
US \$15,000,000

Convertible Notes due _____, 200__

CONVERTIBLE NOTE PURCHASE AGREEMENT

DATED: _____, 200__

NEITHER THE NOTE NOR THE SHARES OF COMMON STOCK THAT MAY BE ISSUED UPON CONVERSION HEREOF HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE “ACT”), OR THE SECURITIES LAWS OF ANY JURISDICTION. SUCH SECURITIES MAY NOT BE OFFERED, SOLD, HYPOTHECATED, GIVEN, BEQUEATHED, TRANSFERRED, ASSIGNED PLEDGED, ENCUMBERED, OR OTHERWISE DISPOSED OF (“TRANSFERRED”) EXCEPT PURSUANT TO (I) A REGISTRATION STATEMENT WITH RESPECT TO SUCH SECURITIES THAT IS EFFECTIVE UNDER THE ACT AND APPLICABLE STATE SECURITIES LAW, OR (II) ANY EXEMPTION FROM REGISTRATION UNDER THE ACT, AND APPLICABLE STATE SECURITIES LAW, RELATING TO THE DISPOSITION OF SUCH SECURITIES, PROVIDED THAT AN OPINION OF COUNSEL IS FURNISHED TO THE COMPANY, TO THE EXTENT REASONABLY REQUESTED BY THE COMPANY, IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND/OR APPLICABLE STATE SECURITIES LAW IS AVAILABLE.

IN ADDITION, THE NOTE MAY NOT BE TRANSFERRED UNLESS SUCH TRANSFER COMPLIES WITH THE PROVISIONS OF THE NOTE. NO TRANSFER OF THE NOTE WILL BE MADE ON THE BOOKS OF THE COMPANY UNLESS ACCOMPANIED BY EVIDENCE OF COMPLIANCE WITH THE TERMS OF THE NOTE. THE NOTE IS ALSO SUBJECT TO OTHER RIGHTS AND OBLIGATIONS AS SET FORTH IN THE NOTE.

Convertible Notes due _____

TO [INVESTOR]

Ladies and Gentlemen:

_____, a _____ corporation (the “Company”), agrees with you (the “Purchaser”) as follows:

SECTION 1. AUTHORIZATION OF NOTE.

The Company will authorize the issuance and sale (the “Offering”) of a Convertible Note in the principal amount of US\$15,000,000, accruing interest at the rate of 6% per annum (the “Note”, such term to include any such notes issued in substitution therefore pursuant to Section 14.3 of this Agreement) and due June 30, 2008 (the “Maturity Date”). The Note shall be substantially in the form set out in Exhibit 1, with such changes thereto, if any, as may be approved by you and the Company. Certain capitalized terms used in this Agreement are defined

in Schedule B; references to a “*Schedule*” or an “*Exhibit*” are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement.

SECTION 2. SALE AND PURCHASE OF NOTE.

Subject to the terms and conditions of this Agreement, the Company will issue and sell to you and you will purchase from the Company, at the Closing provided for in Section 3, the Note at the purchase price of 100% of the principal amount of the Note (the “*Purchase Price*”).

SECTION 3. CLOSING.

The Purchaser agrees that the following will be delivered to the Company on or prior to 4:00 p.m. (Eastern time) on June 30, 2006, at the offices of _____ (the “*Closing*”):

- (a) one completed and duly signed copy of this Agreement and all applicable Schedules and Certificates attached hereto.
- (b) a wire transfer in immediately available funds in the principal amount of the the Note purchased by the Purchaser to the following account of the Company:

- (c) all other documentation as may be required by applicable securities legislation.

The Closing shall be effected, subject to the satisfaction of all of the conditions of purchase set forth in this Agreement and subject to those closing conditions specified in the Agency Agreement having been satisfied, on _____, 200__, or such other date (the “**Closing Date**”) and at such time and place as may be mutually agreed upon by the Company and the Agent.

At Closing, the Company will deliver the Note in the name of the Purchaser or their nominee as specified in Schedule “A”.

SECTION 4. CONDITIONS TO CLOSING.

Section 4.1. Conditions to Purchaser's Obligation to Purchase Notes.

Your obligation to purchase and pay for the Notes to be sold to you at the Closing is subject to the fulfillment to your reasonable satisfaction, prior to or at the Closing, of the following conditions, one or more of which may be waived in accordance with the provisions of Section 17:

Section 4.1.1. Representations and Warranties. Each of the representations and warranties contained in Section 5 of this Agreement that are not qualified by materiality shall be true and correct in all Material respects as of the Closing Date and each of the representations and warranties contained in Section 5 of this Agreement that are qualified by materiality shall be true and correct as of the Closing Date, with the same force and effect as if made as of the Closing Date (other than such representations and warranties as are made as of another date, which shall have been true and correct as of such other date and such representations and warranties not qualified by materiality shall be true and correct in all Material respects as of such other date and except as permitted by this Agreement to change between the date of this Agreement and the Closing Date).

Section 4.1.2. Performance; No Default. The Company shall have performed and complied in all Material respects with all agreements and conditions contained in this Agreement required to be performed or complied with by it prior to or at the Closing; and after giving effect to the issue and sale of the Note, no Default or Event of Default shall have occurred and be continuing. The Company shall not have entered into any transaction since December 31, 200_____, that would have been prohibited by Section 11 hereof had such Section applied since such date. Without limiting your rights with respect to a breach of any representations, warranties or covenants herein, your purchase of the Note shall be deemed to constitute conclusive evidence of your agreement that all such agreements and conditions contained in this Agreement required to be performed or complied with by the Company prior to or at the Closing have been performed or waived to your satisfaction.

Section 4.1.3. Compliance Certificates.

(a) *Officer's Certificate.* The Company shall have delivered to you an Officer's Certificate, dated the date of the Closing, certifying that the conditions specified in Sections 4.1.1 and 4.1.2 have been fulfilled.

(b) *Secretary's Certificate.* The Company shall have delivered to you a certificate certifying as to the resolutions attached thereto and other corporate proceedings relating to the authorization, execution and delivery of the Note and this Agreement.

Section 4.1.4. Opinions of Counsel. You shall have received an opinion in form and substance satisfactory to you, dated the date of the Closing from _____, special securities counsel, and from Lawler & Associates, corporate counsel, in such form and covering such matters incident to such transactions as you may reasonably request.

Section 4.1.5. Purchase Permitted by Applicable Law, etc. On the Closing Date your purchase of the Note shall (i) be permitted by the applicable laws and regulations of each jurisdiction to which you are subject, (ii) not violate any applicable law or regulation (including, without limitation, Regulation U, T or X of the Board of Governors of the Federal Reserve System) and (iii) not subject you to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date hereof. Your purchase of the Note at Closing shall be deemed conclusive evidence of your compliance with clauses (i) through (iii) above.

Section 4.1.6. Loan Documents. The Company will execute and deliver or cause to be executed and delivered to Purchaser each of the Loan Documents executed by the Company on the Closing Date.

Section 4.1.7. Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated by the Loan Documents and all documents and instruments incident to such transactions shall be reasonably satisfactory to the special counsel for the Purchasers, and such special counsel shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

Section 4.1.8 Due Diligence Review The Purchaser shall have received copies of and shall be satisfied with the due diligence documents and materials regarding the Company and the Note that the Purchaser requests.

Section 4.1.8 Due Diligence Review The Purchaser shall have received copies of and shall be satisfied with the due diligence documents and materials regarding the Company and the Note that the Purchaser requests.

Section 4.2 Conditions to Obligations of the Company

The Company's obligation to issue and sell the Note at Closing is subject to the fulfillment to the Company's reasonable satisfaction, prior to or at Closing, of the following conditions, one or more of which may be waived in writing by the Company:

Section 4.2.1 Representations and Warranties. Each of the representations and warranties of the Purchaser contained in Section 6 of this Agreement that are not qualified by materiality shall be true and correct in all Material respects as of the Closing Date and each of the representations and warranties contained in Section 6 of this Agreement that are qualified by materiality shall be true and correct as of the Closing Date, with the same force and effect as if made as of the Closing Date (other than such representations and warranties as are made as of another date, which shall have been true and correct as of such other date and such representations and warranties not qualified by materiality shall be true and correct in all material respects as of such other date and except or permitted by this Agreement to change between the date of this Agreement and the Closing Date).

Section 4.2.2. Performance. The Purchaser shall have performed and complied in all material respects with all agreements and conditions contained in this Agreement required to be performed or complied with by it prior to or at the Closing.

Section 4.2.3 Proceedings and Litigation. No action shall have been taken by any Governmental Authority against any party hereto seeking to delay the purchase and sale of the Note or other transactions contemplated by the Loan Documents.

Section 4.2.4 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated by this Agreement and all documents and instruments incident to such transactions shall be reasonably satisfactory to the Company and special counsel for the Company, and such special counsel shall have received all such

counterpart originals or certified or other copies of such documents as they may reasonably request.

Section 4.2.5 Additional Conditions. The Purchaser acknowledges and agrees that the Company's obligation to sell the Note to the Purchaser is further subject to the following conditions:

- (a) that the Purchaser shall qualify as an institution of the type referred to in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the U.S. Securities Act (each, an "Institutional Accredited Investor")
- (b) that the issue, sale and delivery of the Note is exempt from all registration requirements and the requirements to file a prospectus or registration statement, or deliver an offering memorandum under applicable securities legislation relating to the sale of the Note or that the Company has received such orders, consents, or approvals as may be required to permit such sale without the requirement of filing a prospectus or registration statement, or delivering an offering memorandum;
- (c) the completion, execution and delivery by the Purchaser of the documents and items referred to in Section 3 of this Agreement;
- (d) the Closing conditions contained in the Agency Agreement being satisfied or waived by the relevant party;
- (e) all documentation relating to the offer, sale and issuance of the Note being in form and substance satisfactory to the Company;
- (f) that the representations and warranties of the Purchaser contained in this Agreement and the Schedules hereto remain true and correct as of the Closing Date;
- (g) the Company shall obtain and deliver an opinion of counsel regarding (i) its due incorporation, valid existence and good standing, and (ii) the due execution, delivery and enforceability of this Agreements, the Agency Agreement and the Registration Rights Agreement; and

SECTION 5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to you on the Closing Date that:

Section 5.1. Organization; Power and Authority. The Company is a corporation validly existing and in good standing under the laws of the State of Nevada and is duly qualified as a foreign corporation (or other legal entity) and is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company and its subsidiaries have the legal power and authority to own or hold under lease the properties it purports to own or hold under

lease, to transact the business it transacts, to execute and deliver the Loan Documents and Warrants to which it is a party and to perform the provisions hereof and thereof.

Section 5.2. Authorization, etc. Each of the Loan Documents have been duly authorized by all necessary corporate action on the part of the Company, and each such Loan Document constitutes, and upon execution and delivery thereof each such Loan Document will constitute (assuming due execution and delivery by the Purchaser to the extent provided for therein), a legal, valid and binding obligation of the Company enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 5.3. Disclosure. This Agreement, the Loan Documents, the certificates or schedules delivered to you by or on behalf of the Company in connection with the transactions contemplated hereby taken as a whole, do not contain any untrue statement of a Material fact or omit to state any Material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made.

Section 5.4. Organization and Ownership of Shares of Subsidiaries; Affiliates.

(a) Schedule 5.4 contains (except as noted therein) complete and correct lists (i) of each direct and indirect Subsidiary of the Company, showing, as to each, the correct name thereof, the jurisdiction of its organization, and the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company, (ii) of the Company's Affiliates, other than the direct and indirect Subsidiaries, (iii) of the Company's directors and senior officers; and (iv) of each direct and indirect Material Subsidiary of the Company.

(b) All of the outstanding shares of capital stock or other equity interests of each Subsidiary shown in Schedule 5.4 have been validly issued, are fully paid and nonassessable and are owned as indicated by the Company or another Subsidiary free and clear of any Lien (except as otherwise disclosed in Schedule 5.4).

(c) The Company is not a party to, or otherwise subject to any legal restriction or any agreement (other than the Loan Documents to which it is a party, the agreements listed on Schedule 5.4 and customary limitations imposed by corporate or fiscal law statutes) restricting the ability of the Company to pay dividends out of profits or make any other similar distributions of profits to its shareholders.

Section 5.5. Compliance with Laws, Other Instruments, etc. The execution, delivery and performance by the Company of the Loan Documents will not (i) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien, except as contemplated in the Loan Documents, in respect of any property of the Company under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, Charter Document, or any other agreement or instrument to which the Company is bound or by which the Company

or any of its properties may be bound or affected, (ii) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree, or ruling of any court, arbitrator or Governmental Authority applicable to the Company or (iii) violate any provision of any current statute or other rule or regulation of any Governmental Authority applicable to the Company, in each case the effect of which could have a Material Adverse Effect.

Section 5.6. Governmental Authorizations, etc.. No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company of this Agreement or the Notes that will not have been obtained prior to the Closing, other than such approvals, authorizations and filings which may be filed after the Closing with the SEC or other Governmental Authorities in accordance with the provisions of applicable Securities Laws and the provisions of the Registration Rights Agreement.

Section 5.7. Litigation; Observance of Agreements, Statutes and Orders.

(a) Except as disclosed in Schedule 5.7, there are no actions, suits or proceedings pending or, to the Knowledge of the Company, threatened against or affecting the Company or any property of the Company in any court or before any arbitrator of any kind or before or by any Governmental Authority that, individually or in the aggregate, could reasonably be expected, if adversely determined, to have a Material Adverse Effect.

(b) The Company is not in default under any term of any agreement or instrument to which it is a party or by which it is bound, or any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or is in violation of any applicable law, ordinance, rule or regulation (including without limitation Environmental Laws) of any Governmental Authority, which default or violation, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.8. Taxes. The Company has filed all tax returns that are required to have been filed in any jurisdiction in the three (3) prior fiscal years (including the current fiscal period), and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments levied upon them or their properties, assets, income or franchises, or otherwise payable by them, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (i) the amount of which is not individually or in the aggregate Material or (ii) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company has established adequate reserves in accordance with applicable GAAP. The charges, accruals and reserves on the books of the Company in respect of federal, provincial, state or other taxes for all fiscal periods are adequate in all Material respects. The federal income tax liabilities of the Company have been paid for the three prior fiscal years up to and including the fiscal year ended December 31, 200____. The Company has no Knowledge of the imposition of any other tax or assessment that, individually or in the aggregate (considering all other taxes), could reasonably be expected to have a Material Adverse Effect. For purposes of this Agreement, “tax” or “taxes” means any taxes, levies, imposts, duties, charges, fees,

deductions or withholdings imposed, levied, collected, withheld or assessed by any taxing or other Governmental Authority (together with any interest, penalties or similar liabilities with respect thereto).

Section 5.9. Title to Assets of the Company. The assets owned by the Company as described in the relevant Loan Documents, are owned free and clear of any security interest, Lien, encumbrance, mortgages, security agreement or other charge other than Permitted Encumbrances and those arising under the Loan Documents.

Section 5.10. Licenses, Permits, etc. Except as disclosed in Schedule 5.10,

(a) the Company owns or possesses all licenses, permits, franchises, authorizations, patents, copyrights, service marks, trademarks and trade names, or rights thereto, that individually or in the aggregate are Material to the conduct of its business as currently being conducted, without, to the Knowledge of the Company, conflict with the rights of others;

(b) to the Knowledge of the Company, no product of the Company infringes in any Material respect any license, permit, franchise, authorization, patent, copyright, service mark, trademark, trade name or other right owned by any other Person; and

(c) to the Knowledge of the Company, there is no Material violation by any Person of any right of any the Company with respect to any patent, copyright, service mark, trademark, trade name or other right owned or used by the Company.

Section 5.11. Private Offering by the Company. Neither the Company nor to the Knowledge of the Company anyone authorized to act on its behalf has offered the Note or any similar securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than you and not more than 35 other Institutional Investors, each of which has been offered the Note at a private sale for investment and not with a view to the distribution thereof or any interest therein. Neither the Company nor to the Knowledge of the Company anyone authorized to act on its behalf has taken, or will take, any action that would subject the issuance or sale of the Note to the registration requirements of Section 5 of the Securities Act; *provided, however*, the availability of an exemption from the registration requirements of Section 5 is based upon the accuracy and completeness of the representations and warranties of each Purchaser (and each other Person acquiring the Note from such Purchaser) set forth in Section 6 on which the Company will rely. In connection with the offer and sale of the Note, the Company has not conducted any form of general solicitation or general advertising including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media, or broadcast over radio, the Internet or television, or any seminar or meeting whose attendees have been invited by general solicitation or general advertising.

Section 5.12. Use of Proceeds; Margin Regulations. No part of the proceeds from the sale of the Note hereunder will be used, directly or indirectly, for the purpose of buying or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the

Federal Reserve System (12 CFR 207), or for the purpose of buying or carrying or trading in any securities under such circumstances as to involve the Company in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 5% of the value of the Consolidated Assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 5% of the value of such assets. As used in this Section, the terms “margin stock” and “purpose of buying or carrying” shall have the meanings assigned to them in said Regulation U.

Section 5.13. Foreign Assets Control Regulations, etc.. Neither the sale of the Note by the Company hereunder nor its use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto.

Section 5.14. Environmental Matters. The Company has not received any notice of any claim, and to the Knowledge of the Company, no proceeding has been instituted raising any claim against the Company or any of its real properties now or formerly owned, leased or operated by any of them or other assets, alleging any damage to the environment or violation of any applicable Environmental Laws, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect. Except as disclosed in Schedule 5.14:

(a) the Company has not been notified of any claim, public or private, regarding a violation of applicable Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as could not reasonably be expected to result in a Material Adverse Effect;

(b) the Company has not stored any Hazardous Materials, except Hydrocarbons and Hazardous Materials used by the Company in the ordinary course of business outside of the United States, on real properties now or formerly owned, leased or operated by any of them or has not disposed of any Hazardous Materials in a manner contrary to any applicable Environmental Laws in each case in any manner that could reasonably be expected to result in a Material Adverse Effect; and

(c) all buildings on all real properties now owned, leased or operated by the Company are in compliance with applicable Environmental Laws, except where failure to comply could not reasonably be expected to result in a Material Adverse Effect.

Section 5.15. Basic Agreements. With respect to the Basic Agreements:

(a) no Basic Agreement has been Impaired and is not in full force and effect in accordance with its terms and each Basic Agreement constitutes a valid and binding obligation of the Company;

(b) to the Knowledge of the Company no other party to any Basic Agreement (or any successor in interest to that party) is in breach or default with respect to any of its obligations under the Basic Agreements which could reasonably be expected to have a Material Adverse Effect;

(c) no party to any Basic Agreement has given or to the Knowledge of the Company has threatened to give notice of any action to terminate, cancel, rescind or procure a judicial reformation of any Basic Agreement or any of their provisions;

(d) the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement will not result in a breach of, a default under, or other violation of the provisions of any Basic Agreement;

(e) the Basic Agreements constitute all Material contracts and agreements to which the Company is a party;

(f) no event of force majeure (as defined in any Basic Agreement) has occurred and is continuing under any Basic Agreement, which could reasonably be expected to have a Material Adverse Effect; and

(g) all Material conditions precedent to the obligations of the Company under the Basic Agreements have been satisfied and, to the Knowledge of the Company, all Material conditions precedent to the obligations of the counter-parties to the Basic Agreements have been satisfied.

Section 5.16. Capitalization The authorized capital of the Company consists of _____ Shares, par value \$0._____ per Share, of which only _____ Shares are issued and outstanding as at the date hereof, all of which Shares are duly authorized, validly issued, fully paid and non-assessable, and there are no preferred shares outstanding as at the date hereof

Section 5.17. Financial Statements The Company has furnished to the Purchaser the unaudited balance sheets of the Company as of December 31, 200____, and the related statements of operations, shareholders' equity (deficit) and cash flows for the fiscal year then ended. Such financial statements have been prepared from and are in accordance with the books and records of the Company and are true and correct and fairly present in all material respects the financial position of the Company as of such date and the results of its operations for the period then ended, except for the absence of notes and subject to year end adjustments which consist only of normal recurring accruals. There has been no material adverse change in the business, assets, properties, operations, condition (financial or other) or prospects of the Company since December 31, 200____. As of the Closing Date, other than liabilities incurred in the ordinary course of business, the Company has no liabilities of any kind not disclosed on the financial statements described above.

SECTION 6. REPRESENTATIONS OF THE PURCHASER.

Section 6.1. Due Authorization; Absence of Conflicts; Enforceability; Purchase for Investment, etc.

(a) You represent and warrant to Company that you have the full legal capacity, power and authority to execute, deliver and perform the Loan Documents to which you are a party; the execution, delivery and performance by you of each Loan Document to which you are a party has been duly authorized by all necessary legal action on your part; your execution, delivery and performance of the Loan Documents to which you are a party and the consummation of the transactions contemplated hereby and thereby will not (a) conflict with (i) any provision of any governing instrument applicable to you, or (ii) any Material permit, franchise, judgment, decree, law, rule or regulation applicable to you or your assets, or (b) result in any Material breach of any terms or provisions of, or constitute a Material default under, any Material contract, agreement or instrument to which you are a party or by which you are bound; and such Loan Document constitutes a legal, valid and binding obligation enforceable against you in accordance with its terms, except as such enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(b) You represent and warrant to the Company that you are purchasing the Note and, upon conversion of the Note, the shares of Common Stock of the Company for your own account or for one or more separate accounts maintained by you and not with a view to the distribution thereof or any interest therein, *provided* that the disposition of your or their property shall at all times be within your or their control and in compliance with applicable Securities Laws. You understand that the Note and, except as contemplated by the Registration Rights Agreement, upon conversion of the Note, the Common Stock have not been and will not be registered under any Securities Laws and may be resold only if registered pursuant to the provisions of applicable Securities Laws or if an exemption from such registration is available, except under circumstances where neither such registration nor such an exemption is required by law. You represent and warrant to the Company that you are an "accredited investor" as defined under Rule 501(a) of the Securities Act.

(c) You understand that you must bear the economic risk of an investment in the Note and the shares of Common Stock issuable upon conversion of the Note because, among other reasons, the offering and sale of Note and except to the extent contemplated by the Registration Rights Agreement, the Common Stock have not been and will not be registered under applicable Securities Laws; the Note and the shares of Common Stock issuable upon conversion of the Note are "restricted securities" as defined in Rule 144 promulgated under the Securities Act and, therefore, the Note and such shares cannot be sold unless such sales are subsequently registered under applicable Securities Laws or an exemption from such registration is available. A legend to this effect shall be set forth on the face of the Note and absent

an effective registration under the Securities Act each certificate evidencing any shares of Common Stock issued upon conversion of the Note.

(d) You have sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of your investment in the Note and the shares of Common Stock issuable upon conversion of the Note and you are capable of bearing the economic risks of such investment, including a complete loss of your investment.

Section 6.2. Access to Information. Without affecting your right to rely on the Company's representations and warranties set forth herein, you have been given the opportunity to examine all documents and to ask questions of, and to receive answers from, the Company and its representatives and to obtain any additional information which the Company possesses or can acquire without unreasonable effort or expense concerning the Company, its business affairs, financial condition and terms and conditions of the purchase of Note and conversion of the Note as you have requested in order to enable you to evaluate the merits and risks of an investment in the Note and upon its conversion the Common Stock.

Section 6.3 Risks, Lack of Information, Resale Restrictions. The Purchaser is aware that

(a) AN INVESTMENT IN THE NOTE INCLUDES A HIGH DEGREE OF RISK AND THE PURCHASER MAY LOSE OR ITS ENTIRE INVESTMENT

(b) IT HAS RECEIVED A COPY OF THE COMPANY'S REGISTRATION STATEMENT ON FORM _____ FILED WITH THE SEC ON _____ AND HAS HAD THE OPPORTUNITY TO ASK QUESTIONS AND RECEIVED ANSWERS FROM AN EXECUTIVE OFFICER OF THE COMPANY REGARDING THE DISCLOSURES CONTAINED IN SUCH FILING, INCLUDING BUT NOT LIMITED TO QUESTIONS RELATING TO THE INFORMATION CONTAINED UNDER THE HEADING "RISK FACTORS" AND "LEGAL PROCEEDINGS".

(c) the Company may complete additional financings in the future in order to develop the business of the Company and fund its ongoing development, and such future financings may have a dilutive effect on current security holders of the Company, including the Purchaser;

(d) it (and if the Purchaser is acting as agent for a disclosed principal, such disclosed principal) has received a term sheet in the form attached hereto as Exhibit 3 setting out the principal terms of the Offering;

(e) the Purchaser has not been provided with, nor has it requested, an offering memorandum or any similar document in connection with its subscription for the Note, and its decision to execute this Agreement and to purchase the Note has been based upon the representations and warranties of the Company made herein, the publicly available information concerning the Company and the Purchaser's own due diligence regarding the Company and not upon any verbal or other written representation as to fact or

otherwise made by or on behalf of the Agent or any employees, agents or affiliates thereof, and the Agent assumes no responsibility or liability of any nature whatsoever for the accuracy or adequacy of the publicly available information upon which the investment decision may have been made or as to whether all information concerning the Company required to be disclosed by the Company has been disclosed;

(f) no agency, governmental authority, regulatory body, stock exchange or other entity (including without limitation the SEC) has made any finding or determination as to the merit for investment of, nor have any such agencies or governmental authorities made any recommendation or endorsement with respect to the Securities or the Offering;

(g) the purchase of the Note has not been made through, or as a result of, and the distribution of the Note is not being accompanied by, and the Purchaser is not aware of, any form of general solicitation or general advertising including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media, or broadcast over radio, internet or television, or any seminar or meeting whose attendees have been invited by general solicitation or general advertising;

(h) the Note is being offered for sale on a “private placement” basis only;

(i) the issuance, sale and delivery of the Note to the Purchaser or (if applicable) to any purchaser on whose behalf it is contracting hereunder, is conditional upon such issuances and sales being exempt from the registration requirements and the prospectus requirements, or the requirement to file a registration statement, of all applicable securities legislation relating to the issuance and sale of Convertible Notes, or upon the issuance of such orders, consents or approvals as may be required to permit such sales without the requirement of filing a prospectus or complying with the registration requirements;

(j) the Company may be required to disclose to applicable securities regulatory authorities the identity of the beneficial purchasers of the Note;

(k) upon the issuance of the Note, the certificates representing the Note shall bear a legend to the effect that transfer is prohibited except (i) pursuant to registration under U.S. Securities Act, or (ii) pursuant to an available exemption from registration; , provided that an opinion of counsel is furnished to the Company, to the extent reasonably requested by the Company, in form and substance reasonably satisfactory to the Company, to the effect that an exemption from the registration requirements of the Securities Act of 1933 and/or applicable state securities law is available;

(l) the Agent will receive the fees and commission in connection with the Offering as set forth in the Agency Agreement;

(m) the Securities will be subject to resale restrictions under applicable securities legislation, rules, regulations and policies, and the Purchaser or (if applicable) others for whom it is contracting hereunder will comply with all relevant securities legislation, rules, regulations and policies concerning the Securities and will consult with its own legal advisers with respect to complying with all restrictions applying to any such resale

and further agrees that it, or (if applicable) others for whom it is contracting, is solely responsible for compliance with all applicable resale restrictions and will only resell the Securities in compliance with all applicable securities laws;

Section 6.4. Qualification for Offering and Purchase of Note. The Purchaser further represents and warrants as to the following:

(a) it is an Institutional Accredited Investor and is purchasing the Note as principal for its own account or for the account of another Institutional Accredited Investor as to which it exercises sole investment discretion, and not with a view to the resale, distribution or other disposition of all or any of the Note, and is delivering concurrently with this Agreement, Certificate in the form attached to this Agreement as Schedule “C”;

(b) it consents to the Company making a notation on its records or giving instructions to any transfer agent of the Securities in order to implement the restriction on transfer set forth and described herein;

(c) it (and if the Purchaser is acting as agent for a disclosed principal, such disclosed principal) was offered the Note in, and does business in, the State of _____;

(d) it (and any beneficial purchaser for whom it is acting) has been independently advised as to, and is aware of, the restrictions with respect to trading in the Securities pursuant to the applicable securities laws and the rules of any applicable stock exchanges and further agrees that it (and any beneficial purchaser for whom it is acting) is solely responsible for compliance with all such restrictions;

(e) if required by applicable securities laws or order of a securities regulatory authority, stock exchange or other regulatory authority, it will execute, deliver, file and otherwise assist the Company in filing such reports, undertakings and other documents with respect to the issuance of the Note and the underlying Common Shares;

(f) it (and if the Purchaser is acting as agent for a disclosed principal, such disclosed principal) is responsible for obtaining such legal, including tax, advice as it considers necessary or appropriate in connection with the execution, delivery and performance by it of this Agreement and the transactions contemplated herein;

(g) it is solely responsible for its own due diligence investigation of the Company, its business and financial condition, for its own analysis of the merits and risks of its investment in the Securities made pursuant to this Agreement and for its own analysis of the terms of its investment;

(h) it is solely responsible for obtaining such advice concerning the tax consequences of its investment in the Securities and it is not relying on the Company or the Agent or their respective counsel for advice concerning such tax consequences;

(i) the purchase of the Note by the Purchaser hereunder is not a transaction in which any director or officer of the Company, or any beneficial owner of securities carrying more than 10%

of the voting rights attaching to all outstanding voting securities of the Company, has a direct or indirect beneficial interest;

(j) if it decides to offer, sell or otherwise transfer any of the Securities, the Purchaser will not offer, sell or otherwise transfer any of such Securities directly or indirectly, unless:

- i. the sale is to the Company;
- ii. the sale is made outside the United States in a transaction meeting the requirements of Regulation S under the U.S. Securities Act and in compliance with applicable local laws and regulations and the Purchaser has prior to such sale furnished to the Company an opinion of counsel reasonably satisfactory to the Company to the effect that such transaction does not require registration pursuant to Regulation S under the U.S. Securities Act;
- iii. the sale is made in the United States pursuant to the exemption from the registration requirements under the U.S. Securities Act provided by Rule 144 thereunder and in accordance with any applicable state securities or “blue sky” laws, and the Purchaser has prior to such sale furnished to the Company an opinion of counsel reasonably satisfactory to the Company to the effect that such transaction does not require registration pursuant to Rule 144 under the U.S. Securities Act;
- iv. the Securities are sold in the United States in a transaction that does not require registration under the U.S. Securities Act or any applicable state laws and regulations governing the offer and sale of securities, and the Purchaser has prior to such sale furnished to the Company an opinion of counsel reasonably satisfactory to the Company to the effect that such transaction does not require registration; or
- v. the sale is made in the United States pursuant to an effective registration statement filed under the U.S. Securities Act.

The Purchaser acknowledges and agrees that the Company will refuse to register any sale of Securities made in breach of the provisions hereof; and all of the acknowledgements, representations, warranties and covenants set out in Schedule "C" hereto are true and correct as of the day hereof and are incorporated by reference herein.

Section 6.5. Source of Funds. You represent and warrant to the Company that the source of funds to be used by you to pay the purchase price of the Note to be purchased by you hereunder is from your own personal assets and is not: an “insurance company general account” within the meaning of Department of Labor Prohibited Transaction Exemption (“PTE”) 95-60 (issued July 12, 1995); an employee benefit plan or group of plans maintained by the same employer or employee organization or a separate account or trust fund comprised of one or more employee benefit plans; an insurance company pooled separate account, within the meaning of PTE 90-1 (issued January 29, 1990); a bank collective investment fund, within the meaning of the PTE 91-38 (issued July 12, 1991); an “investment fund” (within the meaning of Part V of the

QPAM Exemption) managed by a “qualified professional asset manager” or “QPAM” (within the meaning of Part V of the QPAM Exemption); or a governmental plan.

As used in this Section 6.5, the terms “*employee benefit plan*”, “*governmental plan*”, “*party in interest*” and “*separate account*” shall have the respective meanings assigned to such terms in Section 3 of ERISA.

SECTION 7. INFORMATION AS TO COMPANY.

Section 7.1. Inspection. Subject to the provisions of Section 20, the Company shall permit the representatives of each holder of Notes that is an Institutional Investor, at the expense of such holder and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company with the Company’s officers, and (with the consent of the Company, which consent will not be unreasonably withheld) its independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of its Subsidiaries).

SECTION 8. PRINCIPAL AND INTEREST; MATURITY; PREPAYMENT OF THE NOTE; CHANGE IN CONTROL.

Section 8.1 Principal and Interest. (a) The Company shall repay in full the Note on the Maturity Date in an amount equal to the aggregate principal amount of the Note outstanding on the Maturity Date, plus accrued and unpaid interest thereon, unless and to the extent that the Note is earlier redeemed, repurchased, repaid or converted in accordance with the terms of the Note.

(b) Interest shall be payable semi-annually, in arrears, on each June 30 and December 30 after the issuance of the Note (each, an “Interest Payment Date”). Interest shall accrue on the unpaid principal amount of the Note at the rate of 6% *per annum* from the Closing Date, or from the most recent Interest Payment Date for which the applicable interest payment has been made, until and to the extent that the principal amount of the Note is paid or the principal amount of the Note has been converted as provided in Section 9 hereof or redeemed as provided in Section 8 hereof. Interest on the Note shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Upon the occurrence of an Event of Default, the principal amount of the Note and all accrued and unpaid interest as of the date of the Event of Default shall immediately commence accruing interest at a default rate of 10% per annum (the “Default Rate”) and shall continue to accrue interest at the Default Rate until the Event of Default has been cured.

(c) If a date for payment of principal or interest is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and interest shall accrue for the intervening period.

(d) The holder of the Note must surrender the Note to the Company’s U.S. legal counsel to collect principal payments.

(e) Except as provided in the following sentence, the Company will pay principal and interest in money of the United States that at the time of payment is legal tender for payment of public and private debts in immediately available funds by wire transfer to a U.S. dollar account maintained by the holder with a bank in the United States designated in writing by the holder.

Section 8.2. Redemption. The Note shall be redeemable at the option of the Company in whole or in part at any time and from time to time after _____; *provided* that the volume weighted average trading price of the Common Shares on the _____ (or such other market or exchange in the U.S. on which the Common Shares may then be quoted or listed) for at least 20 trading days in any consecutive 30 day period ending five trading days prior to the date on which notice of redemption is given exceeds 125% of the Conversion Price, as then in effect. On or after such date, the Note shall be redeemable at the option of the Company, in whole or in part, on not less than 30 days prior notice, at 100% of the principal amount, plus accrued and unpaid interest to the Redemption Date of the Note (or portion thereof) sought by the Company to be redeemed (the “Redemption Price”). The Redemption Price shall be paid in cash by wire transfer to a U.S. dollar account maintained by the Holder with a bank in the United States designated in writing by the Holder

Section 8.3 Notice of Redemption. Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than 30 days prior to the Redemption Date, to the holder at the holder’s address appearing in the Register.

All notices of redemption shall state:

- (i) the date on which the Note will be redeemed (the “Redemption Date”);
- (ii) that on the Redemption Date the Redemption Price will become due and payable in respect of the Note, the amount of the Redemption Price, and that interest thereon will cease to accrue on and after said date;
- (iii) the name and address of the Company’s U.S. counsel where the Note is to be surrendered for payment of the Redemption Price; and
- (iv) that from and after the date on which such notice is first mailed or delivered, and until the Redemption Date, the holder shall be entitled to convert the Note (or portion hereof that is sought to be redeemed by the Company), the then-applicable Conversion Price, and a description of the procedures required pursuant to Section 9 hereof to convert the Note.

Section 8.4. Notes Payable on Redemption Date. A notice of redemption having been given as aforesaid, unless converted, the Note shall on the Redemption Date become due and payable at the Redemption Price therein specified and from and after such date (unless the Company shall default in the payment of the Redemption Price) the Note (or portion hereof that has been so redeemed) shall cease to bear interest. Upon surrender of the Note for redemption in accordance with said notice, the Note (or portion hereof that has been so redeemed) shall be paid by the Company at the Redemption Price.

Section 8.5 Determination of Conversion Price. If a notice of redemption has been given prior to final determination of the Conversion Price pursuant to Section 9.6 hereof, the Conversion Price shall be deemed to be the Base Conversion Price, as adjusted pursuant to Section 9.6 hereof, and upon the final determination of the Conversion Price pursuant to Section 9.6, the difference, if any between the Redemption Price paid based on the Base Conversion Price and the Redemption Price that would have been paid based on the final determination of the Conversion Price pursuant to Section 9.6 shall be paid to the holder of the Note.

Section 8.6 Change of Control Offer.

(a) Upon a Change of Control, the Holder shall have the right to require that the Company repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of the Note at a purchase price in cash equal to 100% of the principal amount thereof plus accrued and unpaid interest thereon, if any, to the date of repurchase (the “Change of Control Put Price”) in accordance with the terms contemplated in Section 8.6(b).

(b) Within five Business Days following any Change of Control, and if the Conversion Price has not yet been determined pursuant to Section 9.6 hereof again within five Business Days following such final determination, the Company shall mail a notice to the holder (the “Change of Control Offer”) stating:

(i) that a Change of Control has occurred and that the Holder has the right to require the Company to purchase all or a portion (equal to \$1,000 or an integral multiple thereof) of the Note at a purchase price in cash equal to 100% of the principal amount thereof, plus accrued and unpaid interest to the date of repurchase;

(ii) a description of all material circumstances, facts and financial information regarding such Change of Control;

(iii) the repurchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed);

(iv) the instructions determined by the Company, consistent with this Section 8.6, that the Holder must follow in order to have the Note purchased;

(v) that the Holder has the right to convert the Note, at the then-applicable Conversion Price and including a statement of such price and a description of the procedures required pursuant to Section 9 hereof to convert the Note; and

(vi) if applicable, that the final Conversion Price has not yet been determined, and that upon such determination the Company will make another Change of Control Offer pursuant to this Section 8.

(c) If the holder of the Note elects to have the Note purchased, the holder shall be required to surrender the Note, with an appropriate form to be provided by the Company duly completed, to the offices of the Company’s US corporate counsel, whose address shall be specified in the notice at least three Business Days prior to the purchase date. The Holder shall

be entitled to withdraw its election if the Company receives not later than one Business Day prior to the purchase date a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note which was delivered for purchase by the Holder and a statement that the Holder is withdrawing his election to have the Note purchased. The Company will issue to the Holder a new Note equal in principal amount to such unpurchased portion.

(d) On the purchase date, the Note, or any portion thereof, purchased by the Company under this Section 8.6 shall be cancelled, and the Company shall pay the purchase price determined pursuant to Section 8.6(b)(i) to the Holder.

(e) The Company shall comply, to the extent applicable, with the requirements of any securities laws or regulations in connection with the repurchase of the Note pursuant to this Section 8.6. To the extent that the provisions of any applicable securities laws or regulations require the Company to act in a manner that conflicts with provisions of the Note relating to Change of Control Offers, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 8.6 by virtue thereof.

SECTION 9. CONVERSION OF NOTES

Section 9.1. Conversion by Holder. The holder may convert the Note in whole or in part for Common Shares at the then-applicable Conversion Price at any time during which at least one of the following conditions are satisfied:

(a) at any time after the Closing;

(b) the Holder shall have received a Change of Control Offer in accordance with Section 8.6 hereof, in which case the conversion shall be effective upon the closing of the applicable Change of Control; or

(c) the Note shall have been called for redemption by the Company in accordance with Section 8.2 hereof, in which case the holder may convert the Note into Common Shares at any time prior to the close of business on the Business Day prior to the Redemption Date.

To convert the Note the holder must (1) complete and manually sign the irrevocable conversion notice on the back of the Note (or complete and manually sign a facsimile of such notice) and deliver such notice to the Company, (2) surrender the Note to the Company's US legal counsel, (3) furnish appropriate endorsements and transfer documents if required by the Company, and (4) pay any transfer or similar tax, if required. In the event that the Change of Control noticed in the Change of Control Offer is not consummated, then the holder may elect to cancel its election to convert the Note.

The holder may convert a portion of the Note only if the principal amount of such portion is \$1,000 or a multiple of \$1,000.

Section 9.2 Automatic Conversion. The entire principal amount of the Note and all accrued and unpaid interest hereon shall automatically convert into Common Shares at the then-applicable Conversion Price upon _____.

Section 9.3 Conversion Price. Subject to adjustment as set forth in Section 9.6 below, the Note and accrued and unpaid interest hereon may be converted, in whole or in part, as provided in this Section 9.3, at a conversion price (the “Conversion Price”) per Common Share equal to \$1.22 (the “Base Conversion Price”).

Section 9.4. Conversion Procedures. The date on which the Note shall be converted is the “Conversion Date”. The Person in whose name the Note is registered shall be treated as a stockholder of record on and after the Conversion Date; *provided, however*, that no surrender of the Note on any date when the stock transfer books of the Company shall be closed shall be effective to constitute the Person or Persons entitled to receive the Common Shares upon such conversion as the record holder or holders of such Common Shares on such date, but such surrender shall be effective to constitute the Person or Persons entitled to receive such Common Shares as the record holder or holders thereof for all purposes at the close of business on the next succeeding day on which such stock transfer books are open; *provided further, that* such conversion shall be at the Conversion Price in effect on the date that the Note shall have been surrendered for conversion, as if the stock transfer books of the Company had not been closed. Upon conversion of the Note in full, such Person shall no longer be a holder of the Note.

Section 9.5. Taxes on Conversion.

(a) If the holder converts the Note, the holder shall pay any documentary, stamp or similar issue or transfer tax due on the issue of Common Shares upon the conversion. The Company may refuse to deliver the certificates representing the Common Shares being issued in a name other than the holder’s name until the Company receives a sum sufficient to pay any tax which shall be due.

(b) The Company may refuse to deliver the certificates representing the Common Shares being issued in a name other than the holder’s name unless the Company receives documentation pursuant to Section 14.2(b) hereof with respect to the transfer of such Note in respect of the transfer of Common Shares.

Section 9.6. Adjustment of the Conversion Price.

(a) The Conversion Price shall be adjusted from time to time as follows:

(i) *Stock Splits, Subdivisions, Reclassifications or Combinations.*
In case outstanding Common Shares shall be subdivided or reclassified into a greater number of Common Shares, the Conversion Price in effect at the close of business on the day upon which such subdivision or reclassification becomes effective shall be proportionately reduced, and conversely, in case outstanding Common Shares shall each be combined or reclassified into a smaller number of Common Shares, the Conversion Price in effect at the close of business on the day upon which such

combination or reclassification becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately prior to the opening of business on the day following the day upon which such subdivision or combination becomes effective.

(ii) *Fundamental Changes.* If any Fundamental Change shall occur, then, as a condition of such Fundamental Change, lawful and adequate provisions shall be made whereby the holder shall have the right to receive, upon the basis and upon the terms and conditions specified herein, in lieu of the Common Shares of the Company immediately theretofore receivable upon the conversion of the Note, such shares of stock, securities or assets as may be issued or payable with respect to or in exchange for such number and class of Common Shares issuable upon conversion of the Note immediately prior to the occurrence of the Fundamental Change. In the case of any Fundamental Change, appropriate provision shall be made with respect to the rights and interests of the holder to the end that the provisions hereof (including without limitation provisions for adjustment of the Conversion Price) shall thereafter be applicable, as nearly as may be, in relation to any shares of stock, securities or assets thereafter deliverable upon the exercise of any conversion rights hereunder.

(iii) *Issuances of Common Shares below the Conversion Price.* If and whenever the Company shall issue or sell any Common Shares or any securities or other instruments convertible or exercisable for Common Shares for a consideration per share less than the Conversion Price in effect immediately prior to the time of such issue or sale, then the Conversion Price in effect immediately prior to such issuance shall forthwith be reduced to a price (calculated to the nearest cent) equal to the consideration per share paid or payable to the Company in connection with the issuance or sale of any such Common Shares or securities or other instruments convertible or exercisable for Common Shares; provided, *however*, that no such adjustment shall be made upon the issuance of Common Shares or securities convertible into or exercisable for Common Shares, in connection with (1) the exercise of options, warrants or similar convertible securities issued and outstanding on the date hereof or hereafter issued pursuant to the Company's 2000 Stock Option Plan and the Alternative Compensation Plan, (2) the issuance of any Common Shares upon conversion the Note, (3) the conversion or exercise of any other convertible or derivative security the grant or issuance of which security previously resulted in a reduction of the Conversion Price hereunder or (4) the issuance of Common Shares pursuant to an merger, acquisition or reorganization transaction in which the Company shall be the surviving entity.

(b) *Conversion Price Adjustment Deferred.* Notwithstanding the foregoing provisions of this Section 9.6, (i) no adjustment in the number of Common Shares into which this Note is convertible shall be required unless such adjustment would require an increase or decrease of at least 1% of the total number of Common Shares to be issued, and (ii) no adjustment in the Conversion Price shall be required unless such adjustment would require an increase or decrease in the Conversion Price of at least \$.01 per share; *provided, however*, that any adjustments which by reason of this paragraph (b) are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 9.6 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be.

(c) Notice of Certain Events. In the event that:

(i) the Company shall take action to accomplish any capital reorganization, reclassification of the Capital Stock of the Company (other than a subdivision, split or combination of its Common Shares), consolidation or merger to which the Company is a party and for which approval of any shareholders of the Company is required, or sale or transfer of all or substantially all of the assets of the Company; or

(ii) the Company shall take any action to accomplish a voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then the Company shall, at least 20 days prior to the date or expected date when the same shall be consummated, cause written notice thereof to be mailed to the holder at its address as shown on the books of the Company. Such notice in accordance shall also specify the date or expected date on which the holders of

Common Shares shall be entitled to exchange their Common Shares for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, transfer, dissolution, liquidation or winding-up, as the case may be.

(d) Common Shares. For the purposes of this Section 9.6, the term “Common Shares” shall mean (x) (i) the Common Shares or (ii) any other class of stock resulting from successive changes or reclassifications of such Common Shares consisting solely of changes in par value or from no par value to par value, or from par value to no par value and (y) any securities having economic terms similar to the Common Shares.

(e) Fractional Shares. The Company shall not be required to issue fractional Common Shares upon the conversion of the Note. If the holder elects to convert less than the entire amount of the Note, the number of full Common Shares issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount so surrendered. If any fractional interest in a Common Share would be deliverable upon the conversion of the Note, the Company may pay cash for such interest based upon a price equal to 95% of the volume weighted average trading price of the Common Shares on the OTC/BB or such market or exchange in the U.S. on which the Common Shares may then be quoted or traded, during the 20 consecutive trading days ending on the fifth day preceding the Conversion Date.

Section 9.7 Reservation of Shares. The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued stock, for the purpose of effecting the conversion or redemption of the Note, such number of its duly authorized Common Shares as shall from time to time be sufficient for the conversion of all the principal amount of the Note, plus accrued interest thereon, into Common Shares at any time.

SECTION 10. AFFIRMATIVE COVENANTS.

The Company covenants, on its behalf that so long as at least \$3,000,000 in aggregate principal amount of the Notes is outstanding:

Section 10.1. Compliance with Law. The Company will comply with all applicable laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, applicable Environmental Laws, in all respects, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case except to the extent that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 10.2. Insurance. The Company will maintain with insurers which on the date the policy commences are financially sound and reputable, insurance with respect to their respective Material properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-

insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business and similarly situated.

Section 10.3. Maintenance of Properties. The Company will maintain and keep, or cause to be maintained and kept, its interests in the Properties constituting Material tangible personal property in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be conducted in the ordinary course at all times, *provided* that this Section shall not prevent the Company from discontinuing the operation and the maintenance of any of its Properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 10.4. Payment of Taxes and Claims. The Company will file all tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be properly due and payable on such returns and all other taxes, assessments, governmental charges, or levies imposed on them or any of their properties, assets, income or franchises, to the extent such taxes and assessments have become properly due and payable and before they have become delinquent, and all claims for which sums have become due and payable that have become a Lien on properties or assets of the Company, *provided* that the Company need not pay any such tax or assessment or claims if (i) the amount, applicability or validity thereof is contested by the Company on a timely basis in good faith and in appropriate proceedings, and the Company has established adequate reserves therefor in accordance with appropriate GAAP on the books of the Company or (ii) the nonpayment of all such taxes and assessments and claims in the aggregate could not reasonably be expected to have a Material Adverse Effect.

Section 10.5. Corporate Existence, etc. The Company will at all times preserve and keep in full force and effect its corporate existence.

Section 10.6. _____ *Listing.*

Section 10.7. Penalty. In the event that the Company does not _____

_____ ; then the Purchaser will each receive, for every one (1) Common Share receivable in conversion of the Note, a warrant, in a form satisfactory to the Purchaser (the "Investor Warrants") entitling the Purchaser to purchase one (1) Common Share, each Investor Warrant entitling the holder thereof to purchase such Common Shares at the Conversion Price for a period of 2 years from the date of issuance thereof. The Purchaser shall be entitled to receive the Investor Warrant regardless of whether or not the Note has been converted into Common Shares.

Section 10.8 Registration Rights. (a) _____

(b) In the event that the Investor Warrant is issued prior to the Company causing the Registration Statement to be filed with the SEC, then the Common Shares underlying the Investor Warrant shall be included for registration in the Registration Statement.

SECTION 11. NEGATIVE COVENANTS.

Without the prior written consent of the Purchase, the Company covenants that so long as at least \$3,000,000 million in the principal amount of the Note is outstanding:

Section 11.1. Transactions with Affiliates. The Company will not enter into directly or indirectly any transaction or group of related transactions (including, without limitation, the purchase, lease, sale or exchange of Material properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Material Subsidiary) or with EFIC, except in the ordinary course and pursuant to the reasonable requirements of the Company's business and upon fair and reasonable terms no less favorable to the Company than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate.

Section 11.2. Liens. The Company will not, directly or indirectly create, incur, assume or permit to exist (upon the happening of a contingency or otherwise) any Lien on or with respect to any property or asset (including, without limitation, any document or instrument in respect of goods or accounts receivable) of the Company, whether now owned or held or hereafter acquired, or any income or profits therefrom, or assign or otherwise convey any right to receive income or profits, except:

(a) Liens for taxes, assessments or other governmental charges or levies the payment of which is not at the time required by Section 10.4;

(b) statutory Liens of landlords, Governmental Authorities and Liens of carriers, operators, vendors, equipment lessors, warehousemen, mechanics, repairmen, suppliers, workers, construction materialmen and other similar Liens and other like Liens incident of the exploration, development, operation and maintenance of oil and gas properties, in each case, incurred in the ordinary course of business for sums not yet due or the payment of which is not at the time required by Section 10.4;

(c) Liens (other than any Lien imposed by ERISA) incurred or deposits made in the ordinary course of business (i) in connection with workers' compensation, unemployment insurance and other types of social security or retirement benefits, or (ii) to secure (or to obtain letters of credit that secure) the performance of tenders, statutory obligations, surety bonds, appeal bonds, bids, trade contracts, leases (other than Capital Leases), government contracts, performance bonds, purchase, construction or sales contracts, regulatory obligations and other similar obligations, in each case not incurred or made in connection with the borrowing of money, the obtaining of advances or credit or the payment of the deferred purchase price of property;

(d) any attachment or judgment Lien, not giving rise to an Event of Default;

(e) leases or subleases granted to others, easements, reservations, servitudes, permits, conditions, covenants, exceptions, rights-of-way, restrictions and other similar charges or encumbrances, in each case incidental to, and not interfering with, the ordinary conduct of the business of the Company or any of its Subsidiaries,

provided that such Liens do not, in the aggregate, materially detract from value of such property;

(f) Liens securing Indebtedness arising under the Loan Documents;

(g) contractual Liens which arise in the ordinary course of business under and pursuant to the terms of the Basic Agreements or other concession agreements, production sharing agreements and contracts; joint venture, exploration, limited or general partnership, dry hole, bottom hole, acreage contribution, purchase and acquisition agreements; exploration, production and development licenses; operating agreements; drilling agreements; oil and gas leases; farm-out and farm-in agreements; division orders; contracts for the sale, transportation or exchange of oil and natural gas; unitization and pooling declarations and agreements; area of mutual interest agreements; overriding and net profits royalty agreements; marketing agreements; processing agreements; development agreements; gas balancing or deferred production agreements; injection, repressuring and recycling agreements; salt water or other disposal agreements; seismic or other geophysical permits or agreements, and other agreements which are usual and customary in the oil and gas business and are for claims which are not delinquent or which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with applicable GAAP, provided that any such Lien referred to in this clause does not materially impair the use of the property covered by such Lien for the purposes for which such property is held by the Company or materially impair the value of such property subject thereto; and

(h) Permitted Encumbrances.

Section 11.3. Line of Business. The Company will not engage to any substantial extent in any business other than the business in which the Company is engaged on the date of this Agreement and business reasonably related thereto or in furtherance thereof.

Section 11.4. Restricted Payments. The Company will not make any Restricted Payments, except (a) the Company may declare and pay (i) dividends with respect to its Equity Interests payable solely in additional shares of its Equity Interests or Indebtedness and (ii) interest and principal on Indebtedness owed by the Company to a Subsidiary, and (b) the Company may make distributions pursuant to and in accordance with stock incentive plans or other Plans for management or employees of the Company and its Subsidiaries.

Section 11.5. Sale of Assets, etc. The Company will not make any Transfer, *provided* that the foregoing restriction does not apply to a Transfer if:

(a) the property that is the subject of such Transfer constitutes either (i) inventory held for sale (including the sale of Hydrocarbons in the ordinary course of business, including, without limitation, pursuant to advance sales contracts, forward contracts and production payments), (ii) abandonments, assignments, leases, subleases or farm-outs of oil and gas properties or dispositions of properties pursuant to operating agreements or other forms of exploration and development agreements or

option agreements or (iii) property, equipment, fixtures, supplies or materials no longer required in the operation of the business of the Company or such Subsidiary or that is redundant, condemned, obsolete, and, in the case of any Transfer described in clauses (i) through (iii), such Transfer is in the ordinary course of business (an “*Ordinary Course Transfer*”); so long as immediately before and immediately after the consummation of such transaction, and after giving effect thereto, no Default or Event of Default exists or would exist (each such Transfer, an “*Intergroup Transfer*”); or

(b) such Transfer involves oil and gas properties or interests therein that are exchanged for other oil and gas properties or interests therein in arms length transactions or such Transfer is pursuant to a Permitted Farmout Arrangement.

Section 11.6. Future Indebtedness. The Company will not incur any Indebtedness after the date of this Agreement other than (a) Indebtedness outstanding under the Note, (b) any additional unsecured Indebtedness, the aggregate amount outstanding thereunder at any time shall not exceed US\$10 million. In considering whether to give its consent to any future Indebtedness, the Purchaser shall be entitled to take into consideration, *inter alia*, the potential effects of any such proposed Indebtedness upon the financial condition and wherewithal of the Company and/or upon its rights under the Loan Documents, and any decision by the Purchaser to withhold its consent to any such proposed future Indebtedness shall be final and binding absent a showing of manifest bad faith.

Section 11.7. Basic Agreements. The Company shall not (i) cancel or terminate any Basic Agreement to which the Company is a party or consent to or accept any cancellation or termination thereof prior to the scheduled expiration thereof, (ii) sell, assign (other than pursuant to the Loan Documents) or otherwise dispose of (by operation of law or otherwise) any part of its interest in any Basic Agreements, (iii) waive any default under or breach of any provision of any Basic Agreement to which the Company or any of its Subsidiaries are a party, or waive, fail to enforce, forgive, compromise, settle, adjust or release any Material right, interest or entitlement, howsoever arising, under, or in respect thereof, or (iv) amend, supplement, modify or in any way vary in any respect or agree to any variation of any provision of any Basic Agreement to which the Company is a party, or of the performance of any Material covenant or obligation by any other Person under any Basic Agreement.

Section 11.8. Neither the Company nor any member of the management of the Company shall from the date hereof until 90 days thereafter, directly or indirectly, without the prior written consent of the Purchaser, such consent not to be unreasonably withheld or delayed, authorize, sell or issue or announce their intention to authorize, sell or issue, for cash proceeds, or negotiate or enter into an agreement to sell or issue for cash proceeds, any securities of the Company (including those that are convertible or exchangeable into securities of the Company) other than (i) securities issued in connection with this Agreement, (ii) non-convertible debt securities; (iii) securities issuable upon the exercise of convertible securities, options or warrants of the Company outstanding at the date hereof or granted to new employees, officers or directors as compensation for joining the Company; or (iii) securities issuable pursuant to the Company’s

share option schemes as currently constituted. The Company shall use its best efforts to enforce the restrictions contained in this Section 11.8 on members of management of the Company.

SECTION 12. EVENTS OF DEFAULT.

An “*Event of Default*” shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal at the applicable Redemption Price, if any, on the Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on the Note for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in Section 8.6 or Section 11 and remains in default after the expiration of a thirty (30) day cure period; or

(d) the Company defaults in the performance or compliance in any material respect with any other material term herein (other than those referred to in paragraphs (a), (b) and (c) of this Section 12) and such default is not remedied within 30 days after the earlier of (i) a Responsible Officer obtaining actual and not constructive knowledge of such default and (ii) the Company receiving written notice of such default from any holder of the Note (any such written notice to be identified as a “*notice of default*” and to refer specifically to this paragraph (d) of Section 12); or

(e) any representation or warranty made in writing by or on behalf of the Company or by any officer of the Company in this Agreement, in any Loan Document or in any writing furnished in connection with the transactions contemplated hereby proves to have been false or incorrect in any Material respect on the date as of which made; or

(f) the Company (i) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (v) is adjudicated as insolvent or to be liquidated, or (vi) takes corporate action for the purpose of any of the foregoing; or

(g) a court or governmental authority of competent jurisdiction enters an order appointing, a custodian, receiver, trustee or other officer with similar powers

with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company, or any such petition shall be filed against the Company and such petition shall not be dismissed or stayed pending appeal within 90 days, or are not discharged within 60 days after the expiration of such stay; or

(h) a final judgment or judgments for the payment of money aggregating in excess of US\$5,000,000 (to the extent not covered by insurance) are rendered against the Company and which judgments are not, within 90 days after entry thereof, bonded, discharged, finally settled or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay; or

(i) (i) this Agreement, the Note, or any other Loan Document ceases to be in full force and effect (except in accordance with its terms) or is declared null and void or the validity or enforceability is contested or challenged by Company, any Affiliate of Company or any of their respective partners or shareholders; or (ii) Company denies that it has any further liability or obligation under any of the Loan Documents prior to the indefeasible satisfaction in full of all Obligations under the Loan Documents.

SECTION 13. REMEDIES ON DEFAULT, ETC.

Section 13.1. Acceleration.

(a) If an Event of Default with respect to the Company described in paragraph (f) or (g) of Section 12 (other than an Event of Default described in clause (i) of paragraph (f) or described in clause (vi) of paragraph (f) by virtue of the fact that such clause encompasses clause (i) of paragraph (f)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, the Purchaser may at any time at its option, by notice to the Company, declare the Note then outstanding to be immediately due and payable.

Upon the Note becoming due and payable under this Section 13.1, whether automatically or by declaration, it will forthwith mature and the entire unpaid principal amount thereof at the applicable Redemption Price, if any, plus all accrued and unpaid interest thereon (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived.

Section 13.2. Other Remedies. If any Default or Event of Default has occurred and is continuing, and irrespective of whether the Note has become or have been declared immediately due and payable under Section 13.1, the holder thereof may proceed to protect and enforce its rights by an action at law, suit in equity or other appropriate proceeding, whether for the specific

performance of any agreement contained herein or in the Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Section 13.3. Costs and Expenses. The Company shall pay all costs and expenses of amending, administering, implementing, collecting, defending, declaring and enforcing holder rights under this Agreement, the Note or other instrument or agreement delivered in connection with any of the Loan Documents, including searches and filings at all times, and holder's reasonable attorneys' fees (actually incurred, regardless of whether any litigation is commenced or default is declared and regardless of tribunal or jurisdiction).

Section 13.4. Rescission. At any time after the Note has been declared due and payable pursuant to clause (b) or (c) of Section 13.1, the Purchaser, by written notice to the Company, may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the Note and all principal at the applicable Redemption Price, if any, on the Note that is due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal at the applicable Redemption Price, if any, and (to the extent permitted by applicable law) any overdue interest in respect of the Note, at the Default Rate, (b) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17, and (c) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Note. No rescission and annulment under this Section 13.4 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

Section 13.5. No Waivers or Election of Remedies, Expenses, etc. No course of dealing and no delay on the part of the Purchaser in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice the Purchaser's rights, powers or remedies. No right, power or remedy conferred by this Agreement or by any Note thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. The Company will pay to the holder of the Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 13, including, without limitation, reasonable attorneys' fees, expenses and disbursements actually incurred.

SECTION 14. REGISTRATION AND TRANSFER

The Company and, by acceptance of the Note, the Purchaser hereby agree that the following provisions shall govern the registration, sale, assignment, pledge, transfer, encumbrance or other disposition of the Note.

Section 14.1 Note Registration. The Company shall keep at its principal office a register (the "Register") in which the Company shall enter the name and address of the registered holder of the Note. References to the "Holder" of the Note shall mean the person listed in the Register as the payee of the Note unless the payee shall have presented the Note to the Company

for transfer and the transferee shall have been entered in the Register as a subsequent holder, in which case the term shall mean such subsequent holder. The registered holder of the Note may be treated as the owner of it for all purposes.

Section 14.2 Disposition. (a) The Note may not be, in whole or in part, directly or indirectly, Transferred, except in accordance with Section 14.2(b). Any purported Transfer other than in accordance with the terms hereof and thereof shall be void and without force or effect.

(b) A transfer of the Note shall only be effected by the holder hereof by delivery of the Note to the Company (with the instrument of assignment provided on the Note properly completed in accordance with the terms and conditions of the Note), accompanied by an opinion of counsel, in form and substance, and from counsel, reasonably satisfactory to the Company to the effect that such Transfer does not violate the Securities Act or any applicable state or foreign securities laws, and by such other evidence as the Company may reasonably require of compliance with the Securities Act and applicable state or foreign securities laws and with the provisions of the Note, at the Company's principal office or at such other location as the Company shall designate in writing to the Holder; *provided, however*, that such transfer of the Note shall become effective only upon, and shall not be effective for any purpose until, the Company has received the Note.

Section 14.3. Replacement of Note. Upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of the Note (which evidence shall be notice from the Purchaser of such loss, theft, destruction or mutilation), and upon surrender and cancellation thereof, the Company at its own expense shall execute and deliver, in lieu thereof, a new Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon, as the case may be.

SECTION 15. PAYMENTS ON NOTE.

Section 15.1. Place of Payment. Subject to Section 15.2, payments of principal at the applicable Redemption Price, if any, and interest becoming due and payable on the Note shall be made in New York, New York at the principal office of the holder of the Note in such jurisdiction. The holder of the Note may at any time, by notice to the Company, change the place of payment of the Note so long as such place of payment shall be either the principal office of the holder of such Note in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

Section 15.2. Home Office Payment. So long as you or your nominee shall be the holder of the Note, and notwithstanding anything contained in Section 15.1 or in the Note to the contrary, the Company will pay all sums becoming due on such Note for principal at the applicable Redemption Price, if any, and interest by the method and at the address specified for such purpose below your name in Schedule A, or by such other method or at such other address as you shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of the Note or the making of any notation thereon, except

that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of the Note, you shall surrender the Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 15.1.

SECTION 16 SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained in the Loan Documents shall survive the execution and delivery of the Loan Documents and the Note, the purchase by you of the Note and any partial payment on the Note and shall expire and be of no further force and effect when all principal, interest and other amounts payable on the Note shall have been indefeasibly paid in full in accordance with the provisions thereof. The Loan Documents embody the entire agreement and understanding between you and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

SECTION 17. AMENDMENT AND WAIVER.

Section 17.1. Requirements. This Agreement and the Note may be amended, and the observance of the Note may be waived (either retroactively or prospectively), with (and only with) the written consent of the Company and the Purchaser.

Section 17.2. Binding Effect, etc. Any amendment or waiver consented to as provided in this Section 15 is binding upon the holder of the Note and upon each future holder of the Note and upon the Company without regard to whether the Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and the holder of the Note or any delay in exercising any rights hereunder or under the Note shall operate as a waiver of any rights of the holder. As used herein, the term “*this Agreement*” and references thereto shall mean this Agreement as it may from time to time be amended or supplemented.

SECTION 18. NOTICES.

All notices and communications provided for hereunder shall be in writing and sent

- (a) by telefacsimile if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or
 - (b) by registered or certified mail with return receipt requested (postage prepaid), or
 - (c) by a recognized overnight delivery service (with charges prepaid).
- Any such notice must be sent:

(i) if to you or your nominee, to you or it at the address specified for such communications in Schedule A, or at such other address as you or it shall have specified to the Company in writing,

(ii) if to the Company, to the Company at its address set forth at the beginning hereof to the attention of Chief Executive Officer, or at such other address as the Company shall have specified to the holder of each Note in writing.

Notices under this Section 18 will be deemed given only when actually received.

SECTION 19. REPRODUCTION OF DOCUMENTS.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by you at the Closing (except the Notes themselves), and (c) subject to the provisions of Section 20, financial statements, certificates and other information previously or hereafter furnished to you, may be reproduced by you by any photographic, photostatic, microfilm, microcard, miniature photographic or other similar process and you may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by you in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or the holder of Note from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

SECTION 20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, “*Confidential Information*” means information delivered to you or any holder by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to the Loan Documents that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by you or such holder as being confidential information of the Company or such Subsidiary, *provided* that such term does not include information that (a) was publicly known or otherwise known to you or such holder prior to the time of such disclosure through no act or omission by you or any Person authorized to act on your behalf in breach of any duty of confidentiality, (b) subsequently becomes publicly known through no act or omission by you or any Person acting on your behalf, (c) otherwise becomes known to you other than through disclosure by the Company or any Subsidiary from any Person who has not breached any duty of confidentiality owed to the Company or any Subsidiary, or (d) concerns or relates to the U.S. federal income tax treatment or U.S. federal income tax structure of the transactions contemplated hereby (and you may disclose to any and all persons, without limitation of any kind, any such information with respect to such U.S. federal income tax treatment and U.S. federal income tax structure). You will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by you in good faith to protect confidential

information of third parties delivered to you and you may only use the Confidential Information in connection with the transactions contemplated by the Loan Documents, including, without limitation, the administration, preservation, or enforcement of your rights relating to your investment represented by your Notes, *provided* that you may deliver or disclose Confidential Information to (i) your directors, officers, employees, agents, attorneys and Affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by your Notes) who are subject to a duty of confidentiality or otherwise agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (ii) your financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (iii) any other holder of any Note who agrees to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (iv) any Institutional Investor to which you sell or offer to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (v) any Person from which you offer to purchase any security of the Company (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (vi) any federal or state regulatory authority having jurisdiction over you, (vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about your investment portfolio, or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to you, (x) in response to any subpoena or other legal process, (y) in connection with any litigation to which you are a party or (z) if an Event of Default has occurred and is continuing, to the extent you may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under your Notes and this Agreement; *provided, however*, prior to disclosing any Confidential Information pursuant to clauses (vi), (vii) or (viii) (other than in connection with clause (z) of clause (viii)) you shall (if reasonably practicable under the circumstances and provided that you are not legally prohibited from doing so) notify the Company of the proposed disclosure and afford it a reasonable opportunity to seek an injunction or other protective order against the public release of all or any portion of such Confidential Information. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note or Warrant of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying the provisions of this Section 20.

SECTION 21. MISCELLANEOUS.

Section 21.1. Successors and Assigns. All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

Section 21.2. Payments Due on Non-Business Days. Anything in this Agreement or the Notes to the contrary notwithstanding, any payment of principal at the applicable Redemption Price, if any, or interest on any Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day.

Section 21.3. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 21.4. Construction and Interpretation. Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person. All references to immediately available funds or dollar amounts contained in this Agreement shall mean United States dollars. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The parties acknowledge and agree that (i) each party and its counsel have reviewed the terms and provisions of this Agreement and have contributed to its revision, (ii) the normal rule of construction, to the effect that any ambiguities are resolved against the drafting party, shall not be employed in the interpretation of it, and (iii) the terms and provisions of this Agreement shall be constructed fairly as to all parties hereto and not in favor or against any party, regardless of which party was generally responsible for the preparation of this Agreement. The terms “herein”, “hereof” or “hereunder” shall refer to the entire Agreement; all references to Sections shall refer to sections of this Agreement; “including” means “and including without limitation.” Words importing the singular also include the plural and vice versa.

Section 21.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

Section 21.6. Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of California excluding choice of law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

Section 21.7 Submission to Jurisdiction. For the purposes of any action or proceeding involving this Agreement, the Notes, the Warrants or any other agreement or document referred to herein or therein, the Company hereby, and shall cause its Subsidiaries to, expressly submit to the nonexclusive jurisdiction of all federal and state courts sitting in the Borough of Manhattan, City and State of New York and consents that any order, process, notice of motion or other application to or by any of said courts or a judge thereof may be served within or without such

court's jurisdiction by registered mail or by personal service, provided that a reasonable time for appearance is allowed. The Company hereby waives, and shall cause its Subsidiaries to irrevocably waive any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement, the Notes or any other agreement or document referred to herein or therein brought in any federal or state court sitting in the City and State of New York, and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

If you are in agreement with the foregoing, please sign the form of agreement on the accompanying counterpart of this Agreement and return it to the Company, whereupon the foregoing shall become a binding agreement between you and the Company.

Very truly yours,

By: _____
Its:

The foregoing is hereby agreed
to as of the date thereof.

PURCHASER:

By: _____
Its:

SCHEDULE A

INFORMATION RELATING TO PURCHASER

| NAME AND ADDRESS OF PURCHASER | PRINCIPAL AMOUNT OF NOTES TO BE PURCHASED |
|--------------------------------------|--|
| | US\$15,000,000 |

(1) All payments by wire transfer of immediately available funds to:

(2) All communications and notices of payments and written confirmations of such wire transfers to:

(3) Details of Nominee (if applicable):

SCHEDULE "B"

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"*Affiliate*" means, at any time, and with respect to any Person, (a) any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, and (b) any Person beneficially owning or holding, directly or indirectly, 10% or more of any class of voting or equity interests of the Company or any Subsidiary or any corporation of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 10% or more of any class of voting or equity interests. As used in this definition, "*Control*" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "*Affiliate*" is a reference to an Affiliate of the Company.

"*Agency Agreement*" means that Agency Agreement dated _____ entered into by and between the Company and the Agent.

"*Agent*" means _____.

"*Agreement*" means the Note Purchase Agreement.

"*Basic Agreements*" means production sharing contracts and production sharing agreements, and any other Hydrocarbon purchase, sales, exchange, processing, gathering, treatment, compression and transportation agreements; farmout or farm-in agreements; drilling contracts; seismic or other geologic or geographical agreements; unitization agreements; joint venture, exploration, limited or general partnership, dry hole, bottom hole, acreage contribution, purchase and acquisition agreements; area of mutual interest agreements; salt water disposal agreements, servicing contracts; easement and/or pooling agreements; surface leases, permits, licenses, rights-of-way, servitudes or other interests appertaining to the Properties and all other contracts and agreements relating to the Properties, which are listed on Schedule 5.15.

"*Business Day*" means any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are required or authorized to be closed.

"*Capital Lease*" means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP applicable to such lessee.

"*Capital Lease Obligations*" means, with respect to any Person and a Capital Lease, the amount of the obligation of such Person as the lessee under such Capital Lease, which would, in accordance with GAAP applicable to such lessee, appear as a liability on a balance sheet of such Person.

“*Change of Control*” means (i) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of the Company and its subsidiaries to any Person or entity or group of related Persons or entities or any Affiliate(s) thereof, (ii) the approval by the shareholders of the Company of any plan or proposal for the liquidation or dissolution of the Company, (iii) any Person or entity or group of related Persons or entities or any Affiliate(s) thereof, becoming the beneficial owner(s) (as defined in Rules 13d-3 and 13d-5 under the Exchange Act) of 50% or more of the aggregate voting power represented by the issued and outstanding capital stock of the Company and (iv) more than 5 directors of the board of the Company resigns and/or are removed and/or changed during any consecutive 12-month time period.

“*Change of Control Offer*” has the meaning set forth in Section 8.6(b).

“*Change of Control Put Price*” has the meaning set forth in Section 8.6(a).

“*Charter Documents*” means, as applicable for any Person that is not an individual, the articles or certificate of incorporation or formation, certificate of limited partnership, regulations, bylaws, partnership or limited partnership agreement, and all similar documents related to the formation and governance of that Person, together with all amendments to any of them.

“*Closing*” is defined in Section 3.

“*Closing Date*” is defined in Section 3.

“*Code*” means the US Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

“*Common Stock*” means the common stock, par value \$ _____ per share, of the Company.

“*Company*” means _____.

“*Confidential Information*” is defined in Section 20.

“*Consolidated Assets*” means the total assets of the Company and its Subsidiaries which would be shown as assets on a consolidated balance sheet of the Company and its Subsidiaries prepared in accordance with applicable GAAP, after eliminating all amounts properly attributable to minority interests, if any, in the stock and surplus of Subsidiaries.

“*Conversion Price*” has the meaning set forth in Section 9.3.

“*Default*” means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

“*Distribution*” means, in respect of any corporation, association or other business entity:

- (a) dividends or other distributions or payments on capital stock or other Equity Interests of such corporation, association or other business entity (except

distributions in such stock or other Equity Interests or Indebtedness as permitted by the Agreement); and

(b) the redemption or acquisition of such stock or other Equity Interests or of warrants, rights or other options to purchase such stock or other Equity Interests (except when solely in exchange for such stock or other Equity Interests or Indebtedness as permitted by the Agreement) unless made, contemporaneously, from the net proceeds of a sale of such stock or other Equity Interests.

“*Disposition Value*” means, at any time, with respect to any property, the book value thereof, valued at the time of such disposition in good faith by the Company.

“*Dollar*” or “*\$*” means lawful money of the United States of America.

“*Environmental Laws*” means any and all federal, state, provincial, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including but not limited to those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

“*Equity Interests*” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such Equity Interest.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

“*ERISA Affiliate*” means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

“*Event of Default*” is defined in Section 13.

“*Exchange Act*” means the US Securities Exchange Act of 1934, as amended.

“*Fair Market Value*” means, at any time and with respect to any property, the sale value of such property that would be realized in an arm’s-length sale at such time between an informed and willing buyer and an informed and willing seller (neither being under a compulsion to buy or sell).

“*Foreign Pension Plan*” means any plan, fund (including, without limitation, any superannuation fund but excluding any governmental plan or program requiring the mandatory payment of social insurance taxes or similar contributions to a governmental fund with respect to the wages of an employee) or other similar program established or maintained outside the United States of America by the Company or any ERISA Affiliate for the benefit of employees of the Company or any ERISA Affiliate residing outside the United States of America, which plan,

fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment excluding contractual notice payments, and which plan is not subject to ERISA or the Code.

“*Fundamental Change*” means, with respect to the Company, the occurrence of any transaction to which the Company is a party (including without limitation any recapitalization or reclassification of the Common Shares (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination of the Ordinary), any consolidation of the Company with, or merger of the Company into, any other person, any merger of another person into the Company (other than a merger which does not result in a reclassification, conversion, exchange or cancellation of outstanding Common Shares of the Company) or any sale or transfer of all or substantially all of the assets of the Company or any compulsory share exchange) pursuant to which all Common Shares are converted into or exchangeable for the right to receive other securities, cash or other property.

“*GAAP*” means generally accepted accounting principles as in effect from time to time in the stated jurisdiction.

“*Governmental Authority*” means

- (a) the governments of
 - (i) the United States of America, or the United Kingdom or any State, province or other political subdivision thereof, or
 - (ii) any jurisdiction in which the Company conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company, or
- (b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government, including any stock exchange.

“*Hazardous Material*” means any and all pollutants, toxic or hazardous wastes or any other substances that might pose a hazard to health or safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage, or filtration of which is or shall be restricted, prohibited or penalized by any applicable law (including, without limitation, asbestos, urea formaldehyde foam insulation and polychlorinated biphenyls).

“*Hydrocarbons*” means oil, gas, casinghead gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all products refined or separated therefrom.

“*Impairment*” means, with respect to any Basic Agreement, the rescission, termination, cancellation, repeal, invalidity, suspension (other than by reason of an event of “force majeure” (as defined in such Basic Agreement) to the extent suspension by reason of an event of “force majeure” (as defined in such Basic Agreement) is expressly permitted by such Basic Agreement

or approval of any Governmental Authority or results from applicable law), injunction, inability to satisfy stated conditions to effectiveness or amendment, modification or supplementation. The verb “Impair” shall have a correlative meaning.

“*Indebtedness*” with respect to any Person means, at any time, without duplication,

(a) its liabilities for the deferred purchase price of property acquired by such Person (excluding (i) accounts payable arising in the ordinary course of business but including all liabilities created or arising under any conditional sale or other title retention agreement with respect to any such property and (ii) where such deferred purchase price is in the form of equity);

(b) all liabilities appearing on its balance sheet in accordance with GAAP in respect of Capital Leases;

(c) all liabilities for borrowed money secured by any Lien with respect to any property owned by such Person (whether or not it has assumed or otherwise become liable for such liabilities);

(d) all its liabilities in respect of letters of credit or instruments serving a similar function issued or accepted for its account by banks and other financial institutions (whether or not representing obligations for borrowed money) other than with respect to letters of credit which are 100% cash collateralized;

(e) interest rate, currency or commodity (including crude oil and natural gas) swaps, caps, collars, forwards, futures or derivatives transactions or similar obligations obligating such Person to make payments, whether periodically or upon the happening of a contingency of such Person; and

(f) any Guaranty of such Person with respect to liabilities of a type described in any of clauses (a) through (f) hereof, other than parent company guarantees provided by the Company in respect of the Indebtedness or obligations of any of its Subsidiaries under the Basic Agreements.

Indebtedness of any Person shall include all obligations of such Person of the character described in clauses (a) through (f) to the extent such Person remains legally liable in respect thereof notwithstanding that any such obligation is deemed to be extinguished under GAAP.

“*Institutional Investor*” means (a) any Purchaser (including beneficial owners of the Notes), or (b) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form.

“*Knowledge*” means, either:

(i) in respect of the Company, the actual and not constructive knowledge of any officers of the Company or any Subsidiary or any employees of the Company that report directly to any officers of the Company or any Material Subsidiary; or

(ii) in respect of the Purchaser, the actual and not constructive knowledge of the officer of the Purchaser with responsibility for making or administering of the investment in the Notes.

“*Lien*” means, with respect to any Person, any mortgage, lien, pledge, charge, security interest or other encumbrance, or any interest or title of any vendor, lessor, lender or other secured party to or of such Person under any conditional sale or other title retention agreement or Capital Lease, upon or with respect to any property or asset of such Person.

“*Loan Documents*” means this Agreement, the Note, the Registration Rights Agreement, and all other agreements, certificates, documents, instruments and writings at any time delivered in connection herewith or therewith, all as amended, modified, restated or reassigned from time to time.

“*Material*” means material in relation to the business, operations, financial condition, assets or properties of the Company taken as a whole.

“*Material Adverse Effect*” means a material adverse effect on (a) the business, operations, financial condition, assets or properties of the Company taken as a whole, (b) the ability of the Company to perform its obligations under the Loan Documents to which it is a party or (c) the validity or enforceability of any of the Loan Documents.

“*Multiemployer Plan*” means any Plan that is a “multiemployer plan” (as such term is defined in section 4001(a)(3) of ERISA).

“*Note*” is defined in Section 1.

“*Obligations*” means and include all Indebtedness, liabilities, obligations, covenants, duties and amounts owing or to be owing by Company to Purchasers of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, arising directly or indirectly, under any Loan Documents, and all renewals, extensions and/or rearrangements of any of the foregoing. The term includes, but is not limited to, all interest, reasonable charges, expenses, consultants’ and attorneys’ fees and any other sum chargeable to Company under any of the Loan Documents.

“*Officer’s Certificate*” means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

“*Payment Default*” means an event of default which occurs and is continuing pursuant to Sections 12(a) or 12(b).

“*Person*” means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

“*Permitted Encumbrances*” shall mean (i) royalties, overriding royalties, reversionary interests, production payments and similar burdens which are in existence on the date hereof; (ii) sales contracts or other arrangements for the sale of production Hydrocarbons which would not

(when considered cumulatively with the matters discussed in clause (i) above) deprive Company of any Material right in respect of Company's assets or properties (except for rights customarily granted with respect to such contracts and arrangements); (iii) statutory Liens for taxes or other assessments that are not yet delinquent (or that, if delinquent, are being contested in good faith by appropriate proceedings, levy and execution thereon having been stayed and continue to be stayed and for which Company has set aside on its books adequate reserves in accordance with GAAP); (iv) easements, rights of way, servitudes, permits, surface leases and other rights in respect to surface operations, pipelines, grazing, logging, canals, ditches, reservoirs or the like, conditions, covenants and other restrictions, and easements of streets, alleys, highways, pipelines, telephone lines, power lines, railways and other easements and rights of way on, over or in respect of Company's assets or properties and that do not individually or in the aggregate, cause a Material Adverse Effect; (v) rights reserved to or vested in any Governmental Authority to control or regulate Company's assets and properties in any manner, and all applicable laws, rules and orders from any Governmental Authority; and (vi) those liens issued pursuant to Section 11.2

"Personal Property" means all personal property of every kind including all goods (including equipment), documents, accounts, chattel paper (whether tangible or electronic), money, deposit accounts, letters of credit and letter-of-credit rights (without regard to whether the letter of credit is evidenced by a writing), documents, securities and all other investment property, supporting obligations, any other contract rights (including all rights in transportation agreements, processing agreements, delivery agreements and seismic agreements related to the Properties) or rights to the payment of money, insurance claims and proceeds, all general intangibles (including all payment intangibles and rights to seismic and other geophysical data) and all permits, licenses, books and records related to the Properties or the businesses of Company, whether now owned or later acquired by Company.

"Plan" means an "employee benefit plan" (as defined in section 3(3) of ERISA) that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate may have any liability.

"Property" or *"Properties"* means, collectively, all real and personal property of Company, including but not limited to goods, accounts, contract rights, money, deposits, receivables, inventory, licenses, permits, leases, insurance proceeds, intangibles, all books and records with respect to all of the foregoing and the interests of Company in any oil and gas transportation agreements, processing agreements, delivery agreements, seismic and other geophysical data and agreements, and other similar agreements. For the purposes of this Agreement, the Company will be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement, or leases under a financing lease or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person in a transaction intended to create a financing.

"QPAM Exemption" means Prohibited Transaction Class Exemption 84-14 issued by the United States Department of Labor.

“*Redemption Price*” is defined in Section 8.2.

“*Registration Rights Agreement*” means the Registration Rights Agreement in a form reasonably acceptable to the Company and the Purchasers.

“*Responsible Officer*” means any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this Agreement.

“*Restricted Payments*” means any Distribution in respect of the Company, including, without limitation, any Distribution resulting in the acquisition by the Company of securities which would constitute treasury stock.

“*SEC*” means the United States Securities and Exchange Commission or any other successor Governmental Authority.

“*Securities Act*” means the Securities Act of 1933, as amended from time to time.

“*Securities Laws*” means the Securities Act and all other federal, provincial or state securities or “blue sky” laws or foreign securities laws and all rules or regulations promulgated thereunder by any Governmental Authority, each as amended from time to time.

“*Senior Financial Officer*” means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company.

“*Subsidiary*” means, as to any Person, any corporation, association or other business entity in which such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such entity, and any partnership of which the Company or a Subsidiary is the general partner.

“*Transfer*” means, with respect to any Person, any transaction in which such Person sells, conveys, transfers or leases (as lessor) any of its property having a Fair Market Value of greater than US \$5 million.

“*Wholly-Owned Subsidiary*” means, at any time, any Subsidiary one hundred percent (100%) of all of the Equity Interests (except directors’ and nominee’s qualifying shares) and voting interests of which are owned by any one or more of the Company and the Company’s other Wholly-Owned Subsidiaries at such time.

SCHEDULE "C"

INSTITUTIONAL ACCREDITED INVESTOR CERTIFICATE

_____, 20____

Defined terms used but not defined herein shall have the meaning ascribed to such terms in the Convertible Note Purchase Agreement (for U.S. Institutional Accredited Investors) (the "Purchase Agreement"), dated _____, 20____, between _____ (the "Corporation") and each Purchaser of the Convertible Note in the United States (and together with the common shares of the Corporation issuable in conversion thereof (the "Securities")).

1. In connection with the execution of the Agreement to which this Certificate is attached, the Purchaser represents and warrants to the Corporation that:

- (a) it is an institution of the type referred to in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the U.S. Securities Act.

Rule 501(a)(1), (2), (3) or (7) of Regulation D under the U.S. Securities Act includes the following types of institutional "accredited investors":

- (A) any entity in which all of the equity owners are "accredited investors";
- (B) any bank as defined in Section 3(a)(2) of the U.S. Securities Act or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the U.S. Securities Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934; any insurance company as defined in Section 2(a)(13) of the U.S. Securities Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of US\$5,000,000; any employee benefit plan within

the meaning of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of US\$5,000,000, or, if a self-directed plan, with investment decisions made solely by persons that are “accredited investors”;

- (C) any private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;
 - (D) any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership not formed for the specific purpose of acquiring the Shares, with total assets in excess of US\$5,000,000; or
 - (E) Any trust with total assets in excess of US\$5,000,000, not formed for the specific purpose of acquiring the Special Warrants, whose purchase is directed by a sophisticated person, being defined as a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment.
- (b) it is not acquiring any Convertible Notes as a result of any general solicitation or general advertising (as such terms are defined in Regulation D under the U.S. Securities Act) including any advertisements, articles, notices or other communications published in any newspaper, magazine or similar media, or broadcast over radio or television, or any seminar or meeting whose attendees have been invited by general solicitation of general advertising.

2. The Purchaser hereby covenants that:

- (a) if it decides to offer, sell or otherwise transfer any of the Securities, it will not offer, sell or otherwise transfer any of such Securities directly or indirectly, unless:
 - vi. the sale is to the Corporation;
 - vii. the sale is made outside the United States in a transaction meeting the requirements of Regulation S under the U.S. Securities Act and in compliance with applicable local laws and regulations and the Purchaser has prior to such sale furnished to the Corporation an opinion of counsel reasonably satisfactory to the Corporation to the effect that such transaction does not require registration pursuant to Regulation S under the U.S. Securities Act;
 - viii. the sale is made in the United States pursuant to the exemption from the registration requirements under the U.S. Securities Act provided by

Rule 144 thereunder and in accordance with any applicable state securities or “blue sky” laws, and the Purchaser has prior to such sale furnished to the Corporation an opinion of counsel reasonably satisfactory to the Corporation to the effect that such transaction does not require registration pursuant to Rule 144 under the U.S. Securities Act;

- ix. the Securities are sold in the United States in a transaction that does not require registration under the U.S. Securities Act or any applicable state laws and regulations governing the offer and sale of securities, and the Purchaser has prior to such sale furnished to the Corporation an opinion of counsel reasonably satisfactory to the Corporation to the effect that such transaction does not require registration; or
- x. the sale is made in the United States pursuant to an effective registration statement filed under the U.S. Securities Act.

3. The Purchaser hereby acknowledges and agrees that:

- (a) the Securities are and will be “restricted securities” as that term is defined in Rule 144 under the U.S. Securities Act, and the certificates representing the Securities, as well as all certificates issued in exchange for or in substitution of the foregoing, until such time as is no longer required under the applicable requirements of the U.S. Securities Act or applicable state securities laws, will be subject to the terms of and bear, on the face of such certificate, a legend in substantially the following form:

NEITHER THE NOTE NOR THE SHARES OF COMMON STOCK THAT MAY BE ISSUED UPON CONVERSION HEREOF HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE “ACT”), OR THE SECURITIES LAWS OF ANY JURISDICTION. SUCH SECURITIES MAY NOT BE OFFERED, SOLD, HYPOTHECATED, GIVEN, BEQUEATHED, TRANSFERRED, ASSIGNED PLEDGED, ENCUMBERED, OR OTHERWISE DISPOSED OF (“TRANSFERRED”) EXCEPT PURSUANT TO (I) A REGISTRATION STATEMENT WITH RESPECT TO SUCH SECURITIES THAT IS EFFECTIVE UNDER THE ACT AND APPLICABLE STATE SECURITIES LAW, OR (II) ANY EXEMPTION FROM REGISTRATION UNDER THE ACT, AND APPLICABLE STATE SECURITIES LAW, RELATING TO THE DISPOSITION OF SUCH SECURITIES, PROVIDED THAT AN OPINION OF COUNSEL IS FURNISHED TO THE COMPANY, TO THE EXTENT REASONABLY REQUESTED BY THE COMPANY, IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND/OR APPLICABLE STATE SECURITIES LAW IS AVAILABLE.

IN ADDITION, THE NOTE MAY NOT BE TRANSFERRED UNLESS SUCH TRANSFER COMPLIES WITH THE PROVISIONS OF THE NOTE. NO

TRANSFER OF THE NOTE WILL BE MADE ON THE BOOKS OF THE COMPANY UNLESS ACCOMPANIED BY EVIDENCE OF COMPLIANCE WITH THE TERMS OF THE NOTE. THE NOTE IS ALSO SUBJECT TO OTHER RIGHTS AND OBLIGATIONS AS SET FORTH IN THE NOTE.

- (b) the Corporation will refuse to register any sale of Securities made in breach of the provisions hereof.
- (c) there may be material tax consequences to the Purchaser of an acquisition or disposition of the Securities. The Corporation gives no opinion and makes no representation with respect to the tax consequences to the Purchaser under United States, state, local or foreign tax law of the undersigned's acquisition or disposition of such Shares.
- (d) the Corporation may make a notation on its records or give instructions to its registrar(s) and transfer agent(s) in order to implement the restrictions on transfer set forth and described in this Certificate and the Agreement of which this Certificate is a part.
- (e) the enforcement of civil liabilities under the United States federal securities laws may be affected adversely by the fact that many of the Corporation's directors and officers are residents of _____ and _____, and that most of or all of the assets of the Corporation are located outside of the United States;
- (f) it has had an opportunity to review all the pertinent facts concerning the Corporation and has had access to such financial and other information concerning the Corporation as the Purchaser has considered necessary to make a decision to invest in the Securities and has availed itself of such opportunity to the full extent desired;
- (g) it has personally communicated or been given the opportunity to ask questions of and receive answers from an executive officer of the Corporation regarding the business and financial affairs of the Corporation, its products and activities, and its plans for the future. The Purchaser acknowledges that if the Purchaser would like to further avail itself of the opportunity to ask additional questions of the Corporation, the Corporation has informed the Purchaser that it will make arrangements for such an opportunity on request.
- (h) it has received a copy of the Corporation's registration statement on Form SB-2 filed with the SEC on _____, 20____, as well as a copy of the Corporation's annual report on Form 10-KSB, for the year ended December 31, 20____, and has had the opportunity to ask questions and received answers from an executive officer of the Corporation regarding the disclosures contained in such filings, including but not limited to questions relating to the information contained under the heading "Risk Factors" and "Legal Proceedings".
- (i) it has been advised that no accountant or attorney engaged by the Corporation is acting as its representative, accountant, or attorney.

- (j) the Corporation and the Agent will rely upon the truth and accuracy of the foregoing acknowledgements, representations, warranties and agreements, and the Purchaser irrevocably authorizes the Corporation and the Agent to produce the same or a copy thereof to any interested party in any administrative or legal proceeding or official enquiry with respect to the matters set forth herein. The Purchaser further agrees that if any of the acknowledgements, representations, warranties or agreements made herein is no longer accurate, it shall promptly notify the Corporation.

“PURCHASER”

By: _____
Name:
Title: