro rata share of the aggregate consideration payable to all Shareholders.

(4) If a Shareholder is deemed to have accepted the Drag Along Offer, the Shareholder will co-operate fully with the third party offeror and the Corporation in order to complete the transaction contemplated in the Drag Along Offer. If the Shareholder, in the opinion of the Directors as evidenced by a notice to such Shareholder, fails to reasonably co-operate with the third party offeror or the Corporation in this regard, then the Secretary of the Corporation is deemed to be irrevocably constituted and appointed as the true and lawful attorney for the Shareholder (the “**Forced Shareholder**”) with authority to do all things and execute and deliver, on behalf of and in the name of the Shareholder, as more particularly set out in Article 10.

(5) If, at the time of closing, a Forced Shareholder does not complete the sale for any reason, the third party offeror shall have the right to deposit the purchase price for the Shares to be purchased and sold for the account of such Forced Shareholder (without withholding, deduction or set-off in any manner whatsoever, other than any withholding required or expressly permitted by applicable tax law) in an interest bearing account with the bankers of the Corporation in the name of the Forced Shareholder and that deposit shall constitute valid and effective payment of the purchase price to such Forced Shareholder. If payment of the purchase price is so deposited, then from and after the date of deposit, notwithstanding that certificates or instruments evidencing the Shares may not have been delivered to the third party offeror:

(a) the purchase shall be deemed to have been fully completed and the records of the Corporation may be amended accordingly;

(b) all right, title, benefit and interest, both at law and in equity, in and to the Shares shall be conclusively deemed to have been transferred and assigned to and become vested in the third party offeror; and

(c) all right, title, benefit and interest of such Forced Shareholder and of any other Person (other than the third party offeror) having an interest in such Shares, legal or equitable, in any capacity whatsoever shall cease.

(6) If the Drag Along Offer contemplates a purchase and sale of Shares, then upon completion of the sale to the third party offeror, the Shareholders will distribute the aggregate proceeds of the sale among the Shareholders in the same manner that assets of the Corporation would be distributed upon a Liquidation Event.

(7) For certainty, any Transfer contemplated in this Section shall not be subject to Section 6.1 (Right of First Offer) and shall represent a permitted Transfer for purposes of Section 5.1(1) of this Agreement.

**Article 7**

**FOUNDER VOTING TRUST ARRANGEMENTS**

**Section 7.1 Inactive Founder**.

(1) A Founder becomes an inactive Founder (an “**Inactive Founde**r”) immediately following the occurrence of any of the following events (each respectively an “**Inactive Event**”):

(a) the Founder is terminated from his or her employment with the Corporation for cause;

(b) the Founder voluntarily resigns his or her employment with the Corporation; or

(c) the Founder dies or is permanently Disabled; or

(d) the Founder becomes subject to any divorce, separation or other matrimonial agreement or proceeding under which the Founder’s interest in the Corporation becomes subject to any contractual or court ordered agreement or understanding providing for the ownership or voting of such securities by any person other than the Founder or requiring their disposition and sale.

(2) The term “Inactive Founder” includes any executor, administrator, guardian, committee, liquidator, receiver, trustee or other legal representative or Person empowered at Law to dispose of the property of the Inactive Founder or its Related Shareholder.

**Section 7.2 Restriction on Rights**.

(1) If a Founder becomes an Inactive Founder, then from the date of the Inactive Event, the Inactive Founder shall cease to serve as a Director of the Corporation and any Subsidiary, as applicable, unless otherwise agreed by a majority of the Directors.

(2) If a Founder has been terminated by the Corporation for cause pursuant to Section 7.1 (1)(a), then from such date the CEO (as appointed from time to time) (“Founder Voting Agent”) is deemed to be (without any further action on the part of the Inactive Founder) irrevocably constituted and appointed, with full power of substitution, as the Inactive Founder’s and/or its Related Shareholder’s true and lawful proxy, attorney and agent to act on its behalf in accordance with the terms set out in Article 10 with full power and authority in the Inactive Founder’s and/or its Related Shareholder’s name, place and stead to attend, vote at all meetings of holders of Shares of the Corporation and at any adjournment or adjournments thereof, to the same extent and with the same power as if the Inactive Founder and/or its Principal was personally present at such meeting or such adjournment or adjournments thereof, or to execute and deliver written consents or waivers, and otherwise act for and on behalf of the Inactive Founder and/or its Related Shareholder in respect of all Shares owned by such Inactive Founder and/or its Related Shareholder in connection with all matters that require a shareholder vote pursuant to either applicable Law or this Agreement and in all matters provided for herein. This proxy and power of attorney confers discretionary authority on the Founder Voting Agent to vote on all such matters and on amendments or variations thereto or such other matters as may properly come before a meeting in accordance with the best judgment of the Founder Voting Agent, subject to limitations specified herein.

**Section 7.3 Irrevocable Option to Purchase Shares of Inactive Founder**

(1) Each Founder hereby grants to the other Shareholders an irrevocable option (the “**Purchase Option**”), exercisable in the event that such Founder becomes an Inactive Founder, to purchase all but not less than all of the Shares held by it, directly or indirectly (the “**Purchased Shares**”).

(2) The Corporation shall deliver a notice (a “**Purchase Notice**”) to each Shareholder other than the Inactive Founder (the “**Remaining Shareholders**”) promptly following the receipt of notice of, or otherwise becoming aware of, the occurrence of an Inactive Event. The Purchase Option shall be exercisable by the Remaining Shareholders at any time within thirty (30) days following receipt of notice of the Inactive Event, and at any time during the period of 30 days following each successive anniversary thereof (in any such as an “**Option Period**”), upon notice in writing (the “**Exercise Notice**”) to the Inactive Founder or its representative and to the Corporation and the Remaining Shareholders, specifying the purchase price and other terms and conditions under which they propose to purchase all but not less than all of the Purchased Shares. If multiple offers are delivered, the Inactive Founder or its representative shall advise the Corporation and Remaining Shareholders of which offer (if any) it proposes to accept.

(3) If any of the Remaining Shareholders elect to exercise the Purchase Option with respect to the offer accepted by the Inactive Founder or their representative, and if any such offer is so accepted, they shall be entitled to purchase the Purchased Shares pro rata in the proportion that each of their holdings of Shares bears to the total number of Shares held by the Remaining Shareholders who wish to exercise the Purchase Option, or in such other proportions as the Remaining Shareholders may mutually agree, and such purchase may be made by one or more Remaining Shareholders jointly or by any one of them alone. The Remaining Shareholders shall also be entitled, at their sole option, exercisable by resolution by a majority of the Shareholders (excluding for purposes thereof the Shares owned by the Inactive Founder) within the Option Period, and provided such resolution has been approved by the Investor Majority, to require the Corporation to purchase the Purchased Shares for cancellation on the terms accepted by the Inactive Founder or their representative, by designating the Corporation as the Party entitled to purchase the Purchased Shares. The Remaining Shareholders shall specify the manner in which such Purchased Shares are to be acquired in the Exercise Notice and the Party or Parties so specified shall be the Purchaser hereunder.

(4) If the Inactive Founder or its representative declines to accept any offer within the initial thirty (30) day period following receipt of an Exercise Notice, they will continue to remain a holder of Shares subject to this Agreement but will cease to have any involvement in the business of the Corporation as a director, officer or employee, except as permitted by the Directors, and their right to participate in the designation as Founder of a nominee Director under Section 3.1 and to participate directly or through such nominee in the Special Board Approval Matters under Section 3.6 shall cease. Notwithstanding the foregoing, if a Founder becomes an Inactive Founder under Section 7.1(1)(c), this Section 7.3(4) shall only apply for the period of such disability.

(5) If the Inactive Founder or its representative accepts any such offer: the closing of the transaction of purchase and sale contemplated by this Article (a “**Sale Transaction**”) shall take place at the Place of Closing at the Time of Closing on the date (in this Article, the “**Date of Closing**”) which shall, unless the Vendor and Purchaser otherwise agree, be the latest of:

(a) the date of which is ninety (90) days after the delivery of the Exercise Notice that has been accepted by or on behalf of the Inactive Founder or their representative; and

(b) the date which is seven (7) days following the receipt of all necessary governmental releases or approvals required to be obtained in order to effect a valid transfer of the Purchased Shares (and the Parties covenant and agree to use their best efforts to obtain such consents, releases or approvals).

(6) Any Sales Transaction completed under this Section 7.3 will be effected in accordance with the general sale provisions of Article 8.

**Article 8**

**PROCEDURE FOR SALE OF SHARES**

**Section 8.1 Pre-Closing Covenants of the Parties**

(1) Subject to Section 8.1(3), each party to a Sale Transaction will take all actions that are within its power to control and use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, to ensure compliance with the conditions in Section 8.2 and Section 8.3

(2) Each Vendor to a Sale Transaction will take all necessary steps and corporate proceedings to permit good title to the Purchased Shares to be duly and validly transferred and assigned to the Purchaser at the Time of Closing, free of all Liens other than the restrictions on transfer, if any, contained in the articles of the Corporation.

(3) Each party to a Sale Transaction will use its commercially reasonable efforts to make or give, or cause to be made or given, all filings with and notifications to any Governmental Entity and obtain or cause to be obtained all Authorizations, necessary in order to complete the Sale Transaction. However, no party to a Sale Transaction is required to take any steps or action that would, in the sole discretion of that party, affect its right to own, use or exploit any of its assets or carry on its business.

**Section 8.2 Conditions for the Benefit of the Purchaser**

The completion of a Sale Transaction is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion:

(a) The Vendor must represent and warrant to the Purchaser that (i) on the Closing Date the Purchased Shares are owned by the Vendor as the registered and beneficial owner with good title, free and clear of all Liens other than those restrictions on transfer, if any, contained in the Articles and (ii) upon completion of the Sale Transaction, the Purchaser will have good and valid title to the Purchased Shares sold by the Vendor, free and clear of all Liens other than (A) those contained in the Articles and this Agreement, and (B) Liens granted by the Purchaser;

(b) All filings, notices and Authorizations necessary to complete the Sale Transaction must be made, given or obtained; and

(c) The completion of the Sale Transaction will not result in the violation of any Law.

**Section 8.3 Conditions for the Benefit of the Vendor**.

The completion of a Sale Transaction is subject to the following conditions to be fulfilled or performed on or before the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor in its sole discretion:

(a) The completion of the Sale Transaction will not result in the violation of any Law;

(b) The transfer of the Purchased Shares to the Purchaser must be exempt from the prospectus, offering memorandum and registration requirements of applicable securities Laws; and

(c) All guarantees, indemnities, covenants and security made or granted by the Vendor to secure any debt, liability or obligation of the Corporation (i) must be cancelled; or (ii) the Purchaser must indemnify the Vendor against all damages which may be paid, suffered or incurred with respect to the guarantees, indemnities, covenants or security.

**Section 8.4 Closing Procedures**.

(1) The completion of a Sale Transaction will take place at the offices of the Corporation at the Time of Closing on the Closing Date or at such other place, on such other date and at such other time as the parties to the Sale Transaction may agree to in writing.

(2) Subject to satisfaction or waiver by the relevant party to the Sale Transaction of the conditions of closing, at the closing of the Sale Transaction:

(a) The Vendor will assign and transfer title and deliver actual possession of the Purchased Shares to the Purchaser and endorse the share certificates representing the Purchased Shares for transfer to the Purchaser;

(b) Subject to Section 8.4(2)(d), the Purchaser will pay or satisfy the purchase price for the Purchased Shares by delivering to the Vendor a certified cheque, bank draft or wire transfer of immediately available funds in the full amount of the purchase price for the Purchased Shares;

(c) The Vendor will deliver releases to the Corporation and the other Shareholders releasing all claims that the Vendor may have against the Corporation and the other Shareholders with respect to any matter or thing up to and including the Time of Closing, except for any claims which might arise out of the Sale Transaction in a form reasonably acceptable to the Purchaser;

(d) All debt owing by the Vendor to the Corporation will be repaid. If the Vendor fails to repay the debt, the Purchaser will pay the amount of the debt from the Purchase Price and the amount of the purchase price payable to the Vendor will be reduced accordingly.

**Section 8.5 Non-Compliance with Conditions**.

If at the Time of Closing the Purchased Shares are not free and clear of all Liens, the Purchaser may, without prejudice to any other rights it may have, purchase the Purchased Shares subject to such Liens or in the absence of such evidence or certificate. In that event, the Purchaser will, at the Time of Closing, make payment of the amount required to discharge such Liens. The purchase price payable by the Purchaser for the Purchased Shares is satisfied, in whole or in part, as the case may be, by such payments and the amount so paid will be deducted from the purchase price payable at the Time of Closing.

**Section 8.6 Non-Completion by Vendor.**

(1) In addition to and without limiting any remedy that may be available at Law to the Purchaser, if at the Time of Closing, the Vendor fails to complete the Sale Transaction, the Purchaser has the right, if not in default under this Agreement, to make payment of the purchase price for the Purchased Shares to the Vendor by depositing such amount to the credit of the Vendor in the main branch of the Corporation’s bankers in the City of Toronto. Such deposit constitutes valid and effective payment of the purchase price to the Vendor irrespective of any action the Vendor may have taken to transfer or grant a Lien on the Purchased Shares. If the purchase price has been so paid, then from the date of deposit, the Sale Transaction is deemed to have been completed and all right, title, benefit and interest, both at law and in equity in and to the Purchased Shares is deemed to have been transferred to and become vested in the Purchaser and all right, title, benefit and interest of the Vendor or of any transferee or assignee of the Vendor, in and to the Purchased Shares, cease.

(2) The Vendor is entitled to receive the amount deposited with the Corporation’s bankers under Section 8.6(1) together with the releases and indemnities which it is entitled to under Section 8.3 on delivery to the Purchaser of the documents referred to in Section 8.2 and Section 8.4 and in compliance with all other provisions of this Agreement.

**Section 8.7 Non-Completion by Purchaser.**

In addition to and without limiting any remedy that may be available at Law to the Vendor, in the event that the Purchaser fails to complete the Sale Transaction, the Vendor may, at its option, by notice to the Purchaser, terminate all of its obligations relating to the Sale Transaction and, upon the giving of such notice, such obligations will be terminated without prejudice to the continued effectiveness of this Agreement.

**Section 8.8 Multiple Purchasers and Vendors.**

For greater certainty, the Parties acknowledge and agree that where a Sale Transaction involves more than one Purchaser or more than one Vendor, each Purchaser and each Vendor in such Sale Transaction is only liable for its own representations, warranties, covenants, conditions and agreements. No Vendor or Purchaser is jointly liable with any other Vendor or Purchaser for the representations, warranties, covenants, conditions and agreements of any other Purchaser or Vendor.

**Article 9**

**INFORMATION RIGHTS AND CONFIDENTIALITY**

**Section 9.1 Information Rights**

The Corporation will provide to each Shareholder:

(a) annual financial statements within 90 days after the Corporation’s financial year-end, which financial statements shall be internal and unaudited in respect of fiscal year **[NTD: Enter year of Agreement]** 20\*\* and for each fiscal year thereafter, [**NTD: Optional** “unless otherwise requested in writing by Shareholders representing an Investor Majority,”] and until such request each of the Shareholders hereby agrees to take all steps and approve such resolutions as may be required to waive the requirement for audited financial statements in accordance with the Act;

(b) quarterly internal financial statements, including a balance sheet, income statement and statement of changes in financial position, within 45 days after the end of each financial quarter; and

(c) the Budget (calculated on a monthly basis), at least 30 days prior to commencement of each fiscal year of the Corporation.

**Section 9.2 Confidentiality Obligation**

Each Shareholder will keep all Confidential Information confidential and will not disclose any Confidential Information to any Person or use any Confidential Information except as permitted by this Agreement. A Shareholder may disclose Confidential Information to its employees and advisors but only to the extent that they need to know the Confidential Information, they have been informed of the confidential nature of the Confidential Information and they agree to be bound by and act in accordance with this Section. Each Shareholder will notify the Corporation as soon as practicable of the identity of each employee and advisor to whom any Confidential Information has been disclosed. “Confidential Information” means all information relating to the business, operations, assets, liabilities, plans, prospects and other affairs of the Corporation, in whatever form.

**Section 9.3 Confidentiality Exceptions**.

The restrictions set out in Section 9.2 do not apply to Confidential Information or any part of it that:

(a) is or becomes generally available to the public;

(b) is required to be disclosed by Law; or

(c) is permitted in writing to be disclosed by the Person who owns such Confidential Information.

**Section 9.4 Ownership of Confidential Information**.

To the extent that any Confidential Information is owned by a Party it will remain the exclusive property of that Party. Nothing in this Agreement or in the disclosure of any Confidential Information will confer any interest in the Confidential Information on a receiving party.

**Article 10**

**POWER OF ATTORNEY**

10.1 **Power of Attorney.** Should any Party, in the opinion of the Board: (a) fail to comply or fail to take any action to comply with the provisions of Sections 2.2, 6.3, 6.5, 7.2, 7.3, or 9.1 of this Agreement; and/or (b) be deemed to have provided its approval or consent to any matter or action (proposed or otherwise) then the Secretary of the Corporation shall be deemed to be irrevocably appointed as the true and lawful attorney of such Party with authority to do all things and execute and deliver, on behalf of and in the name of the Party, such deeds, transfers, share certificates, resignations, proxies, resolutions, consents, voting instructions or other documents as may be necessary or desirable to: (i) comply with the terms and provisions of Sections 2.2, 6.3, 6.5, 7.2, 7.3, or 9.1 of this Agreement, as applicable; and/or (ii) evidence the deemed approval or consent of such Party to any matter or proposed action, and such Party shall have no claim or cause of action against the Corporation, the Board, the Secretary of the Corporation or any other Party, or against any third party, as a result of the Secretary of the Corporation so acting as its attorney. Such appointment and power of attorney, being coupled with an interest, shall not be revoked by the insolvency or bankruptcy of the Party, and the Party hereby ratifies and confirms and agrees to ratify and confirm all that the Secretary of the Corporation may lawfully do or cause to be done by virtue of such appointment and power. The power of attorney set forth in this Article 10 is in addition to, and does not derogate from, any power of attorney given by any Party under this Agreement or any other document.

**Article 11**

**MISCELLANEOUS**

**Section 11.1 Notices.**

Any notice, direction or other communication given pursuant to this Agreement (each a “**Notice**”) must be in writing, sent by personal delivery, courier, facsimile or email and addressed:

(a) To the Founders and the Investors, at the addresses set forth in Schedule “A” or Schedule “B” attached hereto.

(b) To the Corporation at:

[**NTD: Insert name of Corporation**]

[**NTD: Insert address of Corporation**]

Attention: Chief Executive Officer

Email: [**NTD: Insert Email of Chief Executive Officer]**

Notice is deemed to be given and received (i) if sent by personal delivery, by email or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day, or (iii) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party’s address that is not specifically changed in a Notice will be assumed not to be changed.

**Section 11.2 Time of the Essence.**

Time is of the essence in this Agreement.

**Section 11.3 Third Party Beneficiaries**.

The Parties intend that this Agreement will not benefit or create any right or cause of action in favour of any Person, other than the Parties. No Person, other than the Parties, is entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum. The Parties reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Agreement to any Person who is not a Party, without notice to or consent of that Person.

**Section 11.4 Joint and Several Liability**.

Each Principal is jointly and severally liable with the Shareholder of which it is the Principal as a principal and not as a surety, with respect to all of the representations, warranties, covenants, indemnities and agreements of such Shareholder under this Agreement.

**Section 11.5 No Agency or Partnership**.

Nothing contained in this Agreement makes or constitutes any Party, or any of its directors, officers or employees, the representative, agent, principal, partner, joint venturer, employer, employee of any other Party. It is understood that no Party has the capacity to make commitments of any kind or incur obligations or liabilities binding upon any other Party.

**Section 11.6 Expenses**.

The Founders shall be responsible for their own costs and expenses incurred in connection with this Agreement and the transactions contemplated by it and the Corporation shall be responsible for the costs and expenses of the Investors. The fees and expenses referred to in this Section are those which are incurred in connection with the negotiation, preparation, execution and performance of this Agreement, and the transactions contemplated by this Agreement, including the fees and expenses of legal counsel, investment advisers and accountants.

**Section 11.7 Amendments**.

(1) Subject to Section 11.7(2), this Agreement may be amended, supplemented or otherwise modified by written agreement signed by (i) the Corporation, (ii) Shareholders holding Shares representing a [**NTD: Modify as required]** 66 2/3% of the voting rights attached to the Shares held by the Shareholders, and (iii) during such time as Investors continue to hold Shares representing at least 7.5% of the voting rights attached to the Shares of the Corporation (for certainty, calculated on a fully diluted basis in accordance with Section 1.9 above)], Shareholders representing an Investor Majority.

(2) To the extent that any amendment, supplement or modification increases the obligations or liabilities of any Party, such amendment, supplement or modification is only effective if signed in writing by such Party.

**Section 11.8 Waiver.**

No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party’s failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

**Section 11.9 Entire Agreement**.

This Agreement constitutes the entire agreement between the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The Parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

**Section 11.10 Successors and Assigns**.

(1) This Agreement becomes effective only when executed by all of the Parties. After that time, it is binding on and enures to the benefit of the Parties and their respective heirs, administrators, executors, legal personal representatives, successors and permitted assigns.

(2) Except as otherwise provided in this Agreement, neither this Agreement nor any of the rights or obligations under this Agreement are assignable or transferable by any Party without the prior written consent of the other Parties.

**Section 11.11 Severability**.

If any provision of this Agreement is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

**Section 11.12 Governing Law**.

This Agreement is governed by, and is to be interpreted and enforced in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 11.13 Counterparts**.

This Agreement may be executed in any number of counterparts (including counterparts by facsimile or electronic delivery in portable document format (“.pdf”) or tagged file format (“.tif”) and all such counterparts taken together will be deemed to constitute one and the same instrument. The Party sending the facsimile or electronic transmission will also deliver the original signed counterpart to the other Party, however, failure to deliver the original signed counterpart shall not invalidate this Agreement.

**[SIGNATURES OF PAGE FOLLOWING]**

**IN WITNESS WHEREOF** the Parties have executed this Shareholders’ Agreement.

**[INSERT NAME OF CORPORATION]** By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: Title:

**I have authority to bind the Corporation**

**SCHEDULE “A”**

**SCHEDLE OF FOUNDERS**

**Name of Shareholder and Principals, Addresses and Contact Information**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Signature of Shareholder*

Name: **[NTD: Insert Name of Shareholder]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insert Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[email]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Signature of Shareholder*

Name: **[NTD: Insert Name of Shareholder]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insert Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[email]

**SCHEDULE “B”**

**SCHEDULE OF INVESTORS**

**Name of Shareholder and Principals, Addresses and Contact Information**

|  |  |
| --- | --- |
| Name and Contact Information | Investment Amount |
|  |  |
|  |  |
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**SCHEDULE “C”**

**Capitalization of the Corporation**

**[NTD: Insert Cap Table]**

**SCHEDULE “D”**

**Shareholder Acknowledgement**

To: [**NTD: Insert Name of Corporation]** (the “Corporation”)

And: The Directors and Shareholders thereof

The undersigned refers to the unanimous shareholders agreement of the Corporation dated as of **[NTD: Insert Date of Agreement]** (as such agreement may be amended from time to time, the “Agreement”).

The undersigned acknowledges that they have received and reviewed the Agreement, have sought and obtained such counsel as they deem necessary or advisable in connection with such review, and hereby expressly, unconditionally and irrevocably accept all of the terms and conditions of the Agreement and agrees to be bound thereby.

The undersigned further specifically acknowledges that the Agreement, among other things:

1. Imposes restrictions on the transfer of their securities of the Corporation,
2. Imposes restrictions on the issuance of new securities of the Corporation, and
3. Imposes restrictions on the sale by any holder of their securities of the Corporation.

Dated at the City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the Province of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Shareholder

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name of Shareholder

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_