



This is the 1st affidavit
of Dillon Cameron in this case
and was made on 02 / February / 2017

NO. S-171026
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DEANS KNIGHT CAPITAL MANAGEMENT LTD.

PETITIONER

AND:

SHOEME TECHNOLOGIES LIMITED

RESPONDENT

AFFIDAVIT

I, **DILLON CAMERON**, OF 1500-999 West Hastings Street, Vancouver, BC, V6C 3A6, businessperson, SWEAR (OR AFFIRM) THAT:

1. I am a portfolio manager with Deans Knight Capital Management Ltd. ("**Deans Knight**"). As such, I have personal knowledge of the facts and matters deposed to herein, except where indicated to be based on information and belief, in which case I verily believe such facts and matters to be true.
2. Deans Knight is an investment fund and portfolio manager doing business in Vancouver, British Columbia.
3. To the best of my knowledge, ShoeMe Technologies Limited (the "**Debtor**") carried on business as an online shoe retailer until January 27, 2017, when it ceased operations.
4. To the best of my knowledge, the Debtor maintains its head office in Vancouver, BC, and also has a call centre location in Burnaby BC.
5. To the best of my knowledge, the Debtor also operated physical retail locations in Vancouver, British Columbia, and Toronto, Ontario, as well as owning inventories which are held at a third party logistics facility in Brampton, Ontario, which also ceased operations on January 27, 2017.

Debenture Purchase Agreement and Security

6. On or about December 12, 2014, Deans Knight, acting as portfolio manager on behalf of certain investors (the "**Investors**"), and 1006903 BC Ltd. (now known as Shoes.com

Technologies Inc., referred to herein as the "**Parent**") entered in a debenture purchase agreement (the "**Debenture Purchase Agreement**").

7. Now shown to me and attached hereto as **Exhibit "A"** is a copy of the Debenture Purchase Agreement without exhibits.

8. Under the Debenture Purchase Agreement, Deans Knight, acting as portfolio manager on behalf of the Investors, agreed to purchase secured convertible debentures of the Parent in the aggregate principal amount CAD\$10 million (the "**Debentures**").

9. Pursuant to a collateral agency agreement dated December 12, 2014, among the Parent, Deans Knight, and the Investors, Deans Knight was appointed as collateral agent for and on behalf of the Investors (in such capacity, the "**Collateral Agent**").

10. Pursuant to the terms of the Debentures, the Debtor, A12345 Holdings Inc. (now known as Shoes.com Holdings (USA) Inc., referred to herein as "**US Holdco**"), Gerler and Son Inc., (now known as Onlineshoes.com Inc., referred to herein as "**Gerler**"), and Shoes.com, Inc. ("**Shoes.com**", collectively with US Holdco and Gerler, the "**US Guarantors**", and collectively with US Holdco, Gerler and the Debtor, the "**Guarantors**") among others, guaranteed the payment and performance of the Parent's present and future debts, liabilities, and obligations to the Investors under or in connection with each Debenture.

11. Now shown to me and attached hereto as **Exhibits "B-1", "B-2" and "B-3"** are the Debentures.

12. The principal terms of the Debenture Purchase Agreement and the Debentures are as follows:

- (a) The aggregate principal amount of the purchase price was \$10 million;
- (b) Interest accrues on unpaid principal (i) at a rate of 10% per annum; (ii) while an event of default exists at a rate of 15% per annum (as applicable, the "**Interest Rate**");
- (c) Unless accelerated by the Collateral Agent, the principal amount and interest owing is due on June 30, 2017 (the "**Maturity Date**");
- (d) Each of the Guarantors unconditionally, jointly and severally, guaranteed the obligations of the Parent; and
- (e) The Debentures are made and to be construed in accordance with the laws of the Province of British Columbia and each Guarantor irrevocably and unconditionally submits for itself and its property to the jurisdiction of the Courts of the Province of British Columbia in any action or proceeding arising out of or relating to the Debentures and waives any objection to such venue.

13. Also on or about December 12, 2014, to secure the Debtor's obligations to the Collateral Agent, the Debtor also signed a general security agreement granting the Collateral Agent a security interest in all its present and after-acquired property (the "**GSA**").

14. Now shown to me and attached hereto as **Exhibit "C"** is the GSA.

15. The Parent and the US Guarantors also executed security agreements and other security to secure the payment of amounts due under the Debentures (collectively with the GSA, the "**Security**").

16. Pursuant to the Debentures, as of February 2, 2017, the Parent was indebted to the Collateral Agent, guaranteed by the Debtor, in the amount of \$10,098,630.14, plus interest and costs of enforcement, which interest continues to accrue (the "**Indebtedness**").

17. The Indebtedness has not been repaid.

Brown Shoe Intercreditor Agreement

18. Brown Shoe Investment Company ("**Brown Shoe**") is a creditor of the Debtor pursuant to a Secured Convertible Note dated December 12, 2014, in the aggregate principal sum of US\$7.5 million issued by the US Holdco, in respect of which the Debtor is a guarantor.

19. On December 12, 2014, the Collateral Agent, Brown Shoe, the Parent, the Debtor, the U.S. Holdco, Gerler and Shoes.com entered into a Subordination, Postponement and Standstill Agreement (the "**Brown Shoe Intercreditor Agreement**") which provided for, among other things, the subordination of Brown Shoe's security to the Collateral Agent.

20. As a result of the Brown Shoe Intercreditor Agreement, the Collateral Agent has a senior ranking charge over all of the Debtor's present and after-acquired property senior in interest to Brown Shoe.

21. Now shown to me and attached hereto as **Exhibit "D"** is a copy of the Brown Shoe Intercreditor Agreement.

Wells Fargo

22. On or about March 31, 2015, Wells Fargo Bank, National Association ("**Wells Fargo**"), Gerler, Shoes.com, US Holdco and the Parent entered into a credit and security agreement providing for a credit facility to Gerler and Shoes.com, guaranteed by US Holdco and the Parent, in the principal amount of US\$10 million (the "**Wells Fargo Credit Agreement**").

23. Today, Jeffrey Mason, chief financial officer and director of the Debtor, told me that, as at January 30, 2017, the indebtedness under the Wells Fargo Credit Agreement was approximately US\$3.8 million.

24. In conjunction with the Wells Fargo Credit Agreement, on or about March 31, 2015, Wells Fargo, US Holdco, Gerler, Shoes.com, the Parent and the Collateral Agent entered into a

Subordination, Postponement and Standstill Agreement (the "**Wells Fargo Intercreditor Agreement**") which provides, among other things:

- (a) for the subordination of the Collateral Agent's security interests in certain property of the Parent, the US Holdco and the US Guarantors to Wells Fargo;
- (b) that, subject to certain conditions, the Collateral Agent requires the consent of Wells Fargo to any enforcement actions in respect of the Parent; and
- (c) that Wells Fargo would provide any notice of default under the Wells Fargo Credit Agreement.

Default under the Debentures and Security

25. On January 27, 2017, on a telephone call with Jeffrey Mason, Jeffrey Mason informed me that the Parent and the Guarantors had ceased operations.

26. Also on or about January 27, 2017, the Parent issued a press release announcing it would be shutting down operations as at that date, taking the Debtor's e-commerce properties offline and closing its two brick-and-mortar stores (the "**Press Release**").

27. Now shown to me and marked as **Exhibit "E"** is a copy of the Press Release.

28. A failure to maintain its business operations constitutes an event of default under the debentures issued under the Debenture Purchase Agreement.

29. As a result of the cessation of operations, the Parent, the Debtor and all the Guarantors are in default pursuant to the Debentures and the Security.

Wells Fargo Demand

30. On January 31, 2017, I received a Notice pursuant to the Wells Fargo Intercreditor Agreement from Kevin Freer of Wells Fargo stating that Wells Fargo had made demand on Gerler and Shoes.com and accelerated all amounts owing under the Wells Fargo Credit Agreement (the "**Default Notice**"). The Default Notice attached a Notice of Events of Default, Acceleration and Termination of Commitment addressed to Gerler and Shoes.com.

31. Now shown to me and attached as **Exhibit "F"** is a copy of the Default Notice.

32. I am informed by counsel to the Collateral Agent that counsel for Wells Fargo has advised that they intend to commence receivership proceedings in the United States in respect of Gerler and Shoes.com this week.

33. Based in part on the ongoing discussion among counsel for Wells Fargo and counsel for the Collateral Agent, I expect that Wells Fargo will be paid in full out of the assets of Gerler and Shoes.com disposed of in receivership in the United States.

34. I am further informed by counsel to the Collateral Agent that counsel for Wells Fargo has advised that Wells Fargo will not currently consent to the commencement of receivership proceedings in Canada in respect of the Parent.

35. Based in part on the ongoing discussion among counsel for Wells Fargo and counsel for the Collateral Agent, I believe that any receiver appointed in the United States will work cooperatively with any receiver appointed by this Court.

Demand by Collateral Agent

36. On February 1, 2017, the Collateral Agent issued a demand letter and a Notice of Intention to Enforce Security to the Debtor for the payment of the entire Indebtedness.

37. Also on February 1, 2017, the Debtor executed a waiver of the ten-day notice period and a consent to enforcement of security by the Collateral Agent.

38. The Collateral Agent intends to take enforcement action in respect of the Parent, as holder of intellectual property and domain names used in the businesses of the Guarantors, either (a) after Wells Fargo has been paid in full from the receivership proceedings in the United States or (b) with Wells Fargo's consent prior to that date.

39. As of the date hereof, the Collateral Agent is restricted from taking such enforcement action due to the Wells Fargo Intercreditor Agreement.

Urgency, Need for Receiver, and Funding of Receivership

40. I believe it is urgently necessary to appoint a receiver to preserve and ensure orderly liquidation of the Collateral Agent's collateral.

41. The Debtor and its affiliates have ceased operations and are not generating any additional cash or receivables.

42. The Debtor has limited cash and is incurring expenses, including employment expenses.

43. Today, Jeffrey Mason told me that all the directors of the Debtor have resigned and the directors of the parent will likely soon resign, requiring the companies' secured creditors take proactive steps to preserve value as soon as possible.

44. Given information provided to me by Todd Martin of Alvarez & Marsal Inc. ("A&M") in respect of the value of inventory and other assets of the Debtor and the Parent, I do not believe that any creditor junior in interest to the Collateral Agent will receive a distribution from the receivership of the Debtor.

45. A&M was previously engaged by the Parent and the Debtor as an advisor to assist in considering and assessing alternative restructuring strategies.

46. Further, I expect that the Collateral Agent and the Investors will not recover in full on the Indebtedness and will suffer a shortfall.

47. I have been informed by Todd Martin of A&M that A&M has consented to act as receiver in this matter (in such capacity, the "**Receiver**").

48. Financial information on the Debtor provided to me by the Debtor and A&M shows that, depending on the timing of asset sale(s), borrowings are likely required by the Receiver to effect an orderly liquidation of the Debtor's assets.

49. Deans Knight, on behalf of certain of its clients, is willing to provide funding of up to \$500,000 to the Receiver only on a super-priority basis secured by a Court-ordered charge.

50. Today, I was informed by Jeffrey Mason that the Debtor has consented to A&M acting as Receiver should that occur.

51. I also believe that it is necessary for the Receiver to have the power to assign the Debtor into bankruptcy to fully administer the Debtor's estate, including certain priority payables owed by the Debtor.

SWORN (OR AFFIRMED) BEFORE ME at
Vancouver, BC, on 02/02/2017.

DENTONS CANADA LLP
Barristers & Solicitors
20th Floor, 250 Howe Street
Vancouver, B.C. V6C 3R8
Telephone (604) 687-4460

William Stranks

A Commissioner for taking Affidavits within
British Columbia


DILLON CAMERON

This is **EXHIBIT "A"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.

A handwritten signature in black ink, appearing to be 'W. J. [unclear]', written over a horizontal line.

A Commissioner for taking
Affidavits within British Columbia

THIS DEBENTURE PURCHASE AGREEMENT made as of the 12th day of December, 2014

AMONG: **1006903 B.C. LTD.**, a corporation governed by the *Business Corporations Act* (British Columbia) (the "**Issuer**")

AND: **DEANS KNIGHT CAPITAL MANAGEMENT LTD.**, a corporation governed by the Canada Business Corporations Act (the "**Arranger**") in its capacity as portfolio manager on behalf of the investors (the "**Investors**") set forth on Schedule A

WHEREAS in order to provide the Issuer with funds for the purposes of assisting in financing the acquisition by A12345 of all of the issued and outstanding shares of Shoes.com, Inc., a Delaware corporation ("**Shoes.com**") and its business, the Arranger, acting as portfolio manager on behalf of the Investors, has committed to purchase secured convertible debentures (each a "**Debenture**" and collectively, the "**Debentures**") of the Issuer in the form attached hereto as Exhibit 2.1 in the aggregate principal amount of ten million Dollars (\$10,000,000) and secured by the Security (defined below) on the present and after acquired properties of the Issuer and its Subsidiaries (defined below) as provided for in the Security Agreements (defined below) on the terms and subject to the conditions set forth herein in the amounts in respect of each Investor as set forth in Schedule A;

AND WHEREAS the Debentures are convertible into fully paid Common Shares of the Issuer at any time before the Expiration Time (as defined in each of the Debentures) at the Conversion Price (defined below) per share, subject to adjustment as provided for in the Debentures;

AND WHEREAS the Issuer and the Arranger are executing and delivering this Agreement and the Debentures are being delivered to the Investors in reliance upon the exemption from the prospectus and registration requirements of Applicable Securities Laws (defined below) provided under NI 45-106 and NI 31-103 of the British Columbia Securities Commission; and

NOW THEREFORE, in consideration of the foregoing, and the representations, warranties, covenants and conditions set out below, the Parties, intending to be legally bound, hereby agree as follows.

ARTICLE 1 **INTERPRETATION**

1.1 Definitions

- (a) "**A12345**" means A12345 Holdings, Inc., a Washington, USA corporation;
- (b) "**Acquisition Agreement**" means the stock purchase agreement dated the date hereof among the Seller, as seller, A12345, as purchaser, and the Issuer in respect of the purchase and sale of all of the issued and outstanding shares of capital stock of Shoes.com;
- (c) "**Affiliate**" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified;
- (d) "**Agreement**" means this Debenture Purchase Agreement and the Exhibits and Schedules hereto or thereto, as the same may be amended, modified or restated, and in effect at any time;

- (e) **"Applicable Laws"** means, with respect to any Person, property, transaction or event, any present or future: (i) domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, convention, rule, regulation, restriction or by-law (zoning or otherwise); (ii) judgment, order, writ, injunction, decision, direction, determination, ruling, decree or award; (iii) regulatory policy, practice, ruling, interpretation, guideline or directive; or (iv) any order, permit, approval, grant, license, consent, right, franchise, privilege, certificate exemption, waiver, registration or other authorization, binding on or affecting the Person, property, transaction or event referred to in the context in which the term is used in each case whether or not having the force of law;
- (f) **"Applicable Securities Laws"** means all Applicable Laws of any Governmental Authority relating to the distribution, issue, transfer, trading or purchase and sale in or of securities, including the rules and regulations of any stock exchange on which the securities of the Issuer are listed for trading or to which the Issuer has made an application (which has not been withdrawn) for the listing of any of its securities;
- (g) **"Arranger"** has the meaning set out in the parties to this Agreement;
- (h) **"Arranger Indemnified Party"** and **"Arranger Indemnified Parties"** have the meanings set out in Section 7.1;
- (i) **"Bank Debt"** means Financial Indebtedness of Gerler at any time (a) in the aggregate principal amount of up to five million US Dollars (US\$5,000,000) under the Amended and Restated Credit Agreement dated as of April 1, 2014 between U.S. Bank National Association and Gerler; or (b) in the aggregate principal amount of up to seven million and five hundred thousand US Dollars (US\$7,500,000) under a credit agreement to be entered into by Wells Fargo Bank, National Association and Gerler;
- (j) **"Bank Intercreditor Agreement"** means as the context requires, the U.S. Bank Intercreditor Agreements or the Wells Fargo Intercreditor Agreement;
- (k) **"BDC Loan"** means Financial Indebtedness of SHOEMe in the aggregate principal amount of one hundred twenty-five thousand Dollars (\$125,000) to the Business Development Bank of Canada under a letter of offer dated October 5, 2012;
- (l) **"Board"** means the board of directors of the Issuer or its Subsidiaries, as the context may require;
- (m) **"Board Observer Agreement"** means the Board Observer Agreement in the form of Exhibit 6.4;
- (n) **"Brown Shoe Intercreditor Agreement"** means the Subordination, Postponement and Standstill Agreement among the Arranger, the Seller, the Issuer and each of the Subsidiaries (except for Gerler), dated the date hereof, in the form of Exhibit 2.2(a)(ii)(B);
- (o) **"Business"** means the business of the Issuer and its Subsidiaries, being the sale and distribution of footwear to retail customers through the facilities of the Internet;
- (p) **"Business Day"** means a day (other than a Saturday, Sunday or statutory holiday) on which banks are generally open for business in the City of Vancouver, British Columbia;

- (q) **"Canadian GAAP"** means generally accepted accounting principles as may be described in the Canadian Institute of Chartered Accountants Handbook, including the Canadian Accounting Standards for Private Enterprises to the extent applicable, and other principal sources recognized from time to time by the Canadian Institute of Chartered Accountants;
- (r) **"Closing"** means completion of the issuance of the Debentures in accordance with the terms hereof;
- (s) **"Closing Date"** means the date of Closing;
- (t) **"Collateral"** has the meaning given thereto in the Security Agreements;
- (u) **"Collateral Agency Agreement"** means the Collateral Agency Agreement in the form of Exhibit 2.2(a)(ii)(A);
- (v) **"Collateral Agent"** has the meaning ascribed thereto in the Collateral Agency Agreement;
- (w) **"Commitment Fee"** has the meaning set forth in Section 2.3;
- (x) **"Common Shares"** means the shares of common stock in the capital of the Issuer as the same are constituted on the date of this Agreement;
- (y) **"Contract"** means any contract, agreement, license, franchise, lease, arrangement, commitment, understanding or other right or obligation (written or oral);
- (z) **"Control"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise and "Controlling" and "Controlled" have meanings correlative thereto;
- (aa) **"Conversion Price"** has the meaning provided for in each of the Debentures;
- (bb) **"Debenture"** has the meaning set out in the recitals;
- (cc) **"Debenture Guarantee"** means the guarantee of each Debenture by the Guarantors pursuant to Article 10 of each Debenture;
- (dd) **"Default"** has the meaning provided for in each Debenture;
- (ee) **"deliver"** or any derivative thereof means, actual delivery to the other Party or its professional advisors;
- (ff) **"Demand Note"** means the demand promissory note dated as of the date hereof issued by A12345 to the Issuer in the aggregate principal amount of four million US Dollars (US\$4,000,000);
- (gg) **"Disclosure Statement"** means the Disclosure Statement attached hereto as Schedule 4;
- (hh) **"Encumbrance"** includes any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever

created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale leaseback arrangement, any right of set-off and any guarantees or indemnities;

- (ii) **"Environment"** means soil, surface waters, groundwater, land, stream sediments, surface or subsurface strata and ambient air;
- (jj) **"Environmental Laws"** means all Applicable Laws that address, are related to, or are otherwise concerned with, the protection of the Environment, health or safety issues (including occupational safety and health);
- (kk) **"Equity Interests"** of any Person means (i) any and all shares or other equity interests (including common shares, preferred shares, partnership interests, trust interests, limited liability company interests and limited liability partnership interests) in such Person and (ii) all rights to purchase, warrants or options, including securities convertible into or exchangeable for, participations or other equivalents of or interests in (however designated) such shares or other interests in such Person (whether or not currently exercisable, exchangeable or convertible);
- (ll) **"Existing Subsidiary"** means each of SHOEme, A12345 and Gerler;
- (mm) **"Financial Indebtedness"** of any Person at any date means, without duplication, all Indebtedness of such Person: (i) for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof); (ii) evidenced by bonds, debentures, Debentures or other similar instruments; (iii) in respect of financial letters of credit or other similar instruments (or reimbursement obligations with respect thereto); (iv) to pay the deferred and unpaid purchase price of property or services; (v) in respect of leases of such Person that are required to be shown as a liability on the financial statements of such Person prepared in accordance with GAAP; (vi) secured by an Encumbrance on any property of such Person, whether or not such Indebtedness is assumed by such Person or the recourse of the holder of such Indebtedness is limited to such property; (vii) under conditional sale or other title retention agreements relating to assets purchased by such Person; (viii) in respect of redemption obligations with respect to any shares of any other Person which are (I) redeemable, retractable, payable or required to be purchased or otherwise retired or extinguished, or convertible into debt of such Person (A) at a fixed or determinable date, (B) at the option of any holder thereof, or (C) upon the occurrence of a condition not solely within the control and discretion of such Person; or (II) convertible into any other shares described in (I) above; (ix) to the extent not otherwise included in this definition, Hedging Obligations of such Person; and (x) all Guarantees of Indebtedness of the type referred to in any of the foregoing sub-clauses (i) to (ix) of another Person. Notwithstanding the foregoing, the following shall not be considered Financial Indebtedness: (i) earn-outs or similar profit sharing arrangements provided for in acquisition agreements which are determined on the basis of future operating earnings or other similar performance criteria (which are not determinable at the time of acquisition) of the acquired assets or entities; and (ii) accrued expenses, trade payables, customer deposits or deferred income taxes arising in the ordinary course of business of such Person. Any Indebtedness which is incurred at a discount to the principal amount at maturity thereof shall be deemed to have been incurred at the full principal amount at maturity thereof. For all purposes hereof, the Financial Indebtedness of any Person shall include the Financial Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in

which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly non-recourse to such Person;

- (nn) **"Financial Statements"** has the meaning set out in Section 4.16;
- (oo) **"first currency"** has the meaning set out in Section 8.13;
- (pp) **"GAAP"** means Canadian GAAP and/or US GAAP, as the context requires;
- (qq) **"Gerler"** means Gerler and Son, Inc., a Washington, USA corporation;
- (rr) **"Gerler Financial Statements"** has the meaning set out in Section 4.16(a);
- (ss) **"Governmental Authority"** means any (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government or any governmental or public department, (ii) court, tribunal, arbitral body, statutory body, commission, board, bureau or agency, (iii) self-regulatory organization or authority including any stock exchange on which any securities of the Issuer are listed, (iv) subdivision, agent, commission, board or authority of any of the foregoing, or (v) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing and includes a Securities Regulatory Authority;
- (tt) **"Guarantee"** means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the **"primary obligor"**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning;
- (uu) **"Guarantor"** means each of SHOEme, A12345, Gerler and Shoes.com;
- (vv) **"Hazardous Substances"** means any pollutant, contaminant, waste of any nature, hazardous substance, hazardous material, toxic substance, dangerous substance, dangerous good or other substance that is prohibited, listed, defined, designated or classified as dangerous, hazardous, radioactive, explosive or toxic or a pollutant or a contaminant under or pursuant to any applicable Environmental Laws, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefore and asbestos or asbestos-containing materials or any substance which is deemed under Environmental Laws to be deleterious to natural resources or worker or public health and safety;

- (ww) **"Hedging Obligations"** of any Person means the obligations of such Person pursuant to (i) any interest rate swap agreement, interest rate collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in interest rates; (ii) agreements or arrangements designed to protect such Person against fluctuations in foreign currency exchange rates in the conduct of its operations; or (iii) any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in commodity prices, in each case entered into in the ordinary course of business for bona fide hedging purposes and not for the purpose of speculation;
- (xx) **"Indebtedness"** means all present and future obligations, indebtedness, liabilities, covenants, agreements and undertakings of a Person howsoever arising, whether direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred, including all future advances and re-advances, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether such Person be bound alone or with others and whether as principal or surety, including all interest, fees, expenses, indemnities and costs;
- (yy) **"Indemnified Party"** has the meaning set out in Section 7.2(a);
- (zz) **"Indemnifying Party"** has the meaning set out in Section 7.2(a)(i);
- (aaa) **"Initial Public Offering"** means the issue of Common Shares in connection with the Issuer becoming a "reporting issuer" under Applicable Securities Laws and the listing of the Common Shares on a stock exchange or a Merger Transaction where the resulting entity is a "reporting issuer" under Applicable Securities Laws;
- (bbb) **"Intercompany Notes"** means Financial Indebtedness of A12345 (i) in the aggregate principal amount of ten million US Dollars (US\$10,000,000) under a secured promissory note dated July 7, 2014 issued by A12345 to the Issuer, as subsequently assigned to and assumed by SHOEme, as payee, pursuant to an Assignment and Assumption Agreement dated November 26, 2014 among the Issuer, SHOEme and A12345; (ii) in the aggregate principal amount of two million US Dollars (US\$2,000,000) under a promissory note dated the date hereof issued by A12345 to the Issuer; and (iii) under the Demand Note, each as subordinated pursuant to the Brown Shoe Intercreditor Agreement;
- (ccc) **"Intercreditor Agreements"** means the Bank Intercreditor Agreement and the Brown Shoe Intercreditor Agreement;
- (ddd) **"Internal Controls"** has the meaning set out in Section 4.17(a);
- (ece) **"Investors"** has the meaning set out in the parties to this Agreement;
- (fff) **"Issuer"** means 1006903 B.C. Ltd., a British Columbia company, and its permitted successors and assigns;
- (ggg) **"Judgment Conversion Rate"** has the meaning set out in Section 8.13;
- (hhh) **"Lease or License Documents"** has the meaning set out in Section 4.21(c);
- (iii) **"Leased or Licensed Properties"** has the meaning set out in Section 4.21(c);

- (jjj) **"Losses"** has the meaning set out in Section 7.1(a);
- (kkk) **"material"** has the meaning set out in Section 4.11(a);
- (lll) **"Material Adverse Change"** means any event, occurrence, development after the date hereof or state of occurrence or state of circumstances or facts that exists at any time on or after the date hereof that has or had or would reasonably be expected to have a Material Adverse Effect;
- (mmm) **"Material Adverse Effect"** means any event, occurrence, development or state of occurrence or state of circumstances or facts that has or had or would reasonably be expected to have an effect that, individually or when taken together with all other events, occurrences, developments or states of occurrence or states of circumstances or fact is reasonably or would reasonably be expected to be: (i) material and adverse to the business, condition (financial or otherwise), results of operations or assets or liabilities (actual or contingent) of the Issuer and its Subsidiaries considered as a whole; (ii) a material impairment of the ability of the Issuer or any of its Subsidiaries to perform its obligations under any Transaction Document to which it is a party; (iii) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer or any of its Subsidiaries of any Transaction Document to which it is a party; (iv) a material adverse effect on the rights or remedies of an Investor in respect of a Debenture or of the Arranger under this Agreement or in respect of the Security Agreements; or (v) a material adverse effect on the value of the Collateral or the ability of the Arranger to exercise its remedies at the times and in the manner contemplated by the Security Agreements; provided, however, that the term Material Adverse Effect shall exclude any effect described in sub-clause (i) above resulting from or arising in connection with: (A) any change in GAAP; (B) any change in the global, national or regional conditions (including the outbreak of war or acts of terrorism) or in the national or global financial or capital markets, (C) any change in the business in which the Issuer and its Subsidiaries operate, provided that for the purposes of (B) and (C) such effect does not primarily relate to (or have the effect primarily relating to) the Issuer and its Subsidiaries or disproportionately adversely affects the Issuer and its Subsidiaries compared to other entities operating in the business in which the Issuer operates, or (D) the Board Observer Agreement;
- (nnn) **"Material Contracts"** has the meaning set out in Section 4.11(a);
- (ooo) **"Merger Transaction"** means any transaction of merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's or any Subsidiary of the Issuer's undertaking, property or assets would become the property of any other Person, other than by or between wholly-owned Subsidiaries of the Issuer or the Issuer and such Subsidiaries, other than in connection with, but not after the completion of, an Initial Public Offering;
- (ppp) **"Most Recent Financial Statements"** has the meaning set out in Section 4.16(b);
- (qqq) **"Most Recent Gerler Financial Statements"** has the meaning set out in Section 4.16(a);
- (rrr) **"Most Recent SHOEme Financial Statements"** has the meaning set out in Section 4.16(b);

- (sss) **"Order"** means any order, judgment, ruling, injunction, assessment, award, decree, directive or writ of any Governmental Authority;
- (ttt) **"ordinary course of business"** or **"ordinary course"** when used in relation to the taking of any action by any Person means that the action is consistent in its nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the day to day operations of the business of such Person;
- (uuu) **"Organizational Documents"** has the meaning set out in Section 4.1;
- (vvv) **"Outside Date"** means December 15, 2014;
- (www) **"Parties"** means the parties hereto and **"Party"** means any one of them;
- (xxx) **"Permit"** means any license, permit, authorization, certificate of authority, qualification or similar document or authority that has been issued or granted by any Governmental Authority;
- (yyy) **"Permitted Encumbrances"** means:
- (i) Security Interests, upon or in any property acquired by the Issuer after the date hereof in the ordinary course of business, created at the time of such purchase or within sixty (60) calendar days thereafter to secure the purchase price of such property or to secure Financial Indebtedness incurred solely for the purpose of financing the acquisition of such property and Security Interests existing on such property at the time of its acquisition (other than any such Security Interest created in contemplation of such acquisition), provided that no such Security Interest shall extend to any property of the Issuer other than the property so acquired;
 - (ii) Encumbrances of the type referred to in Schedule B;
 - (iii) Encumbrances existing at the date hereof and securing each of the Bank Debt with U.S. Bank National Association, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt; and
 - (iv) Encumbrances securing the Bank Debt with Wells Fargo Bank, National Association;
- (zzz) **"Permitted Financial Indebtedness"** means any of the following:
- (i) Financial Indebtedness incurred under each of the Bank Debt, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt;
 - (ii) Financial Indebtedness represented by the Debentures; and
 - (iii) trade payables and accrued liabilities of the Issuer and its Subsidiaries incurred in the ordinary course of business of the Issuer and its Subsidiaries;
- (aaaa) **"Person"** means any individual, firm, partnership, company, corporation or other body corporate, government, governmental body, agency, instrumentality, unincorporated body or association and the heirs, executors, administrators or other legal representatives of an individual;

- (bbbb) **"Plans"** has the meaning set out in Section 4.25(a);
- (cccc) **"Proceeding"** means any action, suit, proceeding, claim, arbitration, mediation or civil, criminal or administrative investigation or examination before any Governmental Authority or before any arbitrator or mediator or similar party, or any investigation or review by any Governmental Authority or similar party;
- (dddd) **"Proprietary Assets"** means, with respect to any Person, all rights of such Person in and to (i) patents, patent applications and patent disclosures, together with all reissuances, divisions, continuations, renewals, continuations-in-part, revisions, extensions and reexaminations thereof; (ii) trademarks, service marks, trade dress, logos, trade names and corporate names, together with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith, and all applications, registrations and renewals in connection therewith; (iii) copyrightable works, copyrights and all applications, registrations and renewals in connection therewith; (iv) all inventions (whether patentable or not), invention disclosures, trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information and business and marketing plans and proposals); (v) computer software (including all source code, object code, data and related documentation); (vi) internet addresses, domain names, websites and web pages; (vii) all income, royalties, damages and payments now and hereafter due and/or payable with respect to any of the foregoing, including damages and payments for past or future infringements or misappropriations thereof; (viii) all rights to sue for past, present and future infringements or misappropriations of any of the foregoing; and (ix) any right to use or exploit any of the foregoing;
- (eeec) **"second currency"** has the meaning set out in Section 8.13;
- (ffff) **"Securities"** has the meaning set out in Section 4.5(a);
- (gggg) **"Securities Regulatory Authorities"** means the securities commissions or similar regulatory authorities in each of the provinces and territories of Canada and any other applicable jurisdiction;
- (hhhh) **"Security"** means the security interests provided or intended to be provided in the Security Agreements;
- (iiii) **"Security Agreements"** means the: (i) General Security Agreement of the Issuer (the **"Issuer GSA"**); (ii) General Security Agreement of SHOEme; (iii) Security Agreement of A12345; (iv) Security Agreement of Gerler; (v) Intellectual Property Security Agreement of Gerler; (vi) Trademark Security Agreement of Gerler; (vii) Security Agreement of Shoes.com; (viii) Intellectual Property Security Agreement of Shoes.com; and (ix) Control Agreement of Shoes.com, each in substantially the respective forms set out in Exhibit 2.2(b)(ii);
- (jjjj) **"Security Interest"** means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease,

capitalized lease or sale-leaseback arrangement, any right of set-off and any guarantees or indemnities;

- (kkkk) **"Seller"** means Brown Shoe Investment Company, Inc.;
- (llll) **"Shares"** has the meaning set out in Section 4.5(a);
- (mmmm) **"SHOEme"** means SHOEme Technologies Limited, a corporation governed by the *Canada Business Corporations Act*;
- (nnnn) **"SHOEme Financial Statements"** has the meaning set out in Section 4.16(b);
- (oooo) **"Shoes.com"** has the meaning set out in the recitals;
- (pppp) **"Solvent"** shall mean, with respect to a Person, that (i) such Person is able to meet its obligations as they generally become due; (ii) such Person has not ceased paying its current obligations in the ordinary course of business as they generally become due; and (iii) the aggregate of such Person's property is, at a fair valuation, sufficient and if disposed of at a fairly conducted sale under legal process, would be sufficient to enable payment of all such obligations, due and accruing due;
- (qqqq) **"Subordinated Debt"** means Financial Indebtedness of A12345 in the aggregate principal amount of seven million and five hundred thousand US Dollars (US\$7,500,000) to the Seller under the convertible subordinated note dated the date hereof bearing interest in accordance with the terms thereof and due on December 12, 2019, or such earlier date pursuant to the terms of such convertible subordinated note, and convertible into Common Shares at a conversion price of US\$21.50 per Common Share, subject to adjustment as provided for in such convertible subordinated note, secured by the security interests provided in a guarantee and security agreement dated the date hereof among the Seller, the Issuer and each of the Subsidiaries, and which Financial Indebtedness is or will be subordinated to the Bank Debt and the Debentures pursuant to the Intercreditor Agreements;
- (rrrr) **"Subsidiary" or "subsidiary"** means: (i) any corporation or company of which at least a majority of the outstanding securities having by the terms thereof ordinary voting power to elect a majority of the board of such corporation or company is at the time directly, indirectly or beneficially owned or under the Control of the Issuer; (ii) any partnership of which, at the time, the Issuer directly, indirectly or beneficially owns or Controls at least a majority of the voting interests (however designated) thereof, or otherwise Controls such partnership; and (iii) any other Person of which at least a majority of the voting interests (however designated) are at the time directly, indirectly or beneficially owned or Controlled by the Issuer, and for greater certainty, includes Shoes.com;
- (ssss) **"Tax" or "Taxes"** shall mean any federal, provincial, state, county, local, or foreign tax, charge, fee, levy, impost, duty, or other assessment, including income, gross receipts, excise, employment, sales, use, consumption, asset, transfer, recording, license, payroll, franchise, severance, documentary, stamp, occupation, windfall profits, environmental, highway use, commercial rent, customs duty, capital stock, paid-up capital, profits, withholding, waste water discharge, social security, social security contribution quotas, housing fund contribution quotas, retirement fund contribution quotas, single business, unemployment, disability, real property, personal property, registration, ad valorem, value added, alternative or add-on minimum, workplace safety insurance board premiums, employment insurance premiums and

deductions, pension plan deductions and contributions, employer health, goods and services, estimated, or other tax or governmental fee of any kind whatsoever, imposed or required to be withheld by any Governmental Authority, including any estimated payments relating thereto;

- (tttt) "Tax Act" means the *Income Tax Act* (Canada);
- (uuuu) "Tax Returns" means all reports, forms, elections, designations, schedules, statements, estimates, declarations of estimated tax, information statements and returns required to be filed with a Governmental Authority with respect to any Tax;
- (vvvv) "Technology" has the meaning set out in Section 4.10(e);
- (wwwv) "Term Sheet Date" means September 22, 2014;
- (xxxx) "Transaction Documents" means this Agreement, the Debentures, the Collateral Agency Agreement, the Brown Shoe Intercreditor Agreement, the Security Agreements, the Board Observer Agreement and, only after execution thereof, the Wells Fargo Intercreditor Agreement and the U.S. Bank Intercreditor Agreements;
- (yyyy) "Transaction Expenses" has the meaning set out in Section 8.6(a);
- (zzzz) "U.S. Bank Intercreditor Agreements" means (a) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger and Gerler (as borrower); and (b) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger, the Seller and Gerler (as borrower), each to be entered into after the Closing Date, in a form mutually agreeable by the parties, each acting reasonably;
- (aaaaa) "US GAAP" means United States generally accepted accounting principles as established under the standards of the Financial Accounting Standards Board; and
- (bbbbb) "Vendor Take Back Loan" means Financial Indebtedness of A12345 in the aggregate principal amount of three million US Dollars (US\$3,000,000) to Daniel Gerler under a secured convertible subordinated promissory note dated July 8, 2014; and
- (ccccc) "Wells Fargo Intercreditor Agreement" means the Subordination, Postponement, Standstill and Intercreditor Agreement to be entered into after the Closing Date among Wells Fargo Bank, National Association, the Arranger, the Seller and Gerler (as borrower), in a form mutually agreeable by the parties, each acting reasonably.

1.2 Other Terms

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein or in any other Transaction Document) in accordance with the terms hereof and thereof, (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and

words of similar import, when used in any Transaction Document, shall be construed to refer to such Transaction Document in its entirety and not to any particular provision thereof, (iv) all references in a Transaction Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement or the other Transaction Document in which such references appear, (v) any reference to any Applicable Laws shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Applicable Laws and any reference to any Applicable Laws shall, unless otherwise specified, refer to such Applicable Laws as amended, modified or supplemented from time to time, (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (vii) in the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day and (viii) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Transaction Document) in accordance with the terms hereof and thereof.

1.3 Effectuation of Acquisition

All representations and warranties, covenants and obligations with respect to Shoes.com in this Agreement and the other Transaction Documents shall be deemed made, in each case, after giving effect to the acquisition contemplated by the Acquisition Agreement to occur on the Closing Date, unless the context requires otherwise.

1.4 Schedules and Exhibits

The following are the Schedules and Exhibits hereto:

Schedule A	Names of Investors, etc.
Schedule B	Permitted Encumbrances
Schedule 4	Disclosure Statement
Exhibit 2.1	Form of Debenture
Exhibit 2.2(a)(i)(A)	Form of Collateral Agency Agreement
Exhibit 2.2(a)(i)(B)	Form of Brown Shoe Intercreditor Agreement
Exhibit 2.2(b)(ii)	Form of Security Agreements
Exhibit 3.2(k)	Form of Opinions of Issuer's and Guarantors' Counsel
Exhibit 5.4	Additional Representations and Warranties of the Arranger
Exhibit 6.4	Form of Board Observer Agreement

ARTICLE 2 **ISSUANCE AND SALE**

2.1 Issuance and Sale of the Debentures

In reliance upon the representations, warranties and covenants of the Issuer set out herein, and subject to satisfaction of the relevant conditions set out in Sections 3.1, 3.2 and 3.3 hereof, the Issuer shall issue, sell and deliver to the Investors (as represented by the Arranger as portfolio manager on behalf of the Investors) and the Arranger (as portfolio manager on behalf of the Investors) shall purchase from the Issuer, the Debentures in the principal amounts set forth on Schedule A for proceeds equal to the principal amount of each such Debenture. The Debentures will be issued to the Investors in the names set forth under "Registration Instructions" as set forth on Schedule A. The Debentures shall be in the form attached hereto as Exhibit 2.1.

2.2 Issue of the Debentures and Closing

Closing of the issuance of the Debentures shall take place on the Closing Date or at such other date as shall be mutually agreed to by the Parties. On the Closing Date:

- (a) the Arranger shall:
 - (i) pay and deliver to the Issuer the principal amount of the Debentures to be purchased by the Investors, less the *pro rata* portion to be withheld for payment of the Commitment Fee payable to the Investors, as set forth in Section 2.3, by wire transfer or other mutually acceptable means; and
 - (ii) execute and deliver to the appropriate Persons:
 - (A) the Collateral Agency Agreement; and
 - (B) the Brown Shoe Intercreditor Agreement; and
- (b) the Issuer shall:
 - (i) deliver to the Arranger (as portfolio manager on behalf of the Investors) the Debentures, the Collateral Agency Agreement and the Issuer GSA; and
 - (ii) cause to be delivered to the Arranger (as portfolio manager on behalf of the Investors) the Security Agreements (other than the Issuer GSA) and the Brown Shoe Intercreditor Agreement, in each case duly executed by the Issuer, its Subsidiaries and the Seller, as applicable.

2.3 Commitment Fee

As consideration for the agreement and commitment of the Arranger (as portfolio manager on behalf of the Investors) to purchase the Debentures, the Issuer shall pay to the Investors a fee (a "**Commitment Fee**") at the time of the issuance of the Debentures, in the aggregate amount of one hundred thousand Dollars (\$100,000), such amount to be deducted from the payment of the principal amount of the Debentures by the Arranger as set forth in Section 2.2 above and paid to the Arranger on behalf of the Investors.

ARTICLE 3 CONDITIONS TO CLOSING AND TO ISSUE OF DEBENTURES

3.1 Conditions to Each Party's Obligations

The respective obligation of each Party to consummate the transactions described in this Agreement on the Closing Date is subject to the satisfaction (or waiver by the respective Party), at or before the Closing Date of the following conditions:

- (a) **No Restraining Order.** No temporary restraining order, preliminary or permanent injunction or other order or decree issued by any court of competent jurisdiction or other legal restraint or prohibition which has the effect of preventing the consummation of the transactions contemplated in this Agreement is in effect; and
- (b) **Approvals.** All approvals and consents of or filings with any Governmental Authority or any other Person required in connection with the transactions contemplated by this Agreement have been obtained or made, and are in full force and effect.

3.2 Conditions to Obligations of the Arranger at the Closing Date

The obligations of the Arranger to consummate the transactions contemplated by this Agreement and to purchase Debentures (as portfolio manager on behalf of the Investors) on the Closing Date are subject to the satisfaction (or waiver by the Arranger on behalf of the Investors), at or before the Closing Date, of the following conditions:

- (a) **Representations and Warranties Correct.** The representations and warranties of the Issuer set out in this Agreement are true and correct as of the Closing Date with the same effect as though made as of the date of this Agreement, except that the accuracy of representations and warranties that by their terms speak as of a specified date will be determined as of such date;
- (b) **Performance of Obligations.** The Issuer has performed or complied in all respects with all agreements and covenants required to be performed or complied with by it under this Agreement at or prior to the Closing Date;
- (c) **No Default.** No event or circumstance shall exist that is a Default;
- (d) **Indebtedness.** None of the Issuer nor any of its Existing Subsidiaries is in default under any Contract governing any Indebtedness;
- (e) **Outstanding Indebtedness.** None of the Issuer nor any of its Existing Subsidiaries has any Indebtedness other than Permitted Financial Indebtedness;
- (f) **Material Adverse Change.** No Material Adverse Change has occurred since the Term Sheet Date;
- (g) **Compliance Certificate.** The Arranger has received a certificate dated as of the Closing Date and signed by a duly authorized officer of the Issuer on behalf of the Issuer stating that the conditions specified in Sections 3.2(a) to 3.2(f) inclusive have been satisfied;
- (h) **Officer's Certificate.** The Issuer has delivered to the Arranger:
 - (i) a certificate, executed by a duly authorized officer of the Issuer, dated as of the Closing Date, certifying the authenticity and continued effectiveness of attached copies of the Organizational Documents of the Issuer and resolutions of its Board approving the transactions contemplated by each of the Transaction Documents and authorizing the execution and delivery of each of the Transaction Documents by the Issuer; and
 - (ii) certificates, executed by a duly authorized officer of each Guarantor, dated as of the Closing Date, certifying the authenticity and continued effectiveness of attached copies of the Organizational Documents of such Guarantor and resolutions of its Board approving such Guarantor's Guarantee and authorizing the execution and delivery of a Guarantee by such Guarantor;
- (i) **Transaction Documents.** Each of the Transaction Documents to be executed and delivered by the Issuer, its Subsidiaries and the Seller, as the case may be, on the Closing Date shall have been executed and delivered by the Issuer, its Subsidiaries and the Seller to the Arranger and the Investors, as the case may be;

- (j) **Security Filings.** On the Closing Date, the Issuer and each of its Subsidiaries has executed and delivered to the Arranger (on behalf of the Investors) copies of all filings necessary or appropriate for the perfection of the Security the result of which the Arranger, as collateral agent on behalf of the Investors, shall have first-ranking Security over the property covered thereby, subject only to Permitted Encumbrances;
- (k) **Opinions of Issuer's and Guarantors' Counsel.** The Arranger shall have received opinions of Michael, Evrensel & Pawar LLP, Sarah Sidhu and Cairncross & Hempelmann LLP, independent legal counsel to the Issuer and certain Guarantors, respectively, addressed to the Arranger, in the form of Exhibit 3.2(k) or otherwise in form and substance reasonably satisfactory to the Arranger;
- (l) **Commitment Fee.** The Commitment Fee has been paid or provided for in a manner satisfactory to the Arranger;
- (m) **Wells Fargo Proposal.** Gerler has received an executed proposal from Wells Fargo Bank, National Association in respect of a credit facility of up to ten million US Dollars (US\$10,000,000);
- (n) **Transaction Expenses.** All Transaction Expenses incurred by the Arranger to the Closing Date have been paid or provided for in a manner satisfactory to the Arranger;
- (o) **Consents and Waivers.** The Issuer has obtained all required consents, approvals, authorizations, permits and waivers of third parties (including shareholders of the Issuer) necessary as of the Closing Date for the Issuer to consummate and perform the transactions contemplated in and by the Transaction Documents ; and
- (p) **Other Documents and Undertakings.** The Arranger shall have received from the Issuer such other documents as it may reasonably request in respect of the transactions contemplated by this Agreement.

3.3 Conditions to Obligations of the Issuer at the Closing Date

The obligation of the Issuer to consummate the transactions contemplated by this Agreement at the Closing Date is subject to the satisfaction (or waiver by the Issuer), at or before the Closing Date, of the following conditions:

- (a) **Representations and Warranties Correct.** The representations and warranties of the Arranger set out in this Agreement shall be true and correct as of the Closing Date with the same effect as though made as of the date of this Agreement, except that the accuracy of representations and warranties that by their terms speak as of a specified date will be determined as of such date;
- (b) **Performance of Obligations.** The Arranger shall have performed or complied in all respects with all agreements and covenants required to be performed or complied with by it under this Agreement at or prior to the Closing Date; and
- (c) **Payment.** The Arranger shall have provided payment for the Debentures in the aggregate principal amount of ten million Dollars (\$10,000,000) to be issued to the Investors on the Closing Date in accordance with Section 2.2.

3.4 Conditions of Closing

Each Party will use its commercially reasonable efforts to cause each of the conditions set out in the relevant clauses of Sections 3.1, 3.2 and 3.3, as applicable, to be satisfied. Each Party will notify the other Party immediately in the event that a Party becomes aware that any such condition has become or might reasonably be expected to become incapable of being satisfied. Neither Party shall be entitled to claim that any obligation under this Agreement need not be performed as a result of any condition set out in Sections 3.1, 3.2 or 3.3, as applicable, not being satisfied if the failure to satisfy such condition is as a result of any action or failure to use commercially reasonable efforts by the Party seeking to rely on it.

3.5 Post-Closing Condition

- (a) The Issuer will complete on or prior to January 31, 2015 an issuance of Equity Interests for gross proceeds of at least five million Dollars (\$5,000,000); and
- (b) The Arranger shall execute and deliver to Gerler and U.S. Bank National Association and the Issuer shall cause Gerler to execute and deliver to the Arranger and U.S. Bank National Association the U.S. Bank Intercreditor Agreements as soon as practicable after Closing, and in any event by no later than December 23, 2014.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF THE ISSUER

The Issuer hereby represents and warrants to the Arranger that, except as set out in a section of the Disclosure Statement making specific reference to a specific Section of this Article 4, the statements contained in the following subsections of this Article 4 are true and correct.

4.1 Organization and Qualification

The Issuer and each of its Existing Subsidiaries is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has the requisite corporate or other power and authority to own its assets as now owned and to carry on the Business. The Issuer and each of its Subsidiaries is duly registered or otherwise authorized to do business and is in good standing in each jurisdiction in which the character of its properties, owned, leased, licensed or otherwise held, or the nature of its activities makes such registration or authorization necessary, except where the failure to be so registered, authorized or in good standing would not have a Material Adverse Effect and except as set forth in Schedule 4.1 of the Disclosure Statement. Correct, current and complete copies of the articles of incorporation, continuance or amalgamation and by-laws (or the equivalent organizational documents) (the "Organizational Documents"), each as amended to date, of the Issuer and each of its Subsidiaries have been made available to the Arranger.

4.2 Subsidiaries and Joint Ventures

The Issuer has no Equity Interest in any other Person and is not a partner of or joint venture with any other Person other than the Subsidiaries of the Issuer set forth in the Disclosure Statement.

4.3 Authority Relative to this Agreement

The Issuer and each of its Subsidiaries has the requisite corporate power and authority to enter into the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and the performance by the Issuer and each of its Subsidiaries, as applicable, of the transactions contemplated by the Transaction Documents to which it is a party have been duly authorized by its respective Board, and no other corporate proceedings on the part of the Issuer or any of its Subsidiaries or their respective shareholders are necessary to authorize the execution,

delivery and performance by the Issuer of this Agreement or by the Issuer or any of its Subsidiaries of any other Transaction Document or any agreement ancillary thereto and the consummation by it of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by the Issuer, and the other Transaction Documents executed at Closing will be, duly executed and delivered by the Issuer and each of its Subsidiaries, as applicable, and constitute legal, valid and binding obligations of the Issuer and each of its Subsidiaries that is a party thereto enforceable against the Issuer and each of its Subsidiaries that is a party thereto in accordance with their respective terms, subject to the qualification that such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting rights of creditors and that equitable remedies, including specific performance, are discretionary and may not be ordered.

4.4 Reporting Status and Securities Laws Matters

The Issuer is not a "reporting issuer" in any jurisdiction.

4.5 Authorization

- (a) **Issuer and Subsidiary Action.** All corporate and legal action on the part of the Issuer and each of its Subsidiaries by its directors and shareholders necessary for the sale and issuance of the Debentures by the Issuer and the issue of any Common Shares issuable upon conversion of the Debentures ("Shares", and together with the Debentures, the "Securities") and the performance of the Issuer's obligations hereunder and thereunder, has been duly taken.
- (b) **Valid Issuance.** The Securities, when issued against payment in compliance with the provisions of this Agreement and delivered to the Arranger, or any other holder thereof, will be validly issued and free and clear of any Encumbrance.
- (c) **No Voting Rights.** There are no agreements to which the Issuer or any of its Existing Subsidiaries is a party with respect to the voting or transfer of any securities of the Issuer or any of its Existing Subsidiaries other than as set out in the Organizational Documents of the Issuer and each of its Existing Subsidiaries.
- (d) **Non-Contravention.** Except as disclosed in Section 4.5 of the Disclosure Statement, none of the execution, delivery and performance of and compliance with the Transaction Documents, nor the issuance of any of the Securities will result in or constitute any breach, default or violation of:
 - (i) any Contract to which the Issuer or any of its Existing Subsidiaries is a party or is bound or any Contract set forth in Section 4.5(d) of the Disclosure Statement to which Shoes.com is a party or is bound; or
 - (ii) any Applicable Laws or Order applicable to the Issuer or any of its Subsidiaries or its respective properties, or result in the creation of any Encumbrance upon any of the properties or assets of the Issuer or any of its Subsidiaries (other than as contemplated by the Transaction Documents).

4.6 Capitalization

The authorized share capital of the Issuer consists of an unlimited number of Common Shares without par value, of which six million, seven hundred and ten thousand, four hundred and forty-one (6,710,441) Common Shares are issued and outstanding as of the date hereof; there are no options, warrants or other rights, shareholder rights plans, agreements or commitments of any character whatsoever requiring or which may require the issuance, sale or transfer by the Issuer or any of its Existing Subsidiaries of any shares of

the Issuer or any of its Existing Subsidiaries (or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of the Issuer or any of its Existing Subsidiaries). All outstanding Common Shares have been duly authorized and validly issued and are fully paid and non-assessable. All securities of the Issuer and each of its Existing Subsidiaries have been issued in compliance, in all material respects, with all Applicable Securities Laws. Other than the Common Shares, there are no securities of the Issuer or any of its Existing Subsidiaries outstanding which have the right to vote generally (or are convertible into, exchangeable or exercisable for securities of the Issuer or any of its Existing Subsidiaries) with the shareholders of the Issuer or any of its Existing Subsidiaries on any matter. There are no outstanding contractual or other obligations of the Issuer or any of its Existing Subsidiaries to:

- (a) repurchase, redeem or otherwise acquire any of its securities;
- (b) make any investment in or provide any funds to (whether in the form of a loan, capital contribution or otherwise) any Person; or
- (c) provide any Guarantee with respect to the Indebtedness of any Person.

4.7 Consents

Except as disclosed in Section 4.7 of the Disclosure Statement, no consent, approval, order or authorization of, or designation, registration, declaration or filing with, any Governmental Authority or other Person on the part of the Issuer or any of its Subsidiaries is required in connection with its valid execution, delivery and performance of the Transaction Documents to which it is a party or the offer, sale or issuance of the Securities, other than any filing or approval required pursuant to the prospectus and registration exemptions relied upon by the Issuer under Applicable Securities Laws.

4.8 Liabilities

Neither the Issuer nor any of its Existing Subsidiaries has any outstanding Indebtedness other than Permitted Financial Indebtedness incurred in connection with the fulfillment of ordinary course operating obligations, none of which are outstanding beyond the date for payment therefor.

4.9 Judgments

Neither the Issuer nor any of its Existing Subsidiaries is subject to the terms or provisions of any judgment, decree, Order, writ or injunction of any Governmental Authority which could have a Material Adverse Effect.

4.10 Intellectual Property

- (a) The Issuer or its Existing Subsidiaries owns all right, title and interest in and to, or has validly licensed (and is not in material breach of such licenses), all Proprietary Assets and all other intellectual property and proprietary rights that are material to the conduct of the Business, as presently contemplated;
- (b) all such Proprietary Assets are sufficient, in all material respects, for conducting the Business, as presently contemplated;
- (c) all such Proprietary Assets are valid and enforceable (subject to the effects of bankruptcy, insolvency, reorganization, moratorium or laws relating to or affecting creditors' rights generally), and do not infringe in any material way upon any third parties' intellectual property and proprietary rights, and no event will occur as a result

- 19 -

of the transactions contemplated by the Transaction Documents that would render invalid or unenforceable any such Proprietary Assets;

- (d) to the knowledge of the Issuer, no third party is infringing upon such Proprietary Assets in a manner that currently would reasonably be expected to adversely affect such Proprietary Assets in any material respect;
- (e) all computer hardware and their associated firmware and operating systems, application software, database engines and processed data, technology infrastructure and other computer systems used in connection with the conduct of the Business, as presently conducted (collectively, the "**Technology**") are up-to-date and sufficient, in all material respects, for conducting the Business, as presently contemplated;
- (f) the Issuer or its Existing Subsidiaries owns or has validly licenced (and is not in material breach of any such licence) the Technology and has commercially reasonable virus protection and security measures in place in relation to such Technology;
- (g) there is no breach of any license to any Proprietary Assets; and
- (h) the Issuer and its Existing Subsidiaries have reasonable back-up systems and audited procedures and disaster recovery strategies adequate to ensure the continuing availability of the functionality provided by the Technology, and has ownership of or a valid license to the Proprietary Assets necessary to allow it to continue to provide, in all material respects, the functionality provided by the Technology in the event of any malfunction of the Technology or other form of disaster affecting the Technology.

4.11 Contracts

- (a) Except as disclosed in Section 4.7 of the Disclosure Statement, neither the Issuer nor any of its Existing Subsidiaries is in material breach or violation of, or default (in each case, with or without notice or lapse of time or both) under, any Contract of the type listed below (the Contracts described in Sections 4.11(a)(i) through 4.11 (a)(x), together with all exhibits and schedules thereto being, the "**Material Contracts**") and neither the Issuer nor any of its Existing Subsidiaries has received or given any notice of default under any such Material Contract which remains uncured and to the knowledge of the Issuer, there exists no state of facts which after notice or lapse of time or both would constitute a material default or breach of such Material Contract (it being agreed that for the purposes of this Section 4.11(a), the term "**material**" signifies that the breach or violation or default in question which may have a Material Adverse Effect):
 - (i) any lease of real property by the Issuer or any of its Existing Subsidiaries, as tenant, with third parties providing for annual rentals of \$250,000 or more;
 - (ii) any Contract (other than a lease referred to in Section 4.11(a)(i)) under which the Issuer or any of its Existing Subsidiaries is obliged to make payments on an annual basis in excess of \$250,000 in the aggregate;
 - (iii) any partnership, limited liability company agreement, joint venture, alliance agreement or other similar agreement or arrangement relating to the formation, creation, operation, management, business or Control of any partnership or joint venture which is not wholly-owned by the Issuer or any of its Existing Subsidiaries (other than any such agreement or arrangement relating to the operation or business of a property in the ordinary course and which is not

material with respect to such property) where the Issuer's or any of its Existing Subsidiaries' obligations with respect to any such partnership or joint venture exceed \$250,000 individually;

- (iv) any Contract under which Financial Indebtedness in excess of \$250,000 is outstanding or may be incurred or pursuant to which any property or asset of the Issuer or any of its Existing Subsidiaries is mortgaged, pledged or otherwise subject to an Encumbrance (other than Permitted Encumbrances), or any Contract restricting the incurrence of Indebtedness by the Issuer or any of its Existing Subsidiaries or the incurrence of Encumbrances (other than Permitted Encumbrances) on any properties or securities or restricting the payment of dividends;
 - (v) any Contract that purports to limit the right of the Issuer or any of its Existing Subsidiaries to, in any material respect:
 - (A) engage in any line of business; or
 - (B) compete with any Person or operate in any location;
 - (vi) any Contract providing for the sale or exchange of, or option to sell or exchange, any property with a fair market value in excess of \$250,000, or for the purchase or exchange of, or option to purchase or exchange, any property with a fair market value in excess of \$250,000 entered into in the past twelve (12) months or in respect of which the applicable transaction has not been consummated;
 - (vii) any Contract entered into in the past twelve (12) months or in respect of which the applicable transaction has not yet been consummated for the acquisition or disposition, directly or indirectly (by amalgamation, merger or otherwise), of assets (other than Contracts referenced in Section 4.11(a)(v)(B)) or capital stock or other equity interests of another Person for aggregate consideration in excess of \$250,000, in each case other than in the ordinary course of business of the Issuer and each of its Existing Subsidiaries and in a manner consistent with past practice;
 - (viii) any standstill or similar Contract currently restricting the ability of the Issuer or any of its Existing Subsidiaries to offer to purchase or purchase the assets or equity securities of another Person;
 - (ix) any Contract among or between shareholders of the Issuer or any of its Existing Subsidiaries; and
 - (x) the Lease or License Documents.
- (b) There are no Contracts that provide for an obligation of the Issuer or any of its Existing Subsidiaries of \$250,000 or more per period of twelve (12) months.

4.12 Prospectus and Registration Rights

The Issuer has no obligation to any Person and no Person has any right to have any securities of the Issuer qualified pursuant to a prospectus in any province of Canada or registered with the Securities Exchange Commission of the United States or with any other Governmental Authority (including piggyback registration rights).

4.13 Changes

Since the Term Sheet Date, there has not occurred or could reasonably be expected to occur any of the following:

- (a) any Material Adverse Change;
- (b) any resignation or termination of any officer, key employee or groups of employees of the Issuer or any of its Existing Subsidiaries;
- (c) any waiver by the Issuer or any of its Existing Subsidiaries of a material right or of a material debt owed to it;
- (d) any material increase in any compensation arrangement or agreement with any employee, officer or director of the Issuer or any of its Existing Subsidiaries other than routine annual increases in compensation or promotions or bonuses awarded in the ordinary course of business;
- (e) any Indebtedness of the Issuer or any of its Existing Subsidiaries, except for immaterial amounts and for current liabilities incurred in the ordinary course of business and Permitted Financial Indebtedness;
- (f) any sale or other disposition of any Proprietary Asset, other than the nonexclusive license by the Issuer or any of its Existing Subsidiaries, of such Proprietary Assets to customers, suppliers or contract manufacturers in the ordinary course of business consistent with past practices;
- (g) any change in any Material Contract to which the Issuer or any of its Existing Subsidiaries is a party or by which it is bound, which change would have a Material Adverse Effect; or
- (h) any arrangement or commitment by the Issuer or any of its Existing Subsidiaries to do any of the acts described in this Section 4.13.

4.14 Compliance with Issuer Instruments and Applicable Laws and Permits

Neither the Issuer nor any of its Existing Subsidiaries is in violation of any provisions of its Organizational Documents as currently in effect. The Issuer and each of its Existing Subsidiaries has been and is in compliance in all respects with all Applicable Laws, including Applicable Laws relating to the importation or exportation or licensing of its products, except where failure to be in compliance would not have a Material Adverse Effect. All Permits and other authorizations by any Governmental Authority held by the Issuer or any of its Existing Subsidiaries and which are necessary to its businesses are valid and sufficient in all respects for the business presently carried or presently contemplated to be carried on by it, except where such failure to obtain such Permits and authorizations would not have a Material Adverse Effect.

4.15 Litigation

There are no Proceedings pending or, to the Issuer's knowledge, threatened, against:

- (a) the Issuer or any of its Existing Subsidiaries or against any of its property or assets at law or in equity before or by any Governmental Authority; or

- (b) any director or officer of the Issuer or any of its Existing Subsidiaries or any employee of the Issuer or any of its Existing Subsidiaries, which Proceedings would in the aggregate have a Material Adverse Effect.

4.16 Financial Statements

- (a) Gerler's audited financial statements as at and for the fiscal years ended December 31, 2013 and December 31, 2012 (consisting of a Balance Sheet, Statements of Operations, Retained Earnings and Cash Flows and the notes thereto) and its interim financial statements as at and for the five month period ended May 31, 2014 (the "**Most Recent Gerler Financial Statements**") and together with the financial statements referred to in this sentence, collectively, the "**Gerler Financial Statements**") were prepared in accordance with US GAAP consistently applied (except (i) as otherwise indicated in such financial statements and the notes thereto or, in the case of audited statements, in the related report of Gerler's independent auditors, or (ii) in the case of unaudited interim financial statements, are subject to normal period-end adjustments and they may omit notes which are not required by US GAAP in the unaudited statements) and fairly present in all material respects the financial position, results of operations and cash flows of Gerler as of the dates thereof and for the periods indicated therein (subject, in the case of any unaudited interim consolidated financial statements, to normal period-end adjustments). There has been no material change in Gerler's accounting policies since December 31, 2013, except as described in the notes to the Gerler Financial Statements. There are no "off-balance sheet arrangements" (as such term is defined under US GAAP) in respect of Gerler; and
- (b) SHOEme's unaudited Notice to Reader financial statements as at and for the fiscal year ended December 31, 2013 (consisting of a Balance Sheet, Statement of Loss and Deficit and the notes thereto) and its interim financial statements as at and for the nine month period ended September 30, 2014 (such interim financial statements, the "**Most Recent SHOEme Financial Statements**" and together with the financial statements referred to in this sentence, collectively, the "**SHOEme Financial Statements**"; the Most Recent SHOEme Financial Statements together with the Most Recent Gerler Financial Statements, the "**Most Recent Financial Statements**"; and the SHOEme Financial Statements together with the Gerler Financial Statements, the "Financial Statements") were prepared in accordance with Canadian GAAP consistently applied (except (i) as otherwise indicated in such financial statements and the notes thereto or (ii) in the case of unaudited interim financial statements, are subject to normal period-end adjustments and they may omit notes which are not required by Canadian GAAP in the unaudited statements) and fairly present in all material respects the financial position, results of operations and cash flows of SHOEme as of the dates thereof and for the periods indicated therein (subject, in the case of any unaudited interim consolidated financial statements, to normal period-end adjustments). There has been no material change in SHOEme's accounting policies since December 31, 2013, except as described in the notes to the SHOEme Financial Statements. There are no "off-balance sheet arrangements" (as such term is defined under Canadian GAAP) in respect of SHOEme.

4.17 Solvency

The Issuer and each of its Existing Subsidiaries is Solvent prior to, and after giving effect to, the transactions contemplated by this Agreement and the other Transaction Documents.

4.18 Taxes

- (a) The Issuer and each of its Existing Subsidiaries has:
- (i) as relates to income and sales Taxes, duly and timely filed, or caused to be filed, all material Tax Returns required to be filed by it prior to the date hereof, other than those which have been administratively waived, and all such Tax Returns are true and correct in all material respects;
 - (ii) paid on a timely basis all Tax and all assessments and reassessments of Tax due on or before the date hereof, other than Tax which is being or has been contested in good faith and for which, in the reasonable opinion of the Issuer, adequate reserves have been provided in the Financial Statements, except to the extent that failure to pay such Tax would not have a Material Adverse Effect;
 - (iii) duly and timely withheld, or caused to be withheld, all Tax required by Applicable Laws to be withheld by it (including Tax and other amounts required to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the account of any Person, including any employees, officers or directors and any non-resident Person) and duly and timely remitted, or caused to be remitted, to the appropriate Tax authority such Tax required by Applicable Laws to be remitted by it, except to the extent that such failure would not have a Material Adverse Effect; and
 - (iv) duly and timely collected, or caused to be collected, any sales or transfer taxes, including goods and services, harmonized sales and provincial or territorial sales taxes, required by Applicable Laws to be collected by it and duly and timely remitted to the appropriate Tax authority any such amounts required by Applicable Laws to be remitted by it, except to the extent that such failure would not have a Material Adverse Effect;
- (b) the unpaid Tax of the Issuer and its Existing Subsidiaries did not, as of the date of the Most Recent Financial Statements, exceed the reserves and provisions for Tax accrued but not yet due as reflected in the Financial Statements, and Tax payable by the Issuer as of the Closing Date will not exceed such reserves and provisions for Tax as adjusted through the applicable closing date in accordance with the past custom and practice of the Issuer and each of its Existing Subsidiaries;
- (c) no deficiencies, litigation, proposed adjustments or matters in controversy with respect to Tax exists or has been asserted which remain unresolved at the date hereof, and no action or proceeding for assessment or collection of Tax has been taken, asserted, or to the knowledge of the Issuer, threatened, against the Issuer or any of its Existing Subsidiaries or any of their assets, except, in each case, as disclosed or provided for in the Financial Statements or except such deficiencies, litigation, proposed adjustments, confirmations, actions or proceedings that would not have a Material Adverse Effect;
- (d) there are no currently effective elections, agreements or waivers extending the statutory period or providing for an extension of time with respect to the assessment or reassessment of any Tax of, or the filing of any Tax Return or any payment of any Tax by the Issuer or any of its Existing Subsidiaries;
- (e) there are no Encumbrances, other than Permitted Encumbrances, for Tax upon any of the assets of the Issuer or any of its Existing Subsidiaries;

- (f) the Issuer and each of its Existing Subsidiaries is substantially in compliance with the Applicable Laws, including any documentation and recordkeeping requirements thereunder, applicable to the allocation of income and deductions and transactions among related taxpayers; and
- (g) neither the Issuer nor any of its Existing Subsidiaries is a party to any indemnification, allocation or sharing agreement with respect to Tax that could give rise to a payment or indemnification obligation (other than customary Tax indemnification provisions contained in credit or loan agreements or agreements related thereto or other transactions entered into in the ordinary course) and neither the Issuer nor any of its Subsidiaries has any liability for Tax of any Person as a transferee or successor, by contract, or otherwise.

4.19 Employment Agreements and Collective Agreements

Neither the Issuer nor any of its Existing Subsidiaries is a party to or bound or governed by:

- (a) in respect of the employees of the Issuer or any of its Existing Subsidiaries, except for employment offers and letters delivered in the ordinary course of business, none of which is with an officer of the Issuer or any of its Existing Subsidiaries:
 - (i) any existing employment agreement with any executive officer of the Issuer or any of its Existing Subsidiaries; or
 - (ii) any change of control agreement with any executive officer or any written or, to the knowledge of the Issuer, oral agreement, arrangement or understanding providing for an existing retention, severance or termination compensation or benefits to any executive officer; or
- (b) any existing collective bargaining or union agreements.

There are no material labour disputes, strikes or lock-outs relating to or involving any employees of the Issuer or any of its Existing Subsidiaries that would have a Material Adverse Effect. There are no actual applications or, to the knowledge of the Issuer, threatened applications for certification, voluntary recognition, related employer, successor employer or union bargaining rights in respect of the Issuer or any of its Existing Subsidiaries.

4.20 Property and Interests

- (a) Except to the extent that would not have a Material Adverse Effect, the Issuer or an Existing Subsidiary of the Issuer is, except with respect to the properties referred to in Section 4.20(b) of the Disclosure Statement, the absolute legal and beneficial owner of, and has marketable title to, all of the material property or assets reflected in the Financial Statements as being owned by it, free of all Encumbrances or demands whatsoever, other than Permitted Encumbrances and no other material property rights are necessary for the Issuer or any of its Existing Subsidiaries to conduct their respective business as currently conducted or contemplated to be conducted.
- (b) Each property currently leased or subleased or licensed by the Issuer or any of its Existing Subsidiaries from a third party (collectively, the "**Leased or Licensed Properties**") is listed in the Disclosure Statement identifying the name of the lessee (i.e., the Issuer or its Existing Subsidiaries or otherwise) and the documents under which such lease or license is created (collectively, the "**Lease or License Documents**"). The Issuer or an Existing Subsidiary of the Issuer holds good and valid

leases or licenses in the Leased or Licensed Properties, free and clear of all Encumbrances other than Permitted Encumbrances. Each of the Lease or License Documents is valid, binding and in full force and effect as against the Issuer or an Existing Subsidiary of the Issuer and, to the knowledge of the Issuer, as against the other party thereto. Neither the Issuer nor any of its Existing Subsidiaries nor, to the knowledge of the Issuer, any of the other parties to the Lease or License Documents, is in breach or violation or default (in each case, with or without notice or lapse of time or both) under any of the Lease or License Documents which breach, violation or default has not been cured which would not have a Material Adverse Effect, and neither the Issuer nor any of its Existing Subsidiaries has received or given any notice of default under any Lease or License Document which remains uncured which would have a Material Adverse Effect. To the knowledge of the Issuer, neither the Issuer nor any of its Existing Subsidiaries is in violation of any covenants, or not in compliance with any condition, restrictions or Permitted Encumbrances, affecting any Leased or Licensed Properties which violations or non-compliances would have a Material Adverse Effect.

- (c) All accounts for materials, work and services performed or materials placed or furnished upon or in respect of construction at each Leased or Licensed Property have been fully paid or the Issuer or its Existing Subsidiaries have made arrangements with such contractor for payment in the ordinary course of business.
- (d) To the knowledge of the Issuer, all of the buildings and improvements (including fixtures, systems and utilities) on the Leased or Licensed Properties were constructed and are maintained in accordance with Applicable Laws and are maintained in good operating condition and repair, subject to normal wear and tear except where such would not have a Material Adverse Effect.

4.21 Personal Property

The Issuer and its Existing Subsidiaries own, or have a valid and enforceable lease or license of, all personal property used in its respective Business as presently carried on or contemplated to be carried on, except which would not have a Material Adverse Effect. The Issuer's and its Existing Subsidiaries' ownership of or lease or license in any such personal property is not subject to any Encumbrances, other than Permitted Encumbrances. At the Closing Date, the Arranger (on behalf of the Investors) shall have a first-ranking security interest or hypothec or equivalent security on all of the present and after acquired personal property of the Issuer and each of its Existing Subsidiaries, subject only to the Permitted Encumbrances.

4.22 Insurance

Except as would not have a Material Adverse Effect, the Issuer and each of its Existing Subsidiaries is covered by valid and currently effective insurance policies issued in favour of the Issuer and each of its Existing Subsidiaries that are commercially reasonable, taking into account the industries in which the Issuer and each of its Existing Subsidiaries operates. Except as would not have a Material Adverse Effect, with respect to each insurance policy issued in favour of the Issuer and each of its Existing Subsidiaries, or pursuant to which the Issuer and each of its Existing Subsidiaries is a named insured or otherwise a beneficiary under an insurance policy:

- (a) the policy is in full force and effect and all premiums due thereon have been paid;
- (b) neither the Issuer nor any of its Existing Subsidiaries is in breach or default, and has not taken any action or failed to take any action which, with notice or the lapse of time, would constitute such a breach or default, or permit termination or modification of, any such policy;

- 26 -

- (c) to the knowledge of the Issuer, no insurer on any such policy has been declared insolvent or placed in receivership, debt restructuring proceedings or liquidation, and no notice of cancellation or termination has been received by the Issuer and each of its Existing Subsidiaries with respect to any such policy;
- (d) none of such policies will terminate or lapse by reason of the transactions contemplated by the Transaction Documents;
- (e) no insurer under any such policy has cancelled or generally disclaimed liability under any such policy or indicated any intent to do so or not to renew any such policy;
- (f) there is no claim by the Issuer or any of its Existing Subsidiaries pending under any such policy that has been denied or disputed by the insurer; and
- (g) all claims under such policies have been filed in a timely fashion.

4.23 Related Party Transactions

- (a) None of the Issuer's Affiliates, officers, directors, members or employees, or any Affiliate of any of the foregoing, or to the Issuer's knowledge, any supplier, distributor or customer of the Issuer has any material interest in any property, real or personal, tangible or intangible, including Proprietary Assets used in or pertaining to the business of the Issuer except for the normal rights of a stockholder or member;
- (b) Other than arrangements in the ordinary course of business since the Term Sheet Date, there are no agreements, understandings or proposed transactions between the Issuer or any of its Existing Subsidiaries and any of its respective officers, directors, employees, shareholders or Affiliates; and
- (c) No officer or director of the Issuer or any of its Existing Subsidiaries has any material direct or indirect ownership interest in any firm or corporation with which the Issuer or any of its Existing Subsidiaries has a material business relationship, or any firm or corporation that competes in any material respect with the Issuer or any of its Existing Subsidiaries. To the Issuer's knowledge, no member of the immediate family of any officer or director of the Issuer or any of its Existing Subsidiaries is directly or indirectly interested in any Material Contract.

4.24 No Violations

Except as disclosed in Section 4.24 of the Disclosure Statement, none of the execution and delivery of this Agreement by the Issuer or the other Transaction Documents by the Issuer or any of its Existing Subsidiaries nor the consummation of the transactions contemplated herein and therein by the Issuer or any of its Existing Subsidiaries or compliance by the Issuer or any of its Existing Subsidiaries with any of the provisions hereof or thereof will:

- (a) violate, conflict with, or result in a material breach of any provision of, require any consent, approval or notice under, or constitute a default (or an event which with or without notice or lapse of time or both, would constitute a material default) under, or result in granting to a third party a right to reduce fees or other payments to the Issuer or any of its Existing Subsidiaries under, or result in granting to a third party a right of first refusal, first opportunity, or other right or option to acquire properties or assets of the Issuer or any of its Existing Subsidiaries under, or grant to a third party a right to force the Issuer or any of its Existing Subsidiaries to purchase one or more assets under, or result in a right of termination or acceleration under, or result in the creation of any

- 27 -

Encumbrance upon, any of the properties or assets of the Issuer or any of its Existing Subsidiaries or cause any Financial Indebtedness of the Issuer or any of its Existing Subsidiaries to come due before its stated maturity or cause any credit commitment to cease to be available, or cause any payment or other obligation to be imposed on the Issuer or any of its Existing Subsidiaries under, any of the terms, conditions or provisions of:

- (i) its Organizational Documents; or
- (ii) any debenture, bond, mortgage, indenture, loan agreement, deed of trust, Encumbrance, or other Contract to which the Issuer or any of its Existing Subsidiaries is a party or to which any of them, or any of its properties or assets, may be subject or by which any of them is bound;
- (b) violate any Applicable Laws that would have a Material Adverse Effect;
- (c) cause the suspension or revocation of any material Permit currently in effect (except, in the case of Sections 4.25(a)(ii), for such violations, conflicts, breaches, defaults, terminations, accelerations or creations of Encumbrances which, or any consents, approvals or notices which, if not given or received, or any Permits which, if suspended or revoked, would not have a Material Adverse Effect); or
- (d) violate or cause the suspension or revocation of any license to any Proprietary Asset.

None of the Issuer nor any of its Existing Subsidiaries nor any director, officer, or to the knowledge of the Issuer, agent or employee of the Issuer or any of its Existing Subsidiaries nor their Affiliates has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; or (iii) made any bribe, payoff, influence payment, kickback or other unlawful payment.

4.25 Pension and Employee Benefits

- (a) Neither the Issuer nor any of its Existing Subsidiaries maintains any health, welfare, supplemental unemployment benefit, bonus, profit sharing, option, insurance, incentive, incentive compensation, deferred compensation, share purchase, share compensation, disability, pension or retirement plans and other material employee or director compensation or benefit plans, policies, trusts, funds, agreements or arrangements for the benefit of directors or former directors of the Issuer or any of its Existing Subsidiaries, employees or former employees of the Issuer or any of its Existing Subsidiaries, which are maintained by or binding upon the Issuer or any of its Existing Subsidiaries or in respect of which the Issuer or any of its Existing Subsidiaries has any actual or, to the Issuer's knowledge, potential liability (collectively, the "Plans"); and
- (b) None of the execution and delivery of this Agreement by the Issuer or any Transaction Document by the Issuer or any of its Existing Subsidiaries or consummation of the transactions contemplated in this Agreement or a Transaction Document or compliance by the Issuer or any of its Existing Subsidiaries with any of the provisions hereof or thereof shall result in any payment (including severance, unemployment compensation, bonuses or otherwise) becoming due to any director, officer or employee of the Issuer or any of its Existing Subsidiaries or result in any increase or acceleration of contributions, liabilities or benefits, or acceleration of vesting, under any Plan or restriction held in connection with a Plan.

4.26 Environment

- (a) Except as would not have a Material Adverse Effect, the Issuer and each of its Existing Subsidiaries is in compliance with all, and has not violated any, Environmental Laws;
- (b) Except as would not have a Material Adverse Effect:
 - (i) neither the Issuer nor any of its Existing Subsidiaries has Released, and, no other Person has Released, any Hazardous Substances (in each case except in compliance with applicable Environmental Laws) on, at, in, under or from any of the real properties (including the workplace environment) currently or previously owned, leased or operated by the Issuer or any of its Existing Subsidiaries; and
 - (ii) there are no Hazardous Substances or other conditions that could reasonably be expected to result in liability of or adversely affect the Issuer or any of its Existing Subsidiaries under or related to any Environmental Law on, at, in, under or from any of the real properties (including the workplace environment) currently or, to the Issuer's knowledge, previously owned, leased or operated by the Issuer or any of its Existing Subsidiaries;
- (c) There are no pending claims or, to the Issuer's knowledge, threatened claims, against the Issuer or any of its Existing Subsidiaries arising out of any Environmental Laws;
- (d) No Encumbrance in favour of a Governmental Authority arising under Environmental Laws is pending or, to the Issuer's knowledge, threatened, affecting the Issuer or any of its Existing Subsidiaries or any Real Property, except as would not have a Material Adverse Effect; and
- (e) There are no Orders from any Governmental Authority which relates to Environmental Laws and which requires any material work, repairs, construction or capital expenditures by the Issuer or any of its Existing Subsidiaries.

4.27 No Brokers

The Issuer is not obligated for the payment of fees or expenses of any broker or finder in connection with the origination, negotiation or execution of this Agreement or the other Transaction Documents, or in connection with any transaction contemplated hereby or thereby.

4.28 Acquisition Agreement

The representations and warranties made by the Seller in the Acquisition Agreement in respect of Shoes.com are true and correct.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES BY THE ARRANGER

The Arranger represents to the Issuer as follows:

5.1 Authority

The Arranger is a corporation duly formed and validly existing under the laws of Canada. The Arranger has the requisite legal right and power, as applicable, to enter into, execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which it is a party for itself and

on behalf of the Investors. Assuming due execution and delivery by the other Parties, this Agreement is, and upon their execution, the other Transaction Documents to which the Arranger is a party will be legal, valid and binding obligations of the Arranger enforceable against the Arranger in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally. The entering into of this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby will not result in a violation of any of the terms or provisions of any Applicable Laws applicable to the Arranger or any of the Organizational Documents of the Arranger, or any material Contract to which the Arranger is a party or by which it is bound.

5.2 Accredited Investor; Securities Law Compliance; Investment Intent

The Arranger is an "accredited investor" as such term is defined in paragraph (q) of the definition of "accredited investor" in National Instrument 45-106 *Prospectus and Registration Exemptions* (which states "a person acting on behalf of a fully managed account managed by that person if that person (i) is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction") and is registered to carry on business as an advisor under the *Securities Act (British Columbia)*.

5.3 Financial Capability

The Arranger will have, subject to the satisfaction of the conditions described herein, sufficient funds in accounts managed by it to make and complete the payment for the Debentures and the availability of such funds is not and will not be subject to the consent, approval or authorization of any other Person.

5.4 Exhibit 5.4

The representations and warranties in Exhibit 5.4 are true and correct.

5.5 No Impairment

Nothing contained in this Article 5 is intended to otherwise impair the representations, warranties or covenants of the Issuer in this Agreement or the other Transaction Documents.

ARTICLE 6 COVENANTS

The Issuer covenants and agrees with the Arranger that from and after the date hereof:

6.1 Access

For such time as the Debentures remain outstanding, to the extent permitted by Applicable Laws and not in contravention of the rights of third parties, it will permit representatives of the Arranger to have reasonable access to the properties of the Issuer and its Subsidiaries, to examine the corporate books and make copies or extracts therefrom or to discuss the affairs, finances and accounts of the Issuer and its Subsidiaries with the officers and employees of the Issuer and its Subsidiaries upon request, all during normal business hours and subject to other reasonable restrictions by the Issuer and its Subsidiaries.

6.2 Tax Law Compliance and Stamp Duties

The Issuer shall pay any transfer taxes, stamp duties or other similar charges that may be imposed with respect to the issue or delivery of the Securities by the Issuer to the Arranger or the execution and delivery of any Transaction Document.

6.3 Use of Proceeds and Transaction Expenses

All of the proceeds received by it from the issuance and sale of the Debentures shall be used to finance the acquisition of the outstanding shares of Shoes.com and for the Issuer's business. In addition, the Issuer shall pay to the Arranger or as the Arranger may direct on the Closing Date, subject to Section 8.6(a), all Transaction Expenses incurred by the Arranger to and including the Closing Date.

6.4 Board Observer

Until the earlier of (a) the date that the Issuer completes an Initial Public Offering, (b) the termination of the Obligations of the Issuer under the Debentures in accordance with the terms thereof, and (c) the date that the Arranger ceases to act as the Arranger on behalf of the Investors, the Issuer agrees that an individual designated by the Arranger from time to time, and reasonably satisfactory to the Issuer, is entitled to attend (in person or by telephone conference call) meetings of the Board of the Issuer, as an observer but not as a director, subject to the terms of a Board Observer Agreement that any such individual shall enter into with the Issuer, and the Issuer shall execute and deliver to such individual, substantially in the form of Exhibit 6.4.

ARTICLE 7 INDEMNIFICATION

7.1 Indemnity

- (a) The Issuer will indemnify and defend and hold harmless each of the Arranger (as portfolio manager on behalf of the Investors) and the Investors and their respective Affiliates, successors and assigns and each of their respective officers, directors, and employees (an "**Arranger Indemnified Party**" or collectively the "**Arranger Indemnified Parties**") from and against, and agrees to pay or cause to be paid to the Arranger Indemnified Parties all amounts equal to the sum of, any and all claims, demands, costs, expenses, losses and other liabilities of any kind, other than loss of profits of such Arranger Indemnified Parties or consequential damages ("**Losses**"), that the Arranger Indemnified Parties may incur or suffer (including without limitation all reasonable legal fees and expenses), which arise or result from any breach by the Issuer of any of its representations or warranties, or failure by the Issuer or any of its Subsidiaries to perform any of their respective covenants or agreements, in any Transaction Document, other than the Board Observer Agreement, or in any certificate or document delivered pursuant to any Transaction Document, other than the Board Observer Agreement, including but not limited to any third party claims arising or resulting from such breach or failure, except to the extent such Losses arise out of the intentional or gross fault, gross negligence, willful misconduct or fraud of any of the Arranger and the Investors. The rights of the Arranger Indemnified Parties hereunder shall be in addition to, and not in lieu of, any other rights and remedies which may be available to it by Applicable Laws or under the Transaction Documents;
- (b) Notwithstanding anything to the contrary in this Agreement, for purposes of this Section 7.1, in determining the amount of any Losses, no effect shall be given to any qualification as to "**materiality**" or "**Material Adverse Effect**" in such representations and warranties.

7.2 Procedures

- (a) If a third party shall notify an Arranger Indemnified Party (each, an "**Indemnified Party**") with respect to any matter that may give rise to a claim for indemnification

under the indemnities set out above in Section 7.1(a), the procedure set out below shall be followed.

- (i) **Notice.** The respective Indemnified Party shall give to the party providing indemnification (the "**Indemnifying Party**") written notice of any claim, suit, judgment or matter for which indemnity may be sought under Section 7.1 promptly but in any event within thirty (30) calendar days after the Indemnified Party receives notice thereof; provided, however, that failure by the Indemnified Party to give such notice shall not relieve the Indemnifying Party from any liability it shall otherwise have pursuant to this Agreement except to the extent that the Indemnifying Party is actually prejudiced by such failure. Such notice shall set out in reasonable detail:
 - (A) the basis for such potential claim; and
 - (B) the dollar amount of such claim.

The Indemnifying Party shall have a period of thirty (30) calendar days within which to respond thereto. If the Indemnifying Party does not respond within such thirty (30) calendar day period, the Indemnifying Party shall be deemed to have accepted responsibility for such indemnity.

- (ii) **Defense of Claim.** With respect to a claim by a third party against an Indemnified Party for which indemnification may be sought under this Agreement, the Indemnifying Party shall have the right, at its option, to be represented by counsel of its choice and to assume the defense or otherwise control the handling of any claim, suit, judgment or matter for which indemnity is sought, which is set out in the notice sent by the Indemnified Party, by notifying the Indemnified Party in writing to such effect within thirty (30) calendar days of receipt of such notice; provided, however, that the Indemnified Party shall have the right to employ counsel to represent it if, in the Indemnified Party's reasonable judgment based upon the advice of counsel, it is advisable in light of the separate interests of the Indemnified Party and the Indemnifying Party, to be represented by separate counsel, and in that event the reasonable fees and expenses of such separate counsel shall be paid by the Indemnifying Party but only in respect of one counsel (chosen by the Arranger) plus appropriate local counsel, if applicable, for all Indemnified Parties. If the Indemnifying Party does not give timely notice in accordance with the preceding sentence, the Indemnifying Party shall be deemed to have given notice that it does not wish to control the handling of such claim, suit or judgment. In the event the Indemnifying Party elects (by notice in writing within such thirty (30) calendar day period) to assume the defense of or otherwise control the handling of any such claim, suit, judgment or matter for which indemnity is sought, the Indemnifying Party shall indemnify and hold harmless the Indemnified Party from and against any and all reasonable professional fees (including legal fees, accountants, consultants and engineering fees) and investigation expenses incurred by the Indemnified Party after it provides notice under Section 7.2(a)(i) and prior to such election, notwithstanding the fact that the Indemnifying Party may not have been so liable to the Indemnified Party had the Indemnifying Party not elected to assume the defense of or to otherwise control the handling of such claim, suit, judgment or other matter. In the event that the Indemnifying Party does not assume the defense or otherwise control the handling of such matter, the

Indemnified Party may retain counsel, as an indemnification expense, to defend such claim, suit, judgment or matter.

- (iii) **Final Authority.** The Parties shall cooperate in the defense of any such claim or litigation and each shall make available all books and records which are relevant in connection with such claim or litigation. In connection with any claim, suit or other proceeding with respect to which the Indemnifying Party has assumed the defense or control, the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to any matter which does not include a provision whereby the plaintiff or claimant in the matter releases the Indemnified Party from all liability with respect thereto, without the written consent of the Indemnified Party, which shall not be unreasonably withheld. In connection with any claim, suit or other proceeding with respect to which the Indemnifying Party has not assumed the defense or control, the Indemnified Party may not compromise or settle such claim without the consent of the Indemnifying Party, which shall not be unreasonably withheld.
- (b) Any claim for indemnification under this Agreement which does not result from the assertion of a claim by a third party shall be asserted by written notice given by the Indemnified Party to the Indemnifying Party. The Indemnifying Party shall have a period of thirty (30) calendar days within which to respond thereto.
- (c) The Arranger accepts the indemnification obligations on behalf of each Arranger Indemnified Party.

ARTICLE 8

MISCELLANEOUS

8.1 Waivers and Amendments

Unless otherwise provided, any amendment, addition, deletion or other modification to this Agreement may be made upon the written consent of the Issuer and the Arranger and no such amendment, addition, deletion or other modification to this Agreement shall be effective unless in writing and signed by the Issuer and the Arranger (and each of the Investors hereby authorizes the Arranger to make such amendments, additions, deletions or modifications, all of which will be binding upon each of the Investors). Any provision of this Agreement may only be waived by the Party in whose favour such provision is intended to benefit, such waiver to be evidenced by a notice in writing by the waiving Party to the other party.

8.2 Governing Law

This Agreement and all actions arising out of or in connection with this Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to the conflict of laws provisions thereof.

8.3 Exclusive Jurisdiction

Each Party irrevocably attorns to the courts of the Province of British Columbia, which jurisdiction shall be the sole and exclusive jurisdiction for any disputes or claims in relation to this Agreement and all matters arising out of or in connection with this Agreement or any other Transaction Document.

8.4 Entire Agreement and Paramountcy

The Transaction Documents constitute the full and entire understanding and agreement between the Parties with regard to the subjects hereof and thereof and cancels and supersedes any prior understandings and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in the Transaction Documents. If there is any conflict between the provisions of this Agreement and the provisions of any other Transaction Documents, the provisions of this Agreement shall govern.

8.5 Headings and Numbering of Articles

The headings of the articles, sections, subsections and clauses of this Agreement have been inserted for convenience and reference only and do not define, limit, alter or enlarge the meaning of any provision of this Agreement. Unless otherwise stated, a reference herein to a numbered or lettered article, section, subsection, clause, sub clause or schedule refers to the article, section, subsection, clause, sub clause or schedule bearing that number or letter in this Agreement.

8.6 Fees and Expenses

The Issuer shall pay:

- (a) whether or not the Closing occurs for any reason, all reasonable out-of-pocket expenses and fees and disbursements and applicable taxes ("Transaction Expenses") incurred by or on behalf of the Arranger in connection with (i) the negotiation and consummation of this Agreement and the other Transaction Documents and the transactions contemplated hereunder and thereunder, including any due diligence or other review conducted prior to the negotiation of this Agreement as well as any filing fees related to the Security; and (ii) any amendment, modification or waiver, or consent with respect to, this Agreement or any of the other Transaction Documents or any documentation or agreements in connection therewith, provided that the amount of the fees (and for greater certainty, exclusive of disbursement and applicable taxes) to be paid by the Issuer in respect of the foregoing will not exceed one hundred and fifteen thousand Dollars (\$115,000), plus the fees of local counsel engaged by the Arranger in respect of matters governed by the Applicable Laws of the State of Washington or the United States of America not exceeding fees of fourteen thousand, three hundred and sixty US Dollars (US\$14,360) in respect of the foregoing; and
- (b) all reasonable out-of-pocket expenses and fees and disbursements incurred by or on behalf of the Arranger in connection with any attempt to enforce any right of Arranger against the Issuer or any Person or other entity that may be obligated to the Arranger by virtue of this Agreement or any of the other Transaction Documents, unless a court of competent jurisdiction determines that the Arranger is not entitled to enforce such right.

8.7 Notices

Any notice, consent, waiver, direction or other communication required or permitted to be given under this Agreement by any Party to the other shall be in writing and shall be delivered by (a) personal delivery, (b) certified or registered mail (first class postage pre-paid), (c) guaranteed overnight delivery by recognized national courier, or (d) facsimile transmission or email transmission, addressed to the party to which the notice is to be given at its address, facsimile number or email address for service herein (or to such other address which such Party may subsequently designate by ten (10) calendar days' advance written notice to the other Party). Any notice, consent, waiver, direction or other communication made or given by personal

delivery, courier or facsimile transmission to the party to whom it was addressed as aforesaid shall be deemed to have been given and received on the date on which it was so delivered at such address (if a Business Day, and if not, or received after 4:00 p.m. local time, the next succeeding Business Day) or if sent by prepaid registered mail be deemed to have been given and received on the fourth (4th) Business Day following the date of its mailing or if sent by email transmission be deemed to have been given and received at the time of receipt unless actually received after 4:00 p.m. local time or on a date that does not fall on a Business Day at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address, facsimile or email address for service of each of the Parties shall be as follows or at such other address as a Party may designate by ten (10) calendar days' advance written notice to the other Party:

If to the Issuer:

1006903 B.C. Ltd.
Suite 2390 - 1055 West Hastings Street
Vancouver, British Columbia V6E 2E9
Canada

Attention: Nicholas Bozikis
email: nick@hardycapital.com

with a copy to (which shall not constitute notice):

Michael, Evrensel & Pawar LLP
Suite 650, 669 Howe Street
Vancouver, British Columbia V6C 0B4
Canada

Attention: Ryan Patryluk
Telecopier No.: 604-669-1953
email: rpatryluk@meplaw.ca

If to the Arranger (on behalf of itself or the Investors):

Deans Knight Capital Management Ltd.
1500-999 West Hastings Street
Vancouver, British Columbia V6C 2W2
Canada

Attention: Dillon Cameron
Telecopier No.: 604-669-0238
email: dcameron@deansknight.com

with a copy to (which shall not constitute notice):

Farris, Vaughan, Wills & Murphy LLP
25th Floor - 700 W. Georgia St.
Vancouver, British Columbia V7Y 1B3
Canada

- 35 -

Attention: Mitchell Gropper, Q.C.
Telecopier No.: 604-661-9349
email: mgropper@farris.com

8.8 Validity

If any provision of this Agreement or any of the other Transaction Documents shall be judicially determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions thereof shall not in any way be affected or impaired thereby. To the extent permitted by Applicable Laws, each Party hereby waives any provision of law that renders any provision hereof unenforceable in any respect.

8.9 Counterparts

This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same instrument. This Agreement, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or by PDF, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in Person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

8.10 Publicity

None of the Arranger (on behalf of itself or the Investors) nor the Issuer shall issue any press release or make any public disclosure regarding the transactions contemplated hereby unless such press release or public disclosure is approved by those parties mentioned in such press release or public disclosure in advance; provided that such consent shall not be necessary if otherwise required by Applicable Laws, a Governmental Authority or a securities exchange in the judgment of the disclosing Party, based on the advice of counsel, so long as prior to such disclosure, such Party consults with the other Party on such press release or public disclosure.

8.11 Succession and Assignment

Except as otherwise expressly provided in this Agreement and subject to the other Transaction Documents and Applicable Laws, the provisions hereof shall enure to the benefit of, and be binding upon, the Parties and their respective successors, permitted assigns, permitted transferees, heirs, executors, administrators and personal representatives. This Agreement may not be assigned, transferred or otherwise conveyed by the Issuer without the prior written consent of the Arranger; but the Arranger shall have the right to assign, transfer or otherwise convey their respective rights under this Agreement to any Affiliate so long as the Arranger provides prompt written notice to the Issuer of such assignment. No assignment contemplated by this Section 8.11 shall be or shall be deemed to be a discharge, rescission, extinguishment, novation or substitution of this Agreement and this Agreement shall continue to be the same obligation and not a new obligation. Any purported assignment of rights or delegation of obligations in violation of this Section 8.11 shall be null and void, and of no effect.

8.12 Termination; Survival

This Agreement may be terminated (except as provided in the second succeeding sentence):

- (a) with the consent of each Party to the termination of this Agreement; or
- (b) at any time prior to the Closing by the Arranger in writing, if the Issuer has, or by the Issuer in writing, if the Arranger has, in any material respect, breached:
 - (i) any covenant or agreement contained herein; or
 - (ii) any representation or warranty contained herein, and in either case if such breach has not been cured by the date thirty (30) calendar days after the date on which written notice of such breach is given to the Party committing such breach; or
- (c) by the Arranger or the Issuer, in writing, if the Closing has not occurred by the Outside Date; *provided that* neither Party may terminate this Agreement under this Section 8.12(c) if the failure of such Party to perform its obligations hereunder contributed materially to the delay in consummating the transaction contemplated to be consummated at the Closing.

In the event this Agreement is terminated for any reason, this Agreement shall have no further effect, except that:

- (d) the obligations of Article 7 shall continue for a period of one (1) year thereafter; and
- (e) the provisions set out in Section 6.2, Section 8.1, Section 8.2, Section 8.3, Section 8.6(b), Section 8.8, Section 8.10, Section 8.11, Section 8.12 and Section 8.13 shall remain in full force and effect, each shall survive such termination indefinitely;

A termination pursuant to Sections 8.12(b) shall not relieve the breaching party from liability for an uncured willful breach of any covenant or agreement contained herein.

8.13 Currency

Unless otherwise provided, references to "Dollars" or "\$" in this Agreement refer to lawful currency of Canada and references to "US Dollars" and "US\$" in this Agreement refer to lawful currency of the United States of America. If, in connection with any action or proceeding brought in connection with this Agreement or any resulting judgment or Order, it becomes necessary to convert any amount due hereunder in one currency (the "first currency") into another currency (the "second currency"), then the conversion shall be made at the Judgment Conversion Rate on the first Business Day prior to the day on which payment is received. If the conversion is not able to be made in the manner contemplated by the preceding paragraph in the jurisdiction in which the action or proceeding is brought, then the conversion shall be made at the Judgment Conversion Rate on the day on which the judgment is given. If the Judgment Conversion Rate on the date of payment is different from the Judgment Conversion Rate on such first Business Day or on the date of judgment, as the case may be, the party shall pay such additional amount (if any) in the second currency as may be necessary to ensure that the amount paid on such payment date is the aggregate amount in the second currency which, when converted at the Judgment Conversion Rate on the date of payment, is the amount due in the first currency, together with all costs, charges and expenses of conversion. Any additional amount owing pursuant to the provisions of this section shall be due as a separate debt and shall give rise to a separate cause of action and shall not be affected by or merged into any judgment obtained for any other amounts due under or in respect of this Agreement.

The term "**Judgment Conversion Rate**" used in this section means the noon rate of exchange for Canadian interbank transactions in Dollars in the other currency published by the Bank of Canada for the date in question.

8.14 Further Assurances

The Parties shall at all times promptly do, make, execute, acknowledge, deliver, or cause to be done, made, executed, acknowledged or delivered, all such further acts, deeds, agreements and other instruments as may reasonably be required or desirable to give full force and effect to the terms of this Agreement and shall take such steps as may be reasonably within its power to implement the full extent of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date and year first written above.

1006903 B.C. LTD.

Per: 

Name:

Nicholas Basilis

Title:

CFO

DEANS KNIGHT CAPITAL MANAGEMENT LTD.

Per: _____

Name: _____


Title: _____

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date and year first written above.

1006903 B.C. LTD.

Per: _____
Name: _____
Title: _____

DEANS KNIGHT CAPITAL MANAGEMENT LTD.

Per: 
Name: DAVID LANGDON
Title: AUTHORIZED SIGNATORY

SCHEDULE A

Names of Investors, etc.

Name and Address of Investors	Aggregate Principal Amount of Debenture to be Purchased on the Closing Date	Registration Instructions
Deans Knight Income Fund Suite 1500, 999 West Hastings St. Vancouver, BC V6C 2W2	\$3,750,000	RBC Investor Services Trust ITF 110952001
DK Strategic Yield Master Fund 11 Dr. Roy's Drive Grand Cayman KY1-11107 Cayman Islands	\$500,000	Jayvee & Co ITF YTCF6310002
Lockheed Martin Investment Management Co. 6901 Rockledge Drive, 4th Floor Bethesda MD, 20817	\$5,750,000	Roytor & Co ITF 120028850013

SCHEDULE B

Permitted Encumbrances

"Permitted Encumbrances" means the following types of Encumbrances:

- (i) statutory Encumbrances of landlords and Encumbrances of carriers, warehousemen, mechanics, suppliers, material men, repairmen and other Encumbrances imposed by law incurred in the ordinary course of business and Encumbrances for taxes, assessments or governmental charges or claims, in either case, for sums not yet overdue or being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof;
- (ii) Encumbrances incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, trade contracts, leases, government contracts, surety and appeal bonds, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);
- (iii) Encumbrances upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (iv) Encumbrances encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Issuer, including rights of offset and setoff;
- (v) bankers' liens, rights of setoff and other similar Encumbrances existing solely with respect to cash on deposit in one or more accounts maintained by the Issuer, in each case granted in the ordinary course of business in favour of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; provided, however, that in no case shall any such Encumbrances secure (either directly or indirectly) the repayment of any Indebtedness (as such term is defined in the Debentures);
- (vi) leases or subleases (or any Encumbrances related thereto) granted to others that do not materially interfere with the ordinary course of business of the Issuer;
- (vii) any action, claim, lis pendens, certificate of pending litigation, attachment or judgment Encumbrances which are being contested in good faith by appropriate proceedings;
- (viii) easements, rights-of-way, restrictions and other similar charges or encumbrances not materially interfering with the ordinary course of business of the Issuer;
- (ix) zoning restrictions, building bylaws, ordinances, regulations, licenses, and other restrictions on the use of real property or minor irregularities in title thereto, which do not materially impair the use of such real property in the ordinary course of business of the Issuer and its Subsidiaries or the value of such real property for the purpose of such business;

- (x) any right of expropriation, access and use and all other similar rights conferred upon or vested in any Governmental Authority or agency imposed by law not materially interfering with the ordinary course of business of the Issuer;
- (xi) any right reserved to or vested in any Governmental Authority or agency by law or by the terms of any lease, grant or permit to terminate any such lease, grant or permit not materially interfering with the ordinary course of business of the Issuer;
- (xii) any right of first refusal, right of first offer, option, contract or other agreement to sell an asset existing on the date hereof and set forth in Schedule 4 attached hereto; and
- (xiii) Encumbrances securing Hedging Obligations entered into for bona fide hedging purposes of the Issuer not for the purpose of speculation.

SCHEDULE 4 DISCLOSURE STATEMENT

This Disclosure Statement is being furnished in connection with the execution and delivery of that certain Debenture Purchase Agreement (the "**Debenture Purchase Agreement**"), dated as of December 12, 2014, among 1006903 B.C. Ltd. (the "**Issuer**") and Deans Knight Capital Management Ltd. (the "**Arranger**"), in its capacity as portfolio manager for certain investors. Capitalized terms used but otherwise not defined in this Disclosure Statement shall have the same meaning herein as are ascribed thereto in the Debenture Purchase Agreement.

This Disclosure Statement and the information and disclosures contained herein are intended only to qualify and limit the representations, warranties and covenants of the Issuer and the Subsidiaries contained in the Debenture Purchase Agreement, and shall not be deemed to expand in any way the scope or effect of any of such representations, warranties or covenants.

Disclosure of any fact or item which is disclosed in any Section of this Disclosure Statement shall be deemed disclosed with respect to any other Section, and shall be deemed to qualify the representations and warranties in the applicable Section of the Debenture Purchase Agreement, to which the relevance of such fact or item would be readily apparent on its face to a third party without further investigation or knowledge of other facts or circumstances, or the need to examine any underlying documentation.

No reference to, or disclosure of, any item, or other matter in this Disclosure Statement shall be construed as an admission or indication that such item or other matter is material or would reasonably be expected to have a Material Adverse Effect or that such item or other matter is required to be referred to, or disclosed in, this Disclosure Statement. No disclosure in this Disclosure Statement relating to any possible breach or violation of any agreement, law or regulation shall be construed as an admission or indication that any such breach or violation exists or has actually occurred.

Section 4.1
Organization and Qualification

- Gerler is not registered as a foreign corporation in Illinois. Gerler has applied for registration as a foreign corporation, but the registration process is not yet completed.
- Shoes.com is not registered as a foreign corporation in Illinois and New York. Shoes.com is registered with the Department of Revenue for sales tax purposes in those jurisdictions.

Section 4.2
Subsidiaries and Joint Ventures

The Issuer owns all of the issued and outstanding common stock of SHOEme and A12345.

Section 4.3
Authority Relative to the Debenture Purchase Agreement

Pursuant to the Shareholders' Agreement dated July 7, 2014 among the Issuer, Roger Hardy Capital Corporation Inc. and Pelecanus Investments Ltd. and such other persons to be bound by the Shareholders' Agreement pursuant to the terms thereof (the "**Shareholders' Agreement**"), the consent of Roger Hardy Capital Corporation Inc. and Pelecanus Investments Ltd. is required.

Section 4.5
Authorization

(d) Non-Contravention. See Section 4.7 for required consents.

(d)(i)

- Master Services Agreement dated June 29, 2007 between Shoes.com and ChannelAdvisor Corporation;
- ShopRunner Participation Agreement dated July 16, 2010, as amended February 22, 2013 and June 27, 2014 between Shoes.com and ShopRunner, Inc.;
- Assignment and Assumption of Gift Card Liability Agreement dated February 2, 2014 between Shoes.com and Brown Shoe Services Corporation;
- Gift Card Distribution Agreement dated February 2, 2014 between Shoes.com and Brown Shoe Services Corporation;
- Gift Card Redemption Agreement dated February 2, 2014 between Shoes.com and Brown Shoe Services Corporation; and
- Administrative Services Agreement dated February 2, 2014 between Shoes.com and Brown Shoe Services Corporation.

Section 4.6 Capitalization

- There is a Secured Convertible Subordinated Promissory Note, dated, July 8, 2014, issued by A12345 to Daniel Gerler, in the principal amount of three million US Dollars (US\$3,000,000) (the "Gerler Note"). At any time and from time to time, Daniel Gerler shall have the right, but not the obligation, prior to July 8, 2017 to convert, in whole or in part, the then outstanding principal sum, together with any unpaid and accrued interest thereon into (i) shares in the capital of the Issuer, or (ii) such common shares or shares of such other class of the capital of Issuer as are issued in an initial offering of Issuer's shares pursuant to a prospectus, registration statement or similar document filed with relevant securities regulatory authorities or in a reverse takeover.
- Also see Section 4.13(h) of this Disclosure Statement.

Section 4.7
Consents

- Consents are required under the following agreements:
 - The Shareholders' Agreement.
 - Amended and Restated Credit Agreement between U.S. Bank National Association and Gerler dated April 1, 2014 (the "**US Bank Credit Agreement**").
 - The Gerler Note.
 - Promissory Note, dated July 7, 2014, issued by A12345 to the Issuer, in the principal amount of ten million Dollars (\$10,000,000) and assigned to SHOEme (the "**Intercompany Note**").
 - Some of Gerler's software licenses may require consent, however such licenses are immaterial to Gerler's business.
- Additionally, pursuant to the terms of the General Security Agreement dated the date hereof between Gerler and the Arranger (the "**Gerler GSA**"), the Arranger shall not have a security interest in any contract, lease, permit, license, charter or license agreement covering real or personal property of any Debtor if under the terms of such contract, lease, permit, license, charter or license agreement, or applicable law with respect thereto, the grant of a security interest or lien therein is prohibited as a matter of law or under the terms of such contract, lease, permit, license, charter or license agreement and such prohibition has not been waived or the consent of the other party to such contract, lease, permit, license, charter or license agreement has not been obtained. Although some of the Lease or License Documents require consent to grant a security interest therein, no such consent has been obtained, and they are therefore excepted from the terms of the Gerler GSA.

Section 4.8
Liabilities

- See Intercompany Note, and accompanying Security Agreement, dated July 7, 2014, between A12345 and the Issuer assigned to SHOEme (the “**Intercompany Security Agreement**”).
- Also see Section 4.13(h) of this Disclosure Statement.
- Also see Section 4.15 of this Disclosure Statement.
- Letter of Offer dated October 5, 2012 between SHOEme and the Business Development Bank of Canada for a loan in the aggregate principal amount of one hundred and twenty-five Dollars (\$125,000).
- Outstanding Accounts (disputed by SHOEme):
 - Opn Pros
Description: Payment dispute for affiliate management services rendered.
Disputed Amount: \$5,000
 - Wordstream, Inc.
Description: Payment dispute for Search Engine Marketing services rendered.
Disputed Amount: \$10,841.91
 - Schenker of Canada Limited
Description: Payment dispute for third party logistics services rendered.
Disputed Amount: \$4,982.45

Section 4.10
Intellectual Property

- (c) From time to time, Gerler becomes aware of the unauthorized use by third parties of product images and copy from Gerler's website. Gerler's practice is to send cease and desist letters to such third parties of which Gerler becomes aware.

Section 4.11
Contracts

- (a) See disclosures set forth in Sections 4.5 and 4.7 of this Disclosure Statement.
- (b) The following Contracts provide for an obligation of Gerler of \$250,000 or more per period of twelve (12) months:
- Merchant@Amazon Program Agreement between Gerler and Amazon Services LLC, dated February 12, 2013;
 - Office Lease between BOP Met Park LLC (as successor in interest to Met Park East IV, L.L.C., as successor in interest to Benaroya Capital Company, LLC) and Gerler dated July 5, 2005, as amended;
 - Hosting Services Agreement between Gerler and DataPipe, Inc. dated September 13, 2006, as amended;
 - Master Subscription and Professional Services Agreement between Gerler and ExactTarget, Inc. dated May 16, 2011, iGoDigital Services Agreement between Gerler and iGoDigital Inc. dated May 3, 2011, and ExactTarget Order Form for iGoDigital dated April 2, 2014;
 - LinkShare Master Services Agreement between Gerler and LinkShare Corporation dated March 11, 2006, as amended by the Amendment to the Network Order Form and Pricing Schedule between the parties dated March 29, 2012;
 - Supply Chain Management Agreement between Gerler and Network Global Logistics LLC dated February 26, 2010, as amended;
 - Marketing Services Agreement between Gerler and the Rimm-Kaufman Group dated August 11, 2010, with addenda;
 - TellApart Platform Agreement between Gerler and TellApart, Inc. dated August 15, 2011;
 - Carrier Agreement between Gerler and United Parcel Service effective November 29, 2010, with addenda;
 - Merchant Processing Agreement between Gerler and Wells Fargo Merchant Services LLC and Wells Fargo Bank, N.A. (collectively, "Wells Fargo") dated August 15, 2014, as amended (the "Merchant Processing Agreement");
 - US Bank Credit Agreement;
 - Gerler Note; and
 - Intercompany Note.

Section 4.13
Changes

- (b) Gerler ended its employment relationship with Suzie George effective close of business on September 24, 2014. Suzie George was Gerler's Vice President of Human Resources.
- (e) The Intercompany Note and the Intercompany Security Agreement were assigned by the Issuer to SHOEme, pursuant to an assignment and assumption agreement among the Issuer, A12345 and SHOEme dated November 26, 2014. In connection therewith, SHOEme issued 3,539,948 of its common shares to the Issuer pursuant to a subscription agreement dated November 26, 2014.
- (e) SHOEme will enter into a new employment agreement with Sean Clark, its President and Chief Executive Officer, prior to December 31, 2014.
- (h) A12345 will purchase 100% of the stock of Shoes.com, Inc. from the Seller pursuant to the Acquisition Agreement. In connection therewith, A12345 will issue (a) a promissory note in the aggregate principal amount of two million US Dollars (US\$2,000,000) and a promissory note in the aggregate principal amount of four million US Dollars (US\$4,000,000), each to the Issuer, which are or will be subordinated pursuant to the Brown Shoe Intercreditor Agreement; (b) one thousand (1,000) shares in its common stock to the Issuer; and (iii) a convertible subordinated note to the Seller, bearing interest in accordance with the terms thereof and convertible into Common Shares, which is or will be subordinated to the Bank Debt and the Debentures pursuant to the Intercreditor Agreements.

Section 4.14
Compliance with Issuer Instruments and Applicable Laws and Permits

See Section 4.1 of this Disclosure Statement.

Section 4.15
Litigation

- (a) On September 19, 2013 and January 27, 2014, A12345 received letters from legal counsel to Semantic Search Technologies LLC ("**Semantic**") alleging that U.S. Patent No. 8,244,726 purportedly owned by Semantic "is directly applicable to the customer service functionalities of the website OnlineShoes.com.". On February 26, 2014, legal counsel to Gerler sent a response disagreeing with the assertions and stating that Gerler considers the matters to be closed. To Gerler's knowledge, neither Semantic or its legal counsel has responded to such letter.

(a) Outstanding Accounts (disputed by SHOEMe):

- Opm Pros
Description: Payment dispute for affiliate management services rendered.
Disputed Amount: \$5,000
- Wordstream, Inc.
Description: Payment dispute for Search Engine Marketing services rendered.
Disputed Amount: \$10,841.91
- Schenker of Canada Limited
Description: Payment dispute for third party logistics services rendered.
Disputed Amount: \$4,982.45

Section 4.16
Financial Statements

- (a) The Consolidated Statements of Financial Position as of September 30, 2014 and the Consolidated Statements of Loss for the nine month period ended September 30, 2014, each in respect of Gerler (collectively, the "September Financial Statements"), have been prepared by management, have not been audited or reviewed by an accounting firm, and do not contain footnotes. The amount stated in goodwill in the September Financial Statements has not been finalized and is subject to adjustment based on the allocation of the purchase price in respect of the purchase by A12345 of all of the issued and outstanding stock of Gerler pursuant to the Share Purchase Agreement, dated July 7, 2014 between Daniel Gerler and A12345, which has not been finalized.
- (b) SHOEme's unaudited Notice to Reader financial statements as at and for the fiscal year ended December 31, 2013 have not been reviewed by an accounting firm and do not contain footnotes.

Section 4.18
Taxes

- (g) See the tax provisions under the Gerler SPA, including, without limitation, Section 2.9 (Withholding Taxes), Article VI (Indemnification), and Section 7.5 (Tax Matters).

Section 4.19
Employment Agreements and Collective Agreements

(a)(i) Gerler is governed by the following executive employment agreements:

- At-Will Employment Agreement, dated April 12, 2011, between Gerler and David Martine (VP of Operations);
- At-Will Employment Agreement, dated May 1, 2002, between Gerler and Ron Truselo (Merchandise Manager); and
- Agreement Concerning At-Will Employment, Trade Secrets, Inventions, Intellectual Property, Confidentiality, Non-Competition, and Solicitation, dated April 12, 2011, between Gerler and Brad Shank (Controller).

(a)(i) SHOEme is governed by the following executive employment agreements:

- Employment Agreement dated January 29, 2013 between SHOEme and Sean Clark (President and Chief Executive Officer);
- Employment Agreement dated May 13, 2014 between SHOEme and Matt Fraser (Chief Operating Officer);
- Employment Agreement dated May 13, 2014 between SHOEme and Aaron Brown (Vice-President, Merchandising); and
- Employment Agreement dated May 26, 2014 between SHOEme and Curtis Peterson (Chief Marketing Officer).

(a)(ii) Change of control agreements (SHOEme):

- Employment Agreement dated January 29, 2013 between SHOEme and Sean Clark (President and Chief Executive Officer);
- Employment Agreement dated May 13, 2014 between SHOEme and Matt Fraser (Chief Operating Officer);
- Employment Agreement dated May 13, 2014 between SHOEme and Aaron Brown (Vice-President, Merchandising); and
- Employment Agreement dated May 26, 2014 between SHOEme and Curtis Peterson (Chief Marketing Officer).

Section 4.20
Property and Interests

(a) Leased or Licensed Properties (Gerler):

- Gerler and BOP Met Park LLC (as successor in interest to Met Park East IV, LLC, as successor in interest to Benaroya Capital Company, LLC), Suite 700 and Suite 200 of Metropolitan Park East Tower, 1730 Minor Avenue, Seattle, WA 98101: Office Lease dated July 5, 2005, as amended by the First Amendment to Lease dated July 2, 2010, as further amended by the Second Amendment to Lease, dated November 25, 2014;
- Gerler and Patricia Bacolas, Trustee of the George J. and Patricia Bacolas Revocable Living Trust, 1008 NE 65th Street, Seattle, WA: Commercial Lease dated September 1, 2008;
- Gerler and Outlet Mall Properties LC, Unit 103 inside Northern Supercenter, 116 S., Independence Boulevard, Virginia Beach, VA 23462: Agreement of Lease dated May 21, 1986, as amended by Amendment and Extension to Lease dated January 8, 2014;
- Gerler and Coliseum Crossing Associations, LLC, 70 Coliseum Crossing, located in Coliseum Crossing Shopping Center (2101 Coliseum Drive, Hampton, VA 23666): Shopping Center Lease dated April 18, 1988, as amended by six lease modification agreements and a Seventh Lease Modification Agreement dated June 30, 2011; and
- Gerler and Network Global Logistics, LLC, 1500 Commodity Blvd, Lockbourne, OH 43137: Supply Chain Management Agreement, dated February 26, 2010, as amended by the First Amendment to Supply Chain Management Agreement, dated February 26, 2010, as amended by the Second Amendment to Supply Chain Management Agreement, dated June 29, 2014.

(b) Leased or Licensed Properties (SHOEme):

- Lease and Lease Amendment:
SHOEme and Brookpark Properties Ltd.
Suite 102, 104, 204, 206, 207, 1715 Cook Street, Vancouver, BC V5Y 376
- Lease and Lease Amendment:
Penlea Investments Ltd. and Kasian Architecture Interior Design and Planning Ltd.
4th Floor, 1500 West Georgia Street, Vancouver, BC V6G 2Z6
- Sub Lease:
SHOEme and Kasian Architecture Interior Design and Planning Ltd.
4th Floor, 1500 West Georgia Street, Vancouver, BC V6G 2Z6
- Lease:
183 Bathurst Street Inc., and Township & Company Inc.
200 - 183 Bathurst Street, Toronto, ON M5T 2R7
- Sub Lease:
ShoeMe and Township & Company Inc.

200 - 183 Bathurst Street, Toronto, ON M5T 2R7

- Lease:
ShoeMe and Orlando Corporation
6499 Northam Drive, Mississauga, Ontario

Section 4.21 Personal Property

- Pursuant to the Intercompany Security Agreement, SHOEme, as assignee, has a first priority security interest in the personal property of A12345 which is being subordinated to the security interest and indebtedness held by the Arranger pursuant to the Intercompany Intercreditor Agreement.
- Certain vendors of Gerler hold purchase money security interests in their products provided to Gerler in the ordinary course, including under the following:
 - Dealer Agreement between Gerler and Deckers Outdoor Corporation ("**Deckers**") dated February 21, 2002, pursuant to which Deckers has a security interest in all inventory and equipment that Gerler has purchased or will purchase from Deckers and in all accounts, other forms of receivables, documents, instruments, returns and general intangibles that are related in any way to such inventory and equipment;
 - Credit Application Terms and Conditions between Gerler and Rieker Shoe Corporation ("**Rieker**") dated May 3, 2008, pursuant to which Rieker has a security interest in all products Gerler has purchased or will purchase from Rieker, all such products that are returned to Gerler, the proceeds arising from the sale or other disposition of such products and in any payments under insurance with respect to such products; and
 - Red Wing has a security interest in all inventory and assets of Gerler's Red Wing stores located in Hampton, Virginia and Virginia Beach, Virginia.
- Pursuant to the terms of the Merchant Processing Agreement, Wells Fargo has the right to require a reserve account or other security from the Issuer.
- Pursuant to the terms of the Gerler GSA, the Arranger shall not have a security interest in any contract, lease, permit, license, charter or license agreement covering real or personal property of any Debtor if under the terms of such contract, lease, permit, license, charter or license agreement, or applicable law with respect thereto, the grant of a security interest or lien therein is prohibited as a matter of law or under the terms of such contract, lease, permit, license, charter or license agreement and such prohibition has not been waived or the consent of the other party to such contract, lease, permit, license, charter or license agreement has not been obtained. Therefore, the Arranger will not have a first-ranking security interest in certain personal property of the Subsidiaries.

Section 4.23
Related Party Transactions

- (a) See disclosures regarding the Intercompany Security Agreement in this Disclosure Statement.
- (b)
 - See disclosures regarding the Intercompany Note and the Intercompany Security Agreement in this Disclosure Statement.
 - The Issuer and each of its Subsidiaries will complete the transactions contemplated by the Debenture Purchase Agreement and the Acquisition Agreement, as applicable.

Section 4.24
No Violations

- (a) See Sections 4.5, 4.7, 4.11 and 4.13 of this Disclosure Statement.

Section 4.25
Pension and Employee Benefits

(a) Gerler has the following Plans:

401(k) Plan:

Plan Name	Plan Type	Covered Employee Groups
Onlineshoes.com 401(k) Plan (Fidelity)	401k Retirement Plan	Full time and part time employees, eligible to participate following 90-day anniversary.

Health & Welfare Plans:

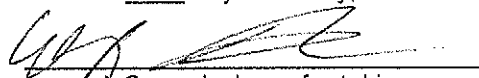
Plan Name	Plan Type	Covered Employee Groups
Group Health PPO and QHDHP + HSA	Medical	All benefit eligible employees.
Delta Dental	Dental	All benefit eligible employees.
Vision Services Plan	Vision	All benefit eligible employees.
Sun Life Financial	Life Insurance, AD&D	All benefit eligible employees.
Sun Life Financial	Optional Term Life	All benefit eligible employees.
Flex-Plan Services, Inc.	Flexible Spending Accounts: Healthcare and Dependent Care	All benefit eligible employees.
Colonial Life	Voluntary Insurance Plans	All benefit eligible employees.

Other Benefit / Compensation Plans:

Plan Name	Plan Type	Covered Employee Groups
Paid Time Off	Vacation and Sick Leave	Full Time and Part Time employees
Commuter Benefit Assist	Parking Subsidy, Bus/Transit Pass	Full Time and Part Time employees

- Also see Section 4.19 of this Disclosure Statement.

This is **EXHIBIT "B-1"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.


A Commissioner for taking
Affidavits within British Columbia

"Unless permitted under securities legislation, the holder of this security must not trade the security before the date that is 4 months and a day after the later of (i) December 12, 2014, and (ii) the date the Issuer became a reporting issuer in any province or territory.

The obligations of Gerler under this Debenture are subordinated and postponed to the obligations of Gerler to the holder of the Bank Debt pursuant to a Subordination, Postponement and Standstill Agreement to be entered into between the Arranger, on behalf of the Holder, the holder of the Bank Debt and Gerler."

1006903 B.C. LTD.
(a British Columbia company)

Secured Convertible Debenture

1006903 B.C. LTD. (the "Issuer") for value received hereby promises to pay to RBC INVESTOR SERVICES TRUST ITF 110952001 or such other Person or Persons who may at the time be the registered holder hereof (the "Holder") on June 30, 2017 (the "Maturity Date"), or such earlier date as the Principal Sum may become due subject to and in accordance with the terms, conditions and provisions of Schedule "A" hereto, on presentation and surrender of this Debenture, the Principal Sum of three million and seven hundred and fifty thousand Dollars (Cdn. \$3,750,000) in lawful money of Canada, and in the meantime to pay interest on the Principal Sum outstanding hereunder in like currency at the Applicable Interest Rate as and from the Issue Date until full and final payment and discharge hereof. Interest accruing due hereunder shall be calculated daily on the basis of a 365 or 366 day year (as the case may be) and shall be due and payable monthly in arrears on the last Business Day of each calendar month, the first such payment to fall due on the last Business Day of the month in which the Issue Date occurs. Any amount of interest not paid when due (including overdue and unpaid interest), and all interest calculated after maturity, default, demand and judgment, shall bear interest at the aforesaid rate, be calculated daily and compounded on the last Business Day of each calendar month (by adding such accrued and unpaid interest to the Principal Sum, the total of which shall then bear interest at the aforesaid rate), and shall be paid without the necessity for any demand being made. The theory of deemed reinvestment shall not apply to the calculation of interest or the payment of other amounts hereunder.

This Debenture is issued upon the terms and conditions as are set out in Schedule "A" hereto, which terms, conditions and provisions are attached hereto and are incorporated herein and form a part hereof. Unless the context otherwise requires capitalized expressions herein shall have the meanings provided for in Schedule "A" hereto.


Payment of the Obligations under this Debenture are unconditionally guaranteed by the Guarantors as set forth in Schedule "A" hereto.

IN WITNESS WHEREOF the Issuer and the Guarantors have executed this Debenture on December 12, 2014 (the "Issue Date").

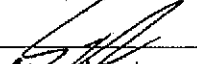
By the Issuer:

By the Guarantors:

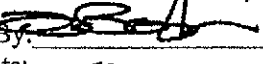
1006903 B.C. LTD.

By: 
its: CFO

SHOEME TECHNOLOGIES LIMITED

By: 
its: President and CEO


GERLER AND SON, INC.

By: 
its: CFO

A12345 HOLDINGS, INC.

By: 
its: CFO

SHOES.COM, INC.

By: 
its: CFO

SCHEDULE "A"
TO SECURED CONVERTIBLE DEBENTURE OF 1006903 B.C. LTD.

The following terms and conditions are applicable to the secured convertible note of 1006903 B.C. Ltd.

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Debenture, unless there is something in the subject matter or context inconsistent:

"90% Redemption Right" has the meaning provided for in Section 3.1(e);

"A12345" means A12345 Holdings, Inc., a Washington, USA corporation;

"Accession Deed" has the meaning provided for in Section 3.8(e);

"Acquisition Agreement" means the stock purchase agreement dated the Issue Date among the Seller, as seller, A12345, as purchaser, and the Issuer in respect of the purchase and sale of all of the issued and outstanding shares of capital stock of Shoes.com;

"Adjustment Period" means the period during which this Debenture is Outstanding;

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified;

"Aggregate Market Capitalization" means, at any date, the amount equal to the product of the Current Market Price as of the trading day immediately preceding such date and the number of Common Shares outstanding on such date;

"Applicable Interest Rate" at any time means the Interest Rate at such time;

"Applicable Laws" means, with respect to any Person, property, transaction or event, any present or future: (a) domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, convention, rule, regulation, restriction or by-law (zoning or otherwise); (b) judgment, order, writ, injunction, decision, direction, determination, ruling, decree or award; (c) regulatory policy, practice, ruling, interpretation, guideline or directive; or (d) any order, permit, approval, grant, license, consent, right, franchise, privilege, certificate exemption, waiver, registration or other authorization, binding on or affecting the Person, property, transaction or event referred to in the context in which the term is used in each case whether or not having the force of law;

"Applicable Securities Laws" means all Applicable Laws of any Governmental Authority relating to the distribution, issue, transfer, trading or purchase and sale in or of securities, including the rules and regulations of any stock exchange on which any of the securities of the Issuer are listed for trading or to which the Issuer has made an application (which has not been withdrawn) for the listing of any of its securities);

"Arranger" means Deans Knight Capital Management Ltd., a corporation governed by the Canada Business Corporations Act;

"Bank Debt" means Financial Indebtedness of Gerler at any time (a) in the aggregate principal amount of up to five million US Dollars (US\$5,000,000) under the Amended and Restated Credit Agreement dated as of April 1, 2014 between U.S. Bank National Association and Gerler; or (b) in the aggregate principal amount of up to seven million and five hundred thousand US Dollars (US\$7,500,000) under a credit agreement to be entered into by Wells Fargo Bank, National Association and Gerler;

"Bank Intercreditor Agreement" means as the context requires, the U.S. Bank Intercreditor Agreements or the Wells Fargo Intercreditor Agreement;

"BDC Loan" means Financial Indebtedness of SHOEMe in the aggregate principal amount of one hundred twenty-five thousand Dollars (\$125,000) to the Business Development Bank of Canada under a letter of offer dated October 5, 2012;

"Board" has the meaning provided for in the definition of "Change of Control";

"Board Observer Agreement" means the Board Observer Agreement in the form of Exhibit 6.4 of the Debenture Purchase Agreement;

"Brown Shoe Intercreditor Agreement" means the Subordination, Postponement and Standstill Agreement among the Arranger, the Seller, the Issuer and each of the Subsidiaries (except for Gerler) dated the Issue Date, in the form of Exhibit 2.2(a)(ii)(B) of the Debenture Purchase Agreement;

"Business" means the business of the Issuer being the sale and distribution of footwear to retail customers through the facilities of the Internet;

"Business Day" means a day (other than a Saturday, Sunday or statutory holiday) on which banks are generally open for business in the City of Vancouver, British Columbia;

"Canadian GAAP" means generally accepted accounting principles as may be described in the Canadian Institute of Chartered Accountants Handbook, including the Canadian Accounting Standards for Private Enterprises to the extent applicable, and other principal sources recognized from time to time by the Canadian Institute of Chartered Accountants;

"Change of Control" of the Issuer or any of its Subsidiaries, as applicable, means the occurrence of any of the following events, other than (i) with the approval of the Arranger on behalf of the Holder, (ii) in connection with, and at the time of completion of, an Initial Public Offering, or (iii) in connection with the Acquisition Agreement and the transactions contemplated thereby:

- (a) any Person or group of Persons acting in concert acquires Voting Shares of the Issuer or any Subsidiary of the Issuer or securities convertible into or exchangeable for Voting Shares of the Issuer or any Subsidiary of the Issuer or the right to acquire Voting Shares of the Issuer or any Subsidiary of the Issuer representing, after such acquisition and after giving effect to such conversion or exchange or exercise of such right, more than fifty percent (50%) of the Voting Shares of the Issuer or any Subsidiary of the Issuer;
- (b) (i) all or substantially all of the assets of the Issuer or any Subsidiary of the Issuer are sold or otherwise transferred to any Person other than a wholly-owned Subsidiary of the Issuer or (ii) the Issuer completes a Merger Transaction, in either case under this clause (b), in one transaction or a series of related transactions which results in the occurrence of the circumstances referred to in clause (a) above;

- (c) the Issuer shall adopt a plan of liquidation or dissolution or any such plan shall be approved by the shareholders of the Issuer; or
- (d) in any period of twelve (12) consecutive months, the individuals who are members of the board of directors (the "Board") of the Issuer or any Subsidiary of the Issuer at the beginning of such twelve (12) month period cease for any reason to constitute at least a majority of the Board unless the appointment or election of such individuals was approved by members of the Board of the Issuer or such Subsidiary who were members of the Board of the Issuer or such Subsidiary at the beginning of such period and any successor to any such director who was recommended or elected or appointed to succeed any such director by the affirmative vote of the directors when that affirmative vote includes the affirmative vote of at least a two-thirds (2/3) majority of the directors then on the Board of the Issuer or such Subsidiary;

"Change of Control Notice" has the meaning provided for in Section 3.1(a);

"Change of Control Offer" has the meaning provided for in Section 3.1(a);

"Collateral" has the meaning given thereto in the Security Agreements;

"Collateral Agency Agreement" means the Collateral Agency Agreement in the form of Exhibit 2.2(a)(ii)(A) of the Debenture Purchase Agreement;

"Common Shares" or **"Shares"** means, subject to Section 4.10(d), the shares of common stock in the capital of the Issuer;

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise and **"Controlling"** and **"Controlled"** have meanings correlative thereto;

"Conversion Date" in respect of the exercise by the Holder or the Issuer of a Conversion Right, means the date on which the Holder gives notice of the conversion of the whole or part of the Principal Sum pursuant to Section 4.1(c) or the date on which the Issuer gives notice to the Holder of the conversion of the whole or any part of the Principal Sum pursuant to Section 4.1(d);

"Conversion Period" means the period during which the Holder or the Issuer may exercise the Conversion Right pursuant to Section 4.1(a);

"Conversion Price" means, at any time, the price per Common Share at which the Principal Sum shall at such time be convertible into Common Shares as adjusted in accordance with the provisions of Article 4 which shall initially be the Initial Conversion Price;

"Conversion Right" means the right of the Holder to convert or of the Issuer to force conversion, as the case may be, of the whole or any portion of the Principal Sum into Shares at the Conversion Price pursuant to Section 4.1(a);

"Corporate Reorganization" has the meaning provided in Section 4.10(d);

"Counsel" means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Issuer and acceptable to the Arranger on behalf of the Holder, acting reasonably;

"Current Market Price" means at any date of determination, the Weighted Average Price per Share for the twenty (20) consecutive Trading Days (sixty (60) Trading Days in the case of the exercise of the Issuer's Conversion Right) ending on the third (3rd) Trading Day preceding the date of determination on the Toronto Stock Exchange or, if on such date the Common Shares are not listed on the Toronto Stock Exchange, on such stock exchange upon which the Common Shares are listed and as selected by the Directors;

"DBRS" means DBRS Limited;

"Debenture" means this Debenture and **"Debentures"** means secured convertible debentures of the Issuer in the form of this Debenture in the aggregate principal amount of ten million Dollars (\$10,000,000);

"Debenture Guarantee" means the guarantee of each Debenture by the Guarantors pursuant to Article 10;

"Debenture Purchase Agreement" means the agreement dated the Issue Date between the Issuer and the Arranger;

"Default" means any event or circumstance, which with the giving of notice or lapse of time, would constitute an Event of Default;

"deliver" or any derivative thereof means, actual delivery to the other party or its professional advisors;

"Demand Note" means the demand promissory note dated as of the date hereof issued by A12345 to the Issuer in the aggregate principal amount of four million US Dollars (US\$4,000,000);

"Director" means a director of the Issuer and, unless otherwise specified herein, reference to action "by the directors" means action by the directors of the Issuer as a board or, whenever duly empowered, action by any committee of such board;

"Disposition" or **"Dispose"** means the sale, assignment, lease, conveyance, transfer or other disposition of property of the Issuer, or any agreement to do any of the foregoing, other than a Permitted Disposition or in respect of a Permitted Disposition;

"Distribution" means any of the following:

- (a) the declaration or payment of any dividend or any other distribution on Equity Interests of the Issuer or any payment made to the direct or indirect holders (in their capacities as such) of Equity Interests of the Issuer, including any payment in connection with any Merger Transaction;
- (b) the redemption of any Equity Interests of the Issuer or any Subsidiary of the Issuer, including, any payment in connection with any Merger Transaction;
- (c) any Investment other than a Permitted Investment;
- (d) any payment of principal of or redemption prior to the scheduled maturity or prior to any scheduled repayment of principal or sinking fund payment, as the case may be, in respect of any Financial Indebtedness of the Issuer except Permitted Financial Indebtedness;
- (e) any payment on account of, or for the purpose of setting apart, any property for a sinking or other analogous fund for: (i) the purchase, redemption, retirement or other acquisition of Equity Interest in the Issuer; (ii) any principal of or interest or premium on or of any amount in respect of a sinking

or analogous fund or defeasance fund for any Indebtedness of the Issuer ranking in right of payment subordinate to any liability of the Issuer under this Debenture; or

- (f) any management, consulting or similar fee or any bonus payment or comparable payment, or by way of gift or other gratuity, to any Affiliate of the Issuer or to any director or officer thereof other than as compensation for services rendered to the Issuer or any of its Subsidiaries in the ordinary course;

"Dollars" and the symbol "\$" each means lawful money of Canada;

"Encumbrance" includes any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale leaseback arrangement, any right of set-off and any guarantees or indemnities;

"Environment" means soil, surface waters, groundwater, land, stream sediments, surface or subsurface strata and ambient air;

"Environmental Claims" has the meaning provided in Section 7.2(b);

"Environmental Laws" means all Applicable Laws that address, are related to, or are otherwise concerned with, the protection of the Environment, health or safety issues (including occupational safety and health);

"Environmental Liabilities" means any and all indebtedness, liabilities and obligations for any Release, any environmental damage, any contamination or any other environmental problem caused or alleged to have been caused to any Person, property or the environment as a result of any Release or the condition of any property or asset, whether or not caused by a breach of Applicable Laws, including all indebtedness, liabilities and obligations arising from or related to: (i) any surface, underground, air, groundwater, or surface water contamination; (ii) the abandonment or plugging of any well; (iii) restorations and reclamations; (iv) the removal of or failure to remove any foundations, structures or equipment; (v) the cleaning up or reclamation of storage sites; (vi) any Release; (vii) violation of pollution standards; and (viii) personal injury (including sickness, disease or death) and property damage arising from the foregoing;

"Equity Interests" of any Person means (i) any and all shares or other equity interests (including common shares, preferred shares, partnership interests, trust interests, limited liability company interests and limited liability partnership interests) in such Person; and (ii) all rights to purchase, warrants or options, including securities convertible into or exchangeable for, participations or other equivalents of or interests in (however designated) such shares or other interests in such Person (whether or not currently exercisable, exchangeable or convertible);

"Event of Default" means any event or circumstance specified in Section 6.1, which has not been waived or cured or remedied;

"Excess Bid Consideration" has the meaning provided for in Section 4.10(f);

"Excess Distribution" has the meaning provided for in Section 4.10(e);

"Expiration Time" has the meaning provided for in Section 4.10(f);

"Financial Indebtedness" of any Person at any date means, without duplication, all Indebtedness of such Person: (i) for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof); (ii) evidenced by bonds, debentures, Debentures or other similar instruments; (iii) in respect of financial letters of credit or other similar instruments (or reimbursement obligations with respect thereto); (iv) to pay the deferred and unpaid purchase price of property or services; (v) in respect of leases of such Person that are required to be shown as a liability on the financial statements of such Person prepared in accordance with GAAP; (vi) secured by an Encumbrance on any property of such Person, whether or not such Indebtedness is assumed by such Person or the recourse of the holder of such Indebtedness is limited to such property; (vii) under conditional sale or other title retention agreements relating to assets purchased by such Person; (viii) in respect of redemption obligations with respect to any shares of any other Person which are (I) redeemable, retractable, payable or required to be purchased or otherwise retired or extinguished, or convertible into debt of such Person (A) at a fixed or determinable date, (B) at the option of any holder thereof, or (C) upon the occurrence of a condition not solely within the control and discretion of such Person; or (II) convertible into any other shares described in (I) above; (ix) to the extent not otherwise included in this definition, Hedging Obligations of such Person; and (x) all Guarantees of Indebtedness of the type referred to in any of the foregoing sub-clauses (i) to (ix) of another Person. Notwithstanding the foregoing, the following shall not be considered Financial Indebtedness: (i) earn-outs or similar profit sharing arrangements provided for in acquisition agreements which are determined on the basis of future operating earnings or other similar performance criteria (which are not determinable at the time of acquisition) of the acquired assets or entities; and (ii) accrued expenses, trade payables, customer deposits or deferred income taxes arising in the ordinary course of business of such Person. Any Indebtedness which is incurred at a discount to the principal amount at maturity thereof shall be deemed to have been incurred at the full principal amount at maturity thereof. For all purposes hereof, the Financial Indebtedness of any Person shall include the Financial Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly non-recourse to such Person;

"GAAP" means Canadian GAAP and/or US GAAP, as the context requires;

"Gerler" means Gerler and Son, Inc., a Washington, USA corporation;

"Governmental Authority" means any (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government or any governmental or public department, (ii) court, tribunal, arbitral body, statutory body, commission, board, bureau or agency, (iii) self-regulatory organization or authority, including any stock exchange on which any securities of the Issuer are listed, (iv) subdivision, agent, commission, board or authority of any of the foregoing, or (v) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing and includes a Securities Regulatory Authority;

"Guarantee" means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the **"primary obligor"**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part). The amount of any Guarantee shall be deemed to be an amount equal to the stated or

determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning;

"Guarantor" means each of SHOEme, A12345, Gerler and Shoes.com;

"Hazardous Substances" means any pollutant, contaminant, waste of any nature, hazardous substance, hazardous material, toxic substance, dangerous substance, dangerous good or other substance that is prohibited, listed, defined, designated or classified as dangerous, hazardous, radioactive, explosive or toxic or a pollutant or a contaminant under or pursuant to any applicable Environmental Laws, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefore and asbestos or asbestos-containing materials or any substance which is deemed under Environmental Laws to be deleterious to natural resources or worker or public health and safety;

"Hedging Obligations" of any Person means the obligations of such Person pursuant to (i) any interest rate swap agreement, interest rate collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in interest rates, (ii) agreements or arrangements designed to protect such Person against fluctuations in foreign currency exchange rates in the conduct of its operations, or (iii) any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in commodity prices, in each case entered into in the ordinary course of business for bona fide hedging purposes and not for the purpose of speculation;

"Holder" has the meaning provided for on the first page of this Debenture and its successors and permitted assigns or the Person or Persons from time to time registered as the holder or holders of this Debenture pursuant to Section 8.1;

"including" means including, without limitation, and shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it, and "includes" shall be construed in a like manner;

"incur" means, with respect to any Indebtedness, incur, create, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to such Indebtedness, and "incurrence" has a corresponding meaning;

"Indebtedness" means all present and future obligations, indebtedness, liabilities, covenants, agreements and undertakings of a Person howsoever arising, whether direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred, including all future advances and re-advances, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether such Person be bound alone or with others and whether as principal or surety, including all interest, fees, expenses, indemnities and costs;

"Initial Conversion Price" means a price per Common Share that is the lesser of: (i) ten Dollars (\$10) or, if, by January 31, 2015, the Issuer has completed an issuance of Equity Interests for gross proceeds of at least five million Dollars (\$5,000,000), fourteen Dollars (\$14); and (ii) the price that is at a thirty percent (30%) discount to the price per Common Share paid to the Issuer in the first issuance of Common Shares by the Issuer next following the Issue Date to a Person whose relationship with the Issuer is not non-arm's length ("**non-arm's length**" for this purpose having the same meaning as such term has under the Tax Act); provided that the amounts set forth in this definition are subject to adjustment *mutatis mutandis* in the same manner as the Conversion Price is adjusted pursuant to Section 4.10;

“Initial Public Offering” means the issue of Common Shares in connection with the Issuer becoming a “reporting issuer” under Applicable Securities Laws and the listing of the Common Shares on a stock exchange or a Merger Transaction where the resulting entity is a “reporting issuer” under Applicable Securities Laws;

“Intercompany Notes” means Financial Indebtedness of A12345 (i) in the aggregate principal amount of ten million US Dollars (US\$10,000,000) under a secured promissory note dated July 7, 2014 issued by A12345 to the Issuer, as subsequently assigned to and assumed by SHOEme, as payee, pursuant to an Assignment and Assumption Agreement dated November 26, 2014 among the Issuer, SHOEme and A12345; (ii) in the aggregate principal amount of two million US Dollars (US\$2,000,000) under a promissory note dated the date hereof issued by A12345 to the Issuer; and (iii) under the Demand Note, each as subordinated pursuant to the Brown Shoe Intercreditor Agreement;

“Interest” means interest at the Applicable Interest Rate calculated and payable pursuant to Article 2 on the Principal Sum and any other amounts owing by the Issuer to the Holder under this Debenture;

“Interest Payment Date” means the last day of each month for so long as this Debenture is outstanding, and the Maturity Date, provided that in the event that all or any part of the Principal Sum is partially or totally prepaid at any time other than on an Interest Payment Date, then the date upon which such partial or total prepayment is made shall be an Interest Payment Date in respect of the amount of such Principal Sum so prepaid;

“Interest Period” means:

- (a) the period beginning on (and including) the Issue Date and ending on (and including) the last day of the month in which the Issue Date occurs; and
- (b) thereafter, successive periods beginning on (but excluding) each successive Interest Payment Date and ending on (and including) the earlier of the next Interest Payment Date and the Maturity Date;

“Interest Rate” means: (i) a rate of ten per cent (10%) per annum; and (ii) while an Event of Default exists, fifteen per cent (15%) per annum;

“Investment” of any Person means: (i) all direct or indirect investments by such Person in any other Person in the form of loans, advances or capital contributions or other credit extensions constituting Indebtedness of such other Person, and any guarantee of Indebtedness of any other Person; (ii) all purchases (or other acquisitions for consideration) by such Person of Indebtedness, Equity Interests or other securities of any other Person; and (iii) all other items that would be classified as investments on a balance sheet of such Person prepared in accordance with GAAP;

“Issue Date” has the meaning set forth on the first page of this Debenture;

“Issuer” has the meaning set forth on the first page of this Debenture;

“Judgment Conversion Rate” has the meaning provided for in Section 7.4;

“Losses” has the meaning provided for in Section 7.2(a);

“Material Adverse Change” means any event, occurrence, development after the date hereof or state of occurrence or state of circumstances or facts that exists at any time on or after the date hereof that has or had or would reasonably be expected to have a Material Adverse Effect;

"Material Adverse Effect" means any event, occurrence, development or state of occurrence or state of circumstances or facts that has or had or would reasonably be expected to have an effect that, individually or when taken together with all other events, occurrences, developments or states of occurrence or states of circumstances or fact is reasonably or would reasonably be expected to be: (i) material and adverse to the business, condition (financial or otherwise), results of operations or assets or liabilities (actual or contingent) of the Issuer and its Subsidiaries considered as a whole; (ii) a material impairment of the ability of the Issuer or any of its Subsidiaries to perform its obligations under any Transaction Document to which it is a party; (iii) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer or any of its Subsidiaries of any Transaction Document to which it is a party; (iv) a material adverse effect on the rights or remedies of the Holder in respect of this Debenture or of the Arranger under the Debenture Purchase Agreement or in respect of the Security Agreements; or (v) a material adverse effect on the value of the Collateral or the ability of the Arranger to exercise its remedies at the times and in the manner contemplated by the Security Agreements; provided, however, that the term Material Adverse Effect shall exclude any effect described in sub-clause (i) above resulting from or arising in connection with: (A) any change in GAAP; (B) any change in the global, national or regional conditions (including the outbreak of war or acts of terrorism) or in the national or global financial or capital markets, (C) any change in the business in which the Issuer and its Subsidiaries operate, provided that for the purposes of (B) and (C) such effect does not primarily relate to (or have the effect primarily relating to) the Issuer and its Subsidiaries or disproportionately adversely affects the Issuer and its Subsidiaries compared to other entities operating in the business in which the Issuer operates, or (D) the Board Observer Agreement;

"Maturity Date" has the meaning provided for on the first page of this Debenture;

"Merger Transaction" means any transaction of merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's or any Subsidiary of the Issuer's undertaking, property or assets would become the property of any other Person, other than by or between wholly-owned Subsidiaries of the Issuer or the Issuer and such Subsidiaries, other than in connection with, but not after the completion of, an Initial Public Offering;

"Net Proceeds" means proceeds in cash, cheques or other cash equivalent financial instruments, as and when received by the Person making a Disposition, net of: (i) the direct costs relating to such Disposition excluding amounts payable to the Issuer or any Affiliate of the Issuer, (ii) sale, use or other transaction taxes paid or payable as a result thereof including income taxes, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Financial Indebtedness secured by an Encumbrance on the property which is the subject of such Disposition;

"Next Trading Day" has the meaning provided in Section 4.10(f);

"Obligations" means any and all Indebtedness of the Issuer to the Holder under this Debenture;

"Obligor" means each of the Issuer and each Guarantor;

"Offer Price" has the meaning provided in Section 3.1(a);

"Officers' Certificate" means a certificate signed by any one of the following officers of the Issuer: President and Chief Executive Officer, Chief Financial Officer, any Vice-President, Secretary or Treasurer;

"ordinary course of business" or **"ordinary course"** when used in relation to the taking of any action by any Person means that the action is consistent in its nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the day to day operations of the business of such Person;

"Outstanding" when used in relation to this Debenture has the meaning provided for in Section 1.6;

"Payment Account" means such account as the Holder may from time to time advise the Issuer in writing;

"Permitted Dispositions" means:

- (a) Dispositions of inventory, or worn-out, obsolete or other surplus equipment, all in the ordinary course of business;
- (b) Dispositions, non-renewals and exchange properties in the ordinary course of business;
- (c) Dispositions which are made for fair market value and the mandatory repayment in the amount of the Net Proceeds of such Disposition is made as required by Section 3.2;
- (d) Dispositions between wholly-owned Subsidiaries of the Issuer or between the Issuer and such Subsidiaries, and for greater certainty, includes the transfer by A12345 to the Issuer of the Shoes.com Domain Names, subject to the Security Interests in the Security Agreements; or
- (e) Dispositions with the consent of the Arranger on behalf of the Holder;

"Permitted Encumbrances" means:

- (a) Security Interests, upon or in any property acquired by the Issuer after the date hereof in the ordinary course of business, created at the time of such purchase or within sixty (60) calendar days thereafter to secure the purchase price of such property or to secure Financial Indebtedness incurred solely for the purpose of financing the acquisition of such property and Security Interests existing on such property at the time of its acquisition (other than any such Security Interest created in contemplation of such acquisition), provided that no such Security Interest shall extend to any property of the Issuer other than the property so acquired;
- (b) Encumbrances of the type referred to in Exhibit A attached hereto;
- (c) Encumbrances existing as of the date of the Debenture Purchase Agreement and securing each of the Bank Debt with U.S. Bank National Association, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt; and
- (d) Encumbrances securing the Bank Debt with Wells Fargo Bank, National Association;

"Permitted Financial Indebtedness" means any of the following:

- (a) Financial Indebtedness incurred under each of the Bank Debt, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt;
- (b) Financial Indebtedness represented by the Debentures; and
- (c) trade payables and accrued liabilities of the Issuer and its Subsidiaries incurred in the ordinary course of business of the Issuer and its Subsidiaries;

"Permitted Investment" of any Person means: (a) loans and advances to directors, employees and officers of the Issuer for bona fide business purposes and to purchase Equity Interests of the Issuer not in excess of one million Dollars (\$1,000,000) at any one time outstanding; (b) cash and cash equivalents; (c) receivables owing to such Person if created or acquired in the ordinary course of business and payable or dischargeable

in accordance with customary trade terms; provided, however, that such trade terms may include such concessionary trade terms as such Person deems reasonable under the circumstances; (d) Investments in securities of trade creditors or customers received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers; (e) share, obligations or securities received in settlement of debts created in the ordinary course of business and owing to such Person or in satisfaction of judgments; and (f) book based securities, negotiable instruments, Investments or securities which evidence (i) short term redeemable Investments (having a term to maturity of not more than one year) issued or fully guaranteed by the Government of Canada or any Province of Canada with a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (ii) demand deposits, term deposits or certificates of deposit of banks listed in Schedule I of the *Bank Act* (Canada), which have a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (iii) commercial paper directly issued by Schedule I Banks having, at the time of the investment therein, a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (iv) call loans to and notes or bankers' acceptances issued or accepted by any depository institution described in (ii) above and (v) term deposits with an entity, the commercial paper of which has a rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P;

"Person" means any individual, firm, partnership, company, corporation or other body corporate, government, governmental body, agency, instrumentality, unincorporated body or association and the heirs, executors, administrators or other legal representatives of an individual;

"Prepayment Date" has the meaning provided in Section 3.4;

"Prepayment Notice" has the meaning provided in Section 3.4;

"Principal Sum" in respect of this Debenture means the amount set forth as the principal sum on the first page of this Debenture or such lesser principal sum as is owing under this Debenture from time to time, and in respect of all Debentures means the aggregate of such amounts in respect of all Debentures;

"Release" has the meaning prescribed in any Environmental Law and includes any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, migration, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Substance, whether accidental or intentional, into the environment;

"S&P" means Standard & Poor's Financial Services LLC;

"securities" has the meaning ascribed thereto in the *Securities Act* (British Columbia);

"Securities Regulatory Authorities" means the securities commissions or similar regulatory authorities in each of the provinces and territories of Canada and any other applicable jurisdiction;

"Security Agreements" means the: (i) General Security Agreement of the Issuer; (ii) General Security Agreement of SHOEme; (iii) Security Agreement of A12345; (iv) Security Agreement of Gerler; (v) Intellectual Property Security Agreement of Gerler; (vi) Trademark Security Agreement of Gerler; (vii) Security Agreement of Shoes.com; (viii) Intellectual Property Security Agreement of Shoes.com; and (ix) Control Agreement of Shoes.com, each in substantially the respective forms set out in Exhibit 2.2(b)(ii) of the Debenture Purchase Agreement;

"Security Interest" means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement

whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale-leaseback arrangement, any right of set-off and any guarantees or indemnities;

"Seller" means Brown Shoe Investment Company, Inc.;

"Shareholders' Agreement" means the Shareholders' Agreement dated July 7, 2014 entered into among the Issuer, Roger Hardy Capital Corporation Inc., Pelecanus Investments Ltd. and such other persons as shall from time to time become bound pursuant to the provisions of Section 2.4 thereof, as amended, supplemented or otherwise modified;

"SHOEme" means SHOEme Technologies Limited, a corporation governed by the Canada Business Corporations Act;

"Shoes.com" means Shoes.com, Inc., a Delaware, USA corporation;

"Shoes.com Domain Names" means all right, title and interest in, to and under any domain name registration or uniform resource locator or URL owned on the date hereof by Shoes.com, including without limitation, Shhhoes.com, Shoes.com and Sssshoes.com, any trademarks and associated goodwill related to any such domain name, social media accounts (i.e. Facebook, Twitter, Pinterest, Instagram, Google+ and YouTube), and any accounts receivable, Accounts, Instruments, General Intangibles and Payment Intangibles and contract rights arising from or related to use of such domain name or uniform resource locator or URL;

"Subordinated Debt" means Financial Indebtedness of A12345 in the aggregate principal amount of seven million and five hundred thousand US Dollars (US\$7,500,000) to the Seller under the convertible subordinated note dated the Issue Date bearing interest in accordance with the terms thereof and due on December 12, 2019, or such earlier date pursuant to the terms of such convertible subordinated note, and convertible into Common Shares at a conversion price of \$21.50 per Common Share, subject to adjustment as provided for in such convertible subordinated note, secured by the security interests provided in a guarantee and security agreement dated the Issue Date among the Seller, the Issuer and each of the Subsidiaries, which Financial Indebtedness is or will be subordinated to the Bank Debt and the Debentures pursuant to the Bank Intercreditor Agreement and the Brown Shoe Intercreditor Agreement;

"Subsidiary" or "subsidiary" means: (i) any corporation or company of which at least a majority of the outstanding securities having by the terms thereof ordinary voting power to elect a majority of the board of such corporation or company is at the time directly, indirectly or beneficially owned or under the Control of the Issuer; (ii) any partnership of which, at the time, the Issuer directly, indirectly or beneficially owns or controls at least a majority of the voting interests (however designated) thereof, or otherwise controls such partnership; and (iii) any other Person of which at least a majority of the voting interests (however designated) are at the time directly, indirectly or beneficially owned or controlled by the Issuer, and for greater certainty, includes Shoes.com;

"Successor Issuer" has the meaning provided in Section 9.1;

"Tax" or "Taxes" means any federal, provincial, state, county, local, or foreign tax, charge, fee, levy, impost, duty, or other assessment, including income, gross receipts, excise, employment, sales, use, consumption, asset, transfer, recording, license, payroll, franchise, severance, documentary, stamp, occupation, windfall profits, environmental, highway use, commercial rent, customs duty, capital stock, paid-up capital, profits, withholding, waste water discharge, social security, social security contribution quotas, housing fund contribution quotas, retirement fund contribution quotas, single business,

unemployment, disability, real property, personal property, registration, ad valorem, value added, alternative or add-on minimum, workplace safety insurance board premiums, employment insurance premiums and deductions, pension plan deductions and contributions, employer health, goods and services, estimated, or other tax or governmental fee of any kind whatsoever, imposed or required to be withheld by any Governmental Authority, including any estimated payments relating thereto;

"Total Offer Price" has the meaning provided in Section 3.1(a);

"Trading Day" means, with respect to a stock exchange, a day on which such exchange is open for the transaction of business;

"Transaction Documents" means the Debentures, the Debenture Purchase Agreement, the Collateral Agency Agreement, the Brown Shoe Intercreditor Agreement, the Security Agreements, the Board Observer Agreement and, only after execution thereof, the Wells Fargo Intercreditor Agreement and the U.S. Bank Intercreditor Agreements;

"U.S. Bank Intercreditor Agreements" means (a) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger and Gerler (as borrower); and (b) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger, the Seller and Gerler (as borrower), each to be entered into after the Closing Date, in a form mutually agreeable by the parties, each acting reasonably;

"US GAAP" means United States generally accepted accounting principles as established under the standards of the Financial Accounting Standards Board;

"Vendor Take Back Loan" means Financial Indebtedness of the A12345 in the aggregate principal amount of three million US Dollars (US\$3,000,000) to Daniel Gerler under a secured convertible subordinated promissory note dated July 8, 2014;

"Voting Shares" with respect to any Person, means securities of any class of shares of such Person entitling the holders thereof (whether at all times or only so long as no senior class of share or other relevant equity interest has voting power by reason of any contingency) to vote in the election of members of the board of directors of such Person;

"Weighted Average Price" means with respect to a share, the aggregate sale price of all shares of a particular class sold or traded on an exchange or market, as the case may be, divided by the total number of shares of that class so sold or traded, during a stated period of time;

"Wells Fargo Intercreditor Agreement" means the Subordination, Postponement, Standstill and Intercreditor Agreement to be entered into after the Closing Date among Wells Fargo Bank, National Association, the Arranger, the Seller and Gerler (as borrower), in a form mutually agreeable by the parties, each acting reasonably; and

"written consent of the Issuer" and **"certificate of the Issuer"** mean, respectively, a written consent and certificate signed in the name of the Issuer's President and Chief Executive Officer, Chief Financial Officer, any Vice-President, Secretary or Treasurer, and may consist of one or more instruments so executed.

1.2 Headings, Etc.

The division of this Debenture into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Debenture.

1.3 Monetary References

Unless otherwise provided, references to "Dollars" or "\$" in this Debenture refer to lawful currency of Canada and references to "US Dollars" and "US\$" in this Debenture refer to lawful currency of the United States of America.

1.4 Consents and Approvals

It shall be a condition hereof that any consent or approval of the Holder required hereby shall be obtained in writing prior to the event for which it is required and any such consent or approval may be given or withheld by the Holder in the Holder's sole and unfettered discretion.

1.5 Expanded Meanings

Unless the context requires otherwise, (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Transaction Document) in accordance with the terms hereof and thereof, (d) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (e) the words "herein", "hereof" and "hereunder", and words of similar import, when used in any Transaction Document, shall be construed to refer to such Transaction Document in its entirety and not to any particular provision thereof, (f) all references in a Transaction Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Debenture or the other Transaction Document in which such references appear, (g) any reference to any Applicable Laws shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Applicable Laws and any reference to any Applicable Laws shall, unless otherwise specified, refer to such Applicable Laws as amended, modified or supplemented from time to time, (h) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (i) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (j) the word "will" shall be construed to have the same meaning and effect as the word "shall", and (k) in the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.

1.6 Interpretation of "Outstanding"

This Debenture shall be deemed to be Outstanding until the later of the date on which:

- (a) moneys for the payment of the Principal Sum, interest and all other amounts owing to the Holder hereunder shall have been fully, finally and indefeasibly paid to the Holder; and
- (b) the Obligations shall have been duly performed as herein contemplated, or otherwise discharged to the satisfaction of the Holder.

1.7 Generally Accepted Accounting Principles

All financial statements required to be furnished by the Issuer to the Holder hereunder shall be prepared in accordance with GAAP. Each accounting term used in this Debenture, unless otherwise

defined herein, has the meaning assigned to it under GAAP. Reference to any balance sheet item, statement of income and retained earnings item or statement of cash flows or changes in cash position item means such item as computed from the applicable financial statement prepared in accordance with GAAP.

ARTICLE 2

INTEREST PAYMENTS AND PAYMENTS

2.1 Interest on Principal Sum

The Issuer shall pay interest to the Holder on the Principal Sum at a per annum rate of interest equal to the Interest Rate. Such Interest shall accrue as and from the Issue Date and shall be payable in arrears on each Interest Payment Date for the Interest Period which includes such Interest Payment Date, and shall be calculated on a daily basis and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as applicable.

2.2 Payment of Interest

The Issuer shall pay Interest, on each Interest Payment Date by causing to be deposited an amount equal to Interest accrued and unpaid to and including such Interest Payment Date in immediately available funds to the Payment Account.

2.3 Calculation and Payment of Overdue Interest

The Issuer shall pay Interest on all overdue payments in connection with this Debenture from the date any such payment becomes due or if no date for the payment of the same is expressly provided for herein, when payment of the same is demanded by the Holder and for so long as such amount remains overdue. Amounts of Interest not paid when due (including overdue and unpaid Interest), and all Interest calculated after maturity, default, demand or judgment, shall bear interest at the Applicable Interest Rate from time to time, to be calculated daily and compounded on the Interest Payment Date that such interest was to be paid (by adding such accrued and unpaid interest to the Principal Sum, the total of which shall then bear interest at the aforesaid rate), and shall be paid without the necessity for any demand being made.

2.4 Waiver

To the extent permitted by Applicable Laws, any provision of the *Court Order Interest Act* (British Columbia) and the *Interest Act* (Canada), which restricts the rate of interest on any judgment debt, shall be inapplicable to this Debenture and is hereby waived by the Issuer.

2.5 Interest Generally

The theory of deemed reinvestment shall not apply to the calculation of Interest or payment of fees or other amounts hereunder, notwithstanding anything contained in this Debenture, and all Interest and fees payable by the Issuer to the Holder shall accrue from day to day and be computed as described herein in accordance with the "nominal rate" method of interest calculation.

2.6 Limitation on Interest Payments

None of the terms and provisions hereof will be construed or interpreted to require the Issuer to pay, nor shall the Issuer be required to pay, for the use, forbearance or detention of money in excess of the maximum amount of Interest permitted to be contracted for, charged, or received by Applicable Laws from time to time in effect. The Issuer shall never be liable for or be required to pay any

amount for Interest in excess of the maximum amount that may be lawfully contracted for, charged, or received under Applicable Laws from time to time in effect, and the provisions of this Section 2.6 shall control over all other provisions hereof which may be in conflict or apparent conflict herewith. If (a) the maturity of any Obligation is accelerated for any reason, (b) any Obligation is prepaid and as a result any amounts held to constitute interest under Applicable Laws are determined to be in excess of the legal maximum, or (c) the Holder shall otherwise collect moneys which are determined to constitute interest which would otherwise increase the interest on any or all of the Obligations to an amount in excess of that permitted to be charged by Applicable Laws then in effect, then all sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding Principal Sum or, at the option of the Holder, promptly returned to the Issuer or the other payor thereof upon such determination. In determining whether or not the interest paid or payable, under any specific circumstance, exceeds the maximum amount permitted under Applicable Laws, the Holder shall to the greatest extent permitted under Applicable Laws (i) characterize any non-principal payment as an expense, fee or premium rather than as interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread the total amount of interest throughout the entire contemplated term of the instruments evidencing the Obligations in accordance with the amounts outstanding from time to time thereunder and the maximum legal rate of interest from time to time in effect under Applicable Laws in order to lawfully contract for, charge, or receive the maximum amount of interest permitted under Applicable Laws.

2.7 Time, Place and Currency of Payment

Payments of the Principal Sum and Interest and all other amounts payable by the Issuer pursuant to this Debenture shall be paid in Canadian Dollars for value at or before 2:00 p.m. (Vancouver, B.C. time) on the day such amount is due. If any such day is not a Business Day, such amount shall be deemed for all purposes of this Debenture to be due on the immediately preceding Business Day. All payments shall be made to the Payment Account.

2.8 Security for Obligations

The Issuer acknowledges that the Obligations are secured by the Security Agreements.

2.9 Payments Pro Rata

The Issuer shall not make any payment of the Principal Sum or Interest on this Debenture (including by the issuance of Common Shares pursuant to Section 3.7) or purchase this Debenture in whole or in part unless the Issuer pays an amount on, or issues Common Shares, or purchases, all other Debentures in the same proportion to the Principal Sum of each other Debenture as the payment made on or the number of Common Shares issued or, purchase price paid of, this Debenture bears to the Principal Sum, and any payment or issue of Common Shares to or received by the Holder in excess of the amount or number provided for in this Section 2.9 shall be received by and held by the Holder in trust for the Persons who are the holders of the other Debentures and shall be paid or delivered over to the Issuer or a Person representing the Issuer for payment or delivery to such Persons in proportion to the Principal Sums of the Debentures held by such Persons.

2.10 Repayment at the Maturity Date

The Issuer shall repay the Principal Sum in full, together with all accrued and unpaid Interest then outstanding hereunder, as well as any and all other Obligations, on the Maturity Date.

ARTICLE 3
PURCHASE AND REPAYMENT BY THE ISSUER

3.1 Offer to Purchase on Change of Control

Upon the occurrence of a Change of Control, and subject to the provisions and conditions of this Section 3.1, the Issuer shall be obligated to offer to purchase this Debenture and all other Debentures. The terms and conditions of such obligation are set forth below:

- (a) Within thirty (30) calendar days following the occurrence of a Change of Control, the Issuer shall deliver to the Holder at the address set forth in Section 11.4 a notice stating that there has been a Change of Control and specifying the circumstances surrounding such event (a **"Change of Control Notice"**) together with an offer in writing (the **"Change of Control Offer"**) to purchase this Debenture made in accordance with the requirements of Applicable Securities Laws (provided that, for greater certainty, the Issuer shall use the Issuer's commercially reasonable efforts to obtain all requisite regulatory consents and to comply with Applicable Securities Laws in connection with the receiving and completion of such Change of Control Offer) at a price equal to one hundred and one percent (101%) of the Principal Sum outstanding at the time of the Change of Control (the **"Offer Price"**) plus accrued and unpaid Interest on this Debenture up to, but excluding, the date of payment of the Offer Price to the Holder (collectively, the **"Total Offer Price"**), which Change of Control Offer must be open for not less than twenty (20) calendar days (or such lesser period as may be agreed to by the Arranger on behalf of the Holder).
- (b) If the Holder or the Arranger on behalf of the Holder has accepted the Change of Control Offer, this Debenture shall become due and payable at the Total Offer Price on the fifth (5th) Business Day following the date of expiry of the Change of Control Offer, in the same manner and with the same effect as if it were the Maturity Date specified in this Debenture, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Change of Control Offer, if the Issuer has paid or caused to be paid to the Holder the Total Offer Price on the fifth (5th) Business Day following the date of expiry of the Change of Control Offer, this Debenture shall be deemed purchased and cancelled and the Issuer shall have no further obligations in relation thereto.
- (c) If the Holder has accepted the Change of Control Offer, but the Holder shall fail on or before the date of expiry of the Change of Control Offer to surrender this Debenture or shall not within such time accept the full payment of the Total Offer Price, or give a receipt therefor, if any, money in an amount equal to the Total Offer Price may be set aside in trust in an account at a Canadian chartered bank listed in Schedule I to the *Bank Act* (Canada), and such setting aside shall for all purposes be deemed a payment to the Holder of the sum so set aside and the Holder shall have no other right except to receive payment of the moneys so paid and deposited, upon surrender and delivery up of this Debenture.
- (d) The Issuer's obligation to make a Change of Control Offer will be satisfied if a third party makes the Change of Control Offer in the manner and at the times and otherwise in compliance with the requirements applicable to a Change of Control Offer to be made by the Issuer and purchases the Debenture for the Total Offer Price under the Change of Control Offer.
- (e) If holders of ninety percent (90%) or more in aggregate Principal Sum of Debentures outstanding on the date the Issuer provides the Change of Control Notice and Change of Control Offer have accepted the Offer on the expiration thereof, the Issuer has the right and obligation upon written notice to the remaining Holders within ten (10) Business Days following the expiration of the

Change of Control Offer, to repay and shall repay the remaining outstanding Debentures on the expiration of the Offer at the Total Offer Price (the "90% Redemption Right").

- (f) The notice to each holder of Debentures that did not previously accept the Offer will state that:
 - (i) the Issuer has exercised the 90% Redemption Right and is repaying the Principal Sum of all Debentures effective on the expiry of the Change of Control Offer at the Total Offer Price, and shall include a calculation of the amount and type of consideration payable to such holders as payment of the Total Offer Price;
 - (ii) each such holder must surrender their Debentures to the Issuer on the same terms as those holders that accepted the Change of Control Offer within ten (10) calendar days after the sending of such notice; and
 - (iii) the rights of such holder under the terms of this Debenture shall cease effective as of the date of expiry of the Change of Control Offer provided the Issuer pays the Total Offer Price to, or to the order of, the such holder and thereafter the Debentures shall not be considered to be Outstanding and such holder shall not have any right except to receive such holder's Total Offer Price upon surrender and delivery of this Debenture.
- (g) If the Holder accepts the Change of Control Offer or if the Issuer exercises the 90% Redemption Right, the Principal Sum and any unpaid Interest thereon becomes due and payable at the Total Offer Price on the date of expiry of the Change of Control Offer, in the same manner and with the same effect as if it were the Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Change of Control Offer, if the moneys to pay the Total Offer Price shall have been paid this Debenture shall not be considered as outstanding and interest upon the Principal Sum of this Debenture shall cease.
- (h) If this Debenture is purchased under this Section 3.1, it shall be cancelled and no debenture shall be issued in substitution therefor.

3.2 Dispositions

If the Issuer or any of its Subsidiaries at any time, or from time to time, makes or agrees to make a Disposition, then (a) the Issuer shall promptly notify the Holder by written notice to the address set forth in Section 11.4 of such proposed Disposition (including the amount of the estimated Net Proceeds to be received by the Issuer in respect thereof) and (b) promptly upon receipt by the Issuer of the Net Proceeds of such Disposition, the Issuer shall deliver, or cause to be delivered, such excess Net Proceeds to the Holder and the holders of the other Debentures (each in the proportion of the Net Proceeds as determined pursuant to Section 2.9); the whole be applied by the Holder in payment; (i) firstly towards Interest accrued and unpaid to the date of receipt of such funds by the Holder and then (ii) as a repayment of the Principal Sum of this Debenture.

3.3 Prepayment

The Principal Sum shall not be prepayable by the Issuer at any time before the Maturity Date, except in the event of the satisfaction of certain conditions after a Change of Control has occurred in accordance with Section 3.1 or to the extent permitted pursuant to this Section 3.3.

Subject to Sections 2.9 and 3.8, the Principal Sum may be repayable prior to the Maturity Date at any time, in whole but not in part, at the option of the Issuer, upon payment of the Principal Sum,

together with accrued and unpaid Interest thereon to but excluding the Prepayment Date, (a) in cash or (b) in Common Shares at the Conversion Price in effect at the close of business on the Business Day immediately preceding the Prepayment Date.

3.4 Prepayment Notice and Officers' Certificate

Notice of intention to prepay the Principal Sum (a "**Prepayment Notice**") prior to the Maturity Date shall be given by or on behalf of the Issuer to the Holder at the address set forth in Section 11.4 not more than ninety (90) calendar days and not less than sixty (60) calendar days prior to the date to be fixed for prepayment (a "**Prepayment Date**"), in the manner provided in this Section 3.4. The Prepayment Notice shall be substantially in the form set out in Schedule "A" hereto. Every Prepayment Notice shall specify: (a) the Prepayment Date; (b) whether the amount to be prepaid will be paid in cash or in Common Shares in accordance with Section 3.7; and (c) that all Interest on the Principal Sum shall cease as of and after such Prepayment Date and the right to convert the Principal Sum into Common Shares will terminate and expire at the close of business on the Business Day immediately prior to the Prepayment Date, unless the Issuer shall make default in the payment of Principal Sum and Interest accrued thereon on the Prepayment Date, and shall have attached thereto an Officers' Certificate certifying that the Current Market Price as at the Trading Day ending three (3) Trading Days before the date of the Prepayment Notice was not less than one hundred and seventy-five percent (175%) of the Conversion Price.

3.5 Principal Sum Due on Prepayment Dates

Upon the provision of a Prepayment Notice, the Principal Sum shall thereupon be and become due and payable on the Prepayment Date in the same manner and with the same effect as if it were the Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after the Prepayment Date, if the moneys necessary to prepay the Principal Sum have been paid, the Principal Sum shall not be considered as Outstanding hereunder and Interest upon the Principal Sum shall cease.

3.6 Surrender of Debentures for Cancellation

If the Principal Sum is to be repaid before the Maturity Date, the Holder must surrender this Debenture for cancellation and the Issuer shall pay or cause to be paid the Principal Sum and Interest accrued and unpaid thereon and upon such surrender and payment this Debenture shall be cancelled by the Issuer and no debenture shall be issued in substitution therefor.

3.7 Optional Conversion at Maturity

Subject to Sections 2.9 and 3.8, the Issuer, at its option, may elect to satisfy all of its obligations to pay the outstanding Principal Sum on the Maturity Date by issuing and delivering to the Holder on or prior to 8:30 a.m. (Vancouver, BC time) on the Maturity Date: (a) that number of fully paid, non-assessable Common Shares obtained by dividing the Principal Sum by eighty-five percent (85%) of the lesser of: (i) the Current Market Price of the Common Shares on the third (3rd) Trading Day immediately preceding the Maturity Date; and (ii) the closing price of the Common Shares on The Toronto Stock Exchange or such other stock exchange in the United States selected in good faith by the directors on such third (3rd) Trading Day preceding the Maturity Date and (b) with payment in cash of any accrued and unpaid Interest, *provided that* the Issuer has provided (x) written notice to Holder not more than sixty (60) calendar days and not less than forty (40) calendar days prior to the Maturity Date of its intention to repay the Principal Sum by issuing and delivering Common Shares in accordance with this Section 3.7 and (y) an Officers' Certificate attesting to such Current Market Price in the case of (i) above.

3.8 Conditions to Prepayment or Optional Conversion

The Issuer shall not repay the Principal Sum at any time (in cash or by means of issuing Common Shares) pursuant to Section 3.3 or convert the Principal Sum into Common Shares at Maturity pursuant to Section 3.7, unless:

- (a) no Default has occurred and is continuing and the Issuer has delivered an Officers' Certificate to such effect to the Holder;
- (b) the Common Shares are listed on either The Toronto Stock Exchange, any stock exchange in United States or any other stock exchange approved by the Arranger on behalf of the Holder;
- (c) all approvals under Applicable Securities Law in connection with the issuance of any such Common Shares have been obtained, if required, at the Issuer's expense that allow such Common Shares to be immediately traded free of hold periods or other re-sale restrictions under the Applicable Securities Laws where the Common Shares are distributed;
- (d) the Holder shall have received an opinion from Counsel in the form attached hereto as Exhibit 3.8(d), at the Issuer's expense, that the condition specified in Section 3.8(c) has been satisfied; and
- (e) if the Holder has been approved to enter into the Shareholders' Agreement with the prior written consent of the Issuer, which consent not to be unreasonably withheld, the Holder has entered into the Accession Deed to the Shareholders' Agreement (the "Accession Deed"), which shall be acknowledged and agreed to by the Issuer and the Shareholders (as defined in the Shareholders' Agreement), substantially in the form attached hereto as Exhibit 3.8(e) in connection with the proposed issuance and delivery of such Common Shares.

3.9 Issuer to pay Costs

All costs and expenses associated with the issuance and delivery of Common Shares pursuant to Sections 3.7 or 4.1(a)(ii) shall be borne exclusively by the Issuer.

3.10 No Other Prepayment of Debentures

The Issuer shall not, except as herein provided, prepay the Principal Sum or any part thereof.

3.11 Purchase by the Issuer

- (a) Subject to Section 2.9, the Issuer may, at any time and from time to time, at the Issuer's option, purchase this Debenture for cancellation by tender or by private contract, at any price agreed to by the Holder.
- (b) The Issuer may not purchase this Debenture by private contract if a Default has occurred and is continuing.

ARTICLE 4 CONVERSION OF DEBENTURE BY HOLDER

4.1 Conversion Right

- (a) Upon and subject to the terms and conditions of this Article 4:

- (i) the Holder shall have the right, at the Holder's option, at any time and from time to time prior to 4:30 p.m. (Vancouver, BC time) on the last Business Day prior to the Maturity Date, to convert the Principal Sum, in whole or in whole multiples of one thousand Dollars (\$1,000), into fully paid and non-assessable Common Shares at the Conversion Price in effect on the Conversion Date; and
 - (ii) subject to Section 3.8, provided the Current Market Price at the Prepayment Notice Date is at least one hundred and seventy-five percent (175%) of the Conversion Price then in effect, the Issuer shall have the right to require the conversion of the Principal Sum, in whole, into fully paid and non-assessable Common Shares at the Conversion Price in effect on the Business Day immediately preceding the Prepayment Date.
- (b) The Conversion Right shall entitle the Holder to receive (i) Common Shares; and (ii) payment of all accrued and unpaid Interest to and including the Conversion Date on the Principal Sum so converted and any other amount then payable by the Issuer to the Holder under this Debenture up to and including the Conversion Date.
- (c) The Holder may exercise the Conversion Right by surrendering to the Issuer during the Conversion Period this Debenture with:
 - (i) a duly completed and executed exercise notice, specifying the following:
 - (A) the Principal Sum in respect of which the Conversion Right is being exercised by the Holder;
 - (B) the address where the new Debenture, if any, representing the unconverted portion of this Debenture is to be sent; and
 - (C) the number of Common Shares of which the Holder and its Affiliates are currently the beneficial owner; and
 - (ii) if the Holder has been approved to enter into the Shareholders' Agreement with the prior written consent of the Issuer, which consent not to be unreasonably withheld, a duly completed and executed Accession Deed, provided that upon the Holder providing the Issuer with such Accession Deed, the Issuer and the Shareholders (as defined in the Shareholders' Agreement) will execute and deliver an executed counterpart of such Accession Deed to the Holder.
- (d) The Issuer may exercise the Conversion Right by delivering a notice to the Holder specifying the following:
 - (i) the Principal Sum in respect of which the Conversion Right is being exercised by the Issuer; and
 - (ii) the number of Common Shares which the Holder will acquire as a result of the exercise of the Conversion Right by the Issuer (being not more than those which the Holder is entitled to acquire).

4.2 Effect of Exercise of Conversion Right

- (a) Upon the exercise of the Conversion Right pursuant to Section 4.1, the Shares subscribed for shall be deemed to have been issued on the Conversion Date and the Holder shall be deemed to have become the Holder of record of such Shares on the Conversion Date unless the transfer registers of the Issuer shall be closed on such date (including by application of any Applicable Laws), in which case the Shares subscribed for shall be deemed to have been issued and the Holder deemed to have become the holder of record of such Shares, on the date on which such transfer registers are first reopened.
- (b) Within five (5) Business Days after the Conversion Date, the Issuer shall cause to be delivered to the Holder, a share certificate for the appropriate number of Shares to be issued by the Issuer upon the exercise of such Conversion Right together with payment of all accrued and unpaid Interest to and including the Conversion Date on the Principal Sum so converted and any other amount then payable by the Issuer to the Holder under this Debenture up to and including the Conversion Date; provided that the Holder simultaneously surrenders this Debenture for cancellation, in whole or in part, as applicable.

4.3 Partial Exercise of Conversion Right; Fractions

- (a) The Holder may elect to convert, and the Issuer may elect to require the conversion of, less than the whole Principal Sum (in whole multiples of one thousand Dollars (\$1,000)), in which case the Holder upon such exercise shall, in addition, be entitled to receive, without charge therefor, a new Debenture in respect of the balance of the Principal Sum which is not converted.
- (b) Notwithstanding anything herein contained including any adjustment provided for in Section 4.10, the Issuer shall not be required, upon the exercise of the Conversion Right, to issue fractions of Shares or to distribute certificates which evidence fractional Shares. In lieu of fractional Shares, the Issuer shall pay to the Holder within five (5) Business Days after the date upon which the fractional Shares would otherwise have been deemed to have been issued pursuant to Section 4.2, an amount in Canadian Dollars equal to the Current Market Price of the Shares on such date multiplied by an amount equal to the fractional interest of Shares the Holder would otherwise have been entitled to receive upon such exercise, provided that the Issuer shall not be required to make any payment, calculated as aforesaid, that is less than five Dollars (\$5.00).

4.4 Cancellation and Destruction of Debenture

Any portion of this Debenture converted under this Article 4 shall forthwith be cancelled by the Issuer and no debenture shall be issued in substitution for the portion so cancelled.

4.5 Expiration of Conversion Right

Immediately after the Maturity Date, the Conversion Right shall cease and terminate with respect to any amount of the Principal Sum which has not been converted except to the extent that the Holder has not received certificates representing the Shares issued upon exercise of the Conversion Right, in which instance the Holder's rights hereunder shall continue until the Holder has received such certificates.

4.6 Listing of Common Shares

Upon the Issuer making application to list or post the Common Shares for trading on any stock exchange, the Issuer will include in such application the listing of the Common Shares to be issued

upon the conversion of the whole of the Principal Sum into Common Shares, and will use reasonable commercial efforts to obtain the approval or acceptance of such application, and pay all fees payable to such stock exchange in respect of the listing or posting for trading of such Common Shares.

4.7 Securities Restrictions

Notwithstanding anything herein contained, Shares will only be issued pursuant to the Conversion Right in compliance with Applicable Securities Laws, and without limiting the generality of the foregoing, the certificates representing the Shares to be issued upon the exercise of the Conversion Right will bear such legend as may, in the opinion of Counsel to the Issuer, be required under Applicable Securities Laws, provided that if, at any time, such legends are no longer necessary in order to avoid a violation of any such laws, and the holder of any such legended certificates provides the Issuer with an opinion of counsel satisfactory in form and substance to the Issuer to the effect that such holder is entitled to sell or otherwise transfer such Shares in a transaction in which such legends are not required, such legended certificates may thereafter be surrendered to the Issuer in exchange for certificates which do not bear such legend.

4.8 Holder not a Shareholder

Nothing in this Debenture shall, in itself, confer or be construed as conferring upon the Holder any right or interest whatsoever as a shareholder of the Issuer, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Issuer, or the right to receive dividends and other distributions from the Issuer in respect of Shares.

4.9 Charges for Exchange or Transfer

The Issuer will from time to time promptly pay or make provision satisfactory to the Holder for the payment of any and all Taxes which may be imposed by Applicable Law with respect to the issuance or delivery of the Shares to the Holder, upon the exercise of the Conversion Right.

4.10 Adjustment of Conversion Price

The Conversion Price in effect at any date shall be subject to adjustment from time to time as follows:

- (a) if and whenever at any time during the Adjustment Period, the Issuer shall:
- (i) subdivide, re-divide or change the Issuer's outstanding Common Shares into a greater number of shares;
 - (ii) reduce, combine or consolidate the Issuer's outstanding Common Shares into a smaller number of shares; or
 - (iii) distribute Common Shares by way of dividend, or issue Common Shares or securities exchangeable into or convertible for, or having rights to acquire, Common Shares at a price per Common Share less than the Conversion Price, to the holders of all or substantially all of the outstanding Common Shares;

the Conversion Price in effect on the effective date of such subdivision, re-division, change, reduction, combination, consolidation or distribution, as the case may be, shall in the case of the events referred to in (i) and (iii) above, be decreased in proportion to the number of outstanding

Common Shares resulting from such subdivision, re-division, change, distribution or issuance, or shall, in the case of the events referred to in (ii) above, be increased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation in each such case by multiplying the Conversion Price in effect on such effective date by a fraction of which the numerator shall be the total number of Common Shares outstanding immediately prior to such date and the denominator shall be the total number of Common Shares outstanding immediately after such date. Such adjustment shall be made successively whenever any event referred to in this Section 4.10(a) shall occur;

- (b) if and whenever at any time during the Adjustment Period, the Issuer shall fix a record date for the issuance of rights, options or warrants to all or substantially all the holders of the Issuer's outstanding Common Shares entitling them, for a period expiring not more than 60 days after such record date, to subscribe for or purchase Common Shares (or securities convertible or exchangeable into, or rights to acquire, Common Shares) at a price per share (or having a conversion or exchange or exercise price per share) less than the Conversion Price on such record date, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the amount determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date plus that number of Common Shares equal to the number arrived at by dividing the aggregate price of the total number of additional Common Shares offered for subscription or purchase (or the aggregate conversion or exchange price or exercise price of the convertible or exchangeable securities or rights so offered) by the Conversion Price before giving effect to the adjustment to be made pursuant to this subsection (b), and of which the denominator shall be the total number of Common Shares outstanding on such record date plus the total number of additional Common Shares offered for subscription or purchase or into which the convertible or exchangeable securities or rights so offered are convertible or exchangeable or exercisable; any Common Shares owned by or held for the account of the Issuer or any Subsidiary of the Issuer shall be deemed not to be outstanding for the purpose of any such computation; such adjustment shall be made successively whenever such a record date is fixed; to the extent that any such rights, options or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon the number of Common Shares (or securities convertible or exchangeable into or rights to acquire Common Shares) actually issued upon the exercise of such rights, options or warrants, as the case may be;
- (c) if and whenever at any time during the Adjustment Period, the Issuer shall fix a record date for the making of a distribution to all or substantially all the holders of the Issuer's outstanding Common Shares of (i) securities of any class, whether of the Issuer or any other corporation, including rights, options or warrants (excluding those referred to in Section 4.10(b) above) to subscribe for or purchase Common Shares or other securities convertible into or exchangeable for Common Shares, (ii) evidences of the Issuer's Indebtedness or (iii) assets (including cash) of the Issuer or any Subsidiary, then, in each such case, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date multiplied by the Conversion Price before giving effect to the adjustment to be made pursuant to this subsection (c), less the fair market value (as determined by the Directors in good faith, which determination shall be conclusive) of such shares, rights, options, warrants, evidences of Indebtedness or assets so distributed, and of which the denominator shall be the total number of Common Shares outstanding on such record date multiplied by such Conversion Price; and Common Shares owned by or held for the account of the Issuer or any Subsidiary of the Issuer shall be deemed not to be outstanding for the purpose of any such

computation; such adjustment shall be made successively whenever such a record date is fixed; to the extent that such distribution is not so made, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon such shares or rights, options or warrants or evidences of Indebtedness or assets actually distributed, as the case may be;

- (d) if and whenever at any time during the Adjustment Period, there is a reclassification of the Common Shares or a capital reorganization of the Issuer other than as described in Section 4.10(a) or a merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's undertaking, property or assets would become the property of any other Person that is approved by the Holder or is not required to be approved by the Holder (any such reclassification or merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's undertaking, property or assets would become the property of any other Person is herein called a "**Corporate Reorganization**"), the Holder shall, upon the exercise of the Conversion Right, be entitled to receive and shall accept, in lieu of the number of Shares then sought to be acquired by the Holder, the number of Shares or other securities or property of the Issuer or of the Person resulting from such Corporate Reorganization, that the Holder would have been entitled to receive on such Corporate Reorganization if, on the record date or the effective date thereof, as the case may be, the Holder had been the registered holder of the number of Shares sought to be acquired by the Holder and to which the Holder was entitled to acquire upon the exercise of the Conversion Right. If appropriate, to give effect to or to evidence the provisions of this Section 4.10(d), the Issuer, the Issuer's successor, or such purchasing Person, as the case may be, shall, prior to or contemporaneously with any such Corporate Reorganization, enter into an agreement which shall provide for the application of the provisions set forth in this Debenture with respect to the rights and interests thereafter of the Holder including adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 4.10 and which shall apply to successive Corporate Reorganization to the end that the provisions set forth in this Debenture shall thereafter correspondingly be made applicable with respect to any shares, other securities or property to which the Holder is entitled on the exercise of the Conversion Right;
- (e) if and whenever at any time during the Adjustment Period, the Issuer shall pay or make a dividend or other distribution on its Common Shares exclusively in cash and the aggregate of: (i) such dividend or other distribution paid exclusively in cash; and (ii) all other cash dividends or other distributions made by the Issuer to all holders of the Common Shares within the preceding 12 months which did not trigger an adjustment to the Conversion Price, exceeds 1% of the Issuer's Aggregate Market Capitalization (such excess hereinafter the "**Excess Distribution**") on the record date in respect of the last such cash dividend or other distribution, the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to such record date by a fraction, of which the denominator shall be the Aggregate Market Capitalization on such record date and of which the numerator shall be such Aggregate Market Capitalization minus the amount of the Excess Distribution. Such adjustment shall become effective immediately prior to the opening of business on the day following such record date. In the event the amount of the Excess Distribution is equal to or greater than the Aggregate Market Capitalization on the record date, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive upon conversion the amount of cash such holder would have received had such holder converted this Debenture to Common Shares immediately prior to the record date (less 1% of the Current Market Price multiplied by such number Common Shares). In the event that such dividend or distribution is not

so paid or made, the Conversion Price shall be readjusted to be the Conversion Price which would then be in effect if such dividend or other distribution had not been declared;

- (f) if and whenever at any time during the Adjustment Period, an issuer bid or a tender or exchange offer (other than an odd-lot offer) made by the Issuer or a Subsidiary of the Issuer for all or any portion of the Common Shares shall expire and such issuer bid or tender or exchange offer shall involve payment by the Issuer or a Subsidiary of the Issuer of cash or other consideration (based on the acceptance of all Common Shares validly tendered or exchanged and not withdrawn up to any maximum specified in the terms of the issuer bid or tender or exchange offer, such shares, up to such maximum) having a fair market value (as determined in good faith by the Directors, whose determination shall be described in a resolution of the Directors) at the time (the "**Expiration Time**") tenders or exchanges may be made pursuant to such issuer bid or tender or exchange offer (as amended), together with: the total of (i) any cash and the fair market value of other consideration (as determined in good faith by the Directors described in a resolution of the Directors) payable in respect of an issuer bid or a tender or exchange offer by the Issuer or a Subsidiary of the Issuer for Common Shares concluded within the preceding twelve months which did not trigger an adjustment to the Conversion Price, and (ii) the aggregate amount of any all-cash dividends or other distributions made by the Issuer to all holders of Common Shares made within the twelve months preceding such issuer bid or tender or exchange offer which did not trigger an adjustment to the Conversion Price exceeds 5% of the Aggregate Market Capitalization (such excess hereinafter the "**Excess Bid Consideration**") on the Trading Day next succeeding the Expiration Time (the "**Next Trading Day**"), the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the opening of business on the Next Trading Day by a fraction, of which the denominator shall be the Aggregate Market Capitalization on the Next Trading Day and of which the numerator shall be Aggregate Market Capitalization on the Next Trading Day minus the amount of the Excess Bid Consideration. Such adjustment shall become effective immediately prior to the opening of business on the Next Trading Day. In the event that no shares are validly accepted in such issuer bid or tender or exchange offer, the Conversion Price shall be readjusted to be the Conversion Price which would then be in effect if such record date had not been fixed;
- (g) in any case in which it is required that an adjustment be made to the Conversion Price, no such adjustment shall be made if, subject to the prior approval of any stock exchange upon which the Common Shares are listed, if any, the Holder elects to receive the rights, options or warrants referred to in Section 4.10(b) or the shares, rights, options, warrants, evidences of indebtedness or assets referred to in Section 4.10(c), as the case may be, in such kind and number as the Holder would have received if the Holder had been a holder of Shares on the applicable record date or effective date, as the case may be, by virtue of the Principal Sum having then been converted into Common Shares at the Conversion Price in effect on the applicable record or effective date, as the case may be;
- (h) the adjustments provided for in this Section 4.10 are cumulative, and shall be computed to the nearest whole cent and shall apply to successive subdivisions, re-divisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section 4.10;
- (i) in case the Issuer shall take any action affecting the Common Shares other than action described in this Section 4.10, which in the opinion of the directors of the Issuer would materially affect the rights of the Holder, the Conversion Price shall be adjusted in such manner and at such time, by action of the directors, subject to the prior written consent of any stock exchange upon which the Common Shares are listed, if required, as the directors in their sole discretion may determine to be

equitable in the circumstances and not inconsistent with the provisions of this Debenture. Failure of the directors to make such an adjustment shall be conclusive evidence that the directors have determined that it is equitable to make no adjustment in the circumstances.

4.11 Voluntary Decrease

The Issuer from time to time may decrease the Conversion Price (subject to Applicable Laws and the receipt of all regulatory approvals, including, after an Initial Public Offering the consent of the Toronto Stock Exchange and such other exchanges on which the Common Shares may be listed) by any amount and for any period of time if the Directors have determined in good faith (to be evidenced by a resolution of the Directors) that such decrease is in the Issuer's best interests. Whenever the Conversion Price is decreased, the Issuer shall deliver to the Holder a notice of the decrease and the Conversion Price for all purposes of this Debenture following the delivery of such notice is the Conversion Price set forth in such notice, but subject to adjustment thereafter in accordance with Section 4.10 and this Section 4.11. The Issuer shall deliver the notice at least fifteen (15) calendar days before the date the decreased Conversion Price becomes effective.

4.12 Entitlement to Shares on Exercise of Conversion Right

All shares of any class or other securities which the Holder is at the time in question entitled to receive on the exercise of the Conversion Right, whether or not as a result of adjustments made pursuant to Section 4.10 shall, for the purposes of the interpretation of this Debenture, be deemed to be shares which the Holder is entitled to acquire pursuant to the exercise of the Conversion Right.

4.13 No Adjustment for Stock Options

Notwithstanding anything in Section 4.10, no adjustment shall be made in the Conversion Price if the issuance of Shares is being made upon the exercise of the Conversion Right or pursuant to any stock option plan in force from time to time for directors, officers and employees of the Issuer entitling them to purchase, in the aggregate, not more than ten percent (10%) of the issued and outstanding Common Shares (determined on a fully diluted basis as if all rights to purchase Common Shares upon the exercise of all rights of conversion or exchange for Common Shares and all rights under options, rights or warrants (other than the foregoing stock options but including this Debenture) outstanding at such time other than had been exercised and the Common Shares issuable as a result thereof had been issued).

4.14 Determination by Issuer's Auditors

In the event of any question arising with respect to the adjustments provided for in Section 4.10, such question shall be conclusively determined by the Issuer's independent auditors, or such other firm of chartered accountants mutually acceptable to the Issuer and the Arranger on behalf of the Holder, who shall have access to all necessary records of the Issuer, and such determination shall be binding upon the Issuer, the Holder and all other Persons interested therein.

4.15 Proceedings Prior to any Action Requiring Adjustment

As a condition precedent to the taking of any action which would require an adjustment in any of the conversion rights pursuant hereto, including the number of Shares which are to be received upon the exercise thereof, the Issuer shall take any corporate action which may, in the opinion of Counsel to the Issuer, be necessary in order that the Issuer has unissued and reserved in the Issuer's authorized capital and may validly and legally issue as fully paid and non-assessable all the Shares which the Holder is entitled to receive on the full exercise of the Conversion Right in accordance with the provisions hereof.

4.16 Certificate of Adjustment

The Issuer shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 4.10, deliver a certificate of the Issuer to the Holder specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

4.17 Notice of Special Matters

The Issuer covenants that the Issuer will give notice to the Holder of the Issuer's intention to fix a record date that is prior to the Maturity Date for the issuance of rights, options or warrants referred to in Section 4.10(b) or the distribution of the shares, rights, options, warrants, evidences of Indebtedness or assets referred to in Section 4.10(c) to all or substantially all the holders of the Issuer's outstanding Common Shares. Such notice shall specify the particulars of such event, the record date for such event and, if prepared or available as at the date that such notice is required to be given pursuant to this Section 4.17, such notice shall be accompanied by the material (i.e., proxy circulars, information booklets etc.) sent to the holders of Common Shares in respect of the event in question, provided that the Issuer shall only be required to specify in the notice such particulars of the event as shall have been fixed and determined on the date on which the notice is given. The notice shall be given in each case not less than fourteen (14) calendar days prior to such applicable record date.

4.18 No Action after Notice

The Issuer covenants that the Issuer will not close the Issuer's transfer books or take any other corporate action which might deprive the Holder of the opportunity to exercise the Issuer's right of conversion pursuant thereto during the period of fourteen (14) calendar days after the giving of the certificate or notices set forth in Sections 4.16 and 4.17.

4.19 Holder not a Shareholder

Nothing in this Debenture shall, in itself, confer or be construed as conferring upon the Holder any right or interest whatsoever as a shareholder of the Issuer, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Issuer, or the right to receive dividends and other distributions from the Issuer in respect of Shares.

4.20 Charges for Exchange or Transfer

The Issuer will from time to time promptly pay or make provision satisfactory to the Holder for the payment of any and all Taxes which may be imposed by Applicable Laws with respect to the issuance or delivery of the Shares to the Holder, upon the exercise of the Conversion Right.

4.21 Securities Qualification Requirements

- (a) If, in the reasonable opinion of Counsel to the Holder, any instrument is required to be filed with, or any permission is required to be obtained from any Governmental Authority or any other Governmental Approval is required before any Shares which the Holder is entitled to receive on the exercise of the Conversion Right may properly and legally be delivered, issued or traded (subject to applicable hold periods and other than in respect of the status of the Holder as a "control person" within the meaning of Applicable Securities Laws) upon due exercise thereof and thereafter

traded, without further formality or restriction, the Issuer covenants that the Issuer will take such reasonably required action at the sole cost and expense of the Issuer.

- (b) The Issuer will give written notice of the issue of Shares pursuant to the exercise of the Conversion Right to each Securities Regulatory Authority and any stock exchange on which the Issuer's Shares may be listed for trading as may be necessary in such detail as may be required in order that the issue of Shares issuable upon the exercise of the Conversion Right and the subsequent disposition of the Shares so issued (subject to applicable hold periods) will not be subject to the prospectus qualification requirements of Applicable Securities Laws.
- (c) If the Issuer becomes a "reporting issuer" under any Securities Laws, the Issuer will prepare and file, in the form and manner and in the time required by Applicable Securities Laws, all documents, reports, and other information required to be prepared and filed by the Issuer under Applicable Securities Laws.

ARTICLE 5 COVENANTS

5.1 Positive Covenants

The Issuer covenants with the Holder that the Issuer shall:

- (a) Payment and Performance: duly and punctually pay all amounts due by the Issuer hereunder and shall perform all other obligations on the Issuer's part to be performed under the terms of this Debenture at the times and places and in the manner provided for herein;
- (b) Corporate Existence: maintain the Issuer's and each of its Subsidiaries' corporate existence in good standing under the laws of its jurisdiction of incorporation and register and qualify and remain registered and qualified as a corporation authorized to carry on business under the laws of each jurisdiction in which the nature of the Business or the character of any material properties and assets owned or leased by it requires such registration and qualification, except such as would not have a Material Adverse Effect;
- (c) Insurance: maintain in full force and effect such policies of insurance, including public liability and property damage insurance, in such amounts issued by insurers of recognized standing covering the Issuer's properties and operations, including business interruption insurance and replacement cost insurance, as are customarily maintained by Persons engaged in the same or similar business in the localities where the Issuer's properties and operations are located, and, if requested by the Arranger on behalf of the Holder, furnish the Arranger with certificates or other evidence confirming compliance with the foregoing insurance requirements;
- (d) Compliance With Applicable Laws:
 - (i) carry on and conduct and cause its Subsidiaries to carry on conduct the Business and keep, maintain and operate the its assets and properties in all respects in accordance with all Applicable Laws, including Environmental Laws and Applicable Securities Laws, and in a good and workmanlike manner and in accordance with sound businesslike and industry practice, except where such non-compliance is not and is not reasonably likely to result in a Material Adverse Effect; and

- (ii) observe and conform in all respects to all valid requirements of any Governmental Authority relative to any of the Issuer's and each of its Subsidiaries' assets and properties and all covenants, terms and conditions of all agreements upon or under which any of the its assets and properties are held, except where such non-compliance is not and is not reasonably likely to result in a Material Adverse Effect;
- (e) Payment of Taxes:
 - (i) file all income tax returns for the Issuer and for each of its Subsidiaries which are required to be filed; and
 - (ii) pay or make provision for payment (in accordance with Generally Accepted Accounting Principles) of all Taxes which are due and payable by the Issuer and each of its Subsidiaries, or to provide adequate reserves (in accordance with Generally Accepted Accounting Principles) for the payment of any Tax, the payment of which is being contested in good faith;
- (f) Payment of Other Obligations: pay or cause to be paid all rents, royalties, Taxes and other Indebtedness to pay money validly imposed upon the Issuer or any of its Subsidiaries, or upon the Issuer's or any of its Subsidiaries' properties or assets or any part thereof, and all Indebtedness of the Issuer and each of its Subsidiaries as and when the same became due and payable or shall provide adequate reserves (in accordance with GAAP) for the payment of any such obligation or Indebtedness, the payment of which is being contested in good faith;
- (g) Maintenance of Books and Records: keep or cause to be kept proper and adequate records and books of account in which true and complete entries will be made in a manner sufficient to enable the preparation of financial statements in accordance with Generally Accepted Accounting Principles;
- (h) Defend Title to Assets: maintain, protect and defend title to all property and assets held by the Issuer or any of its Subsidiaries, and take all such acts and steps as are necessary or advisable at any time and from time to time to maintain their respective property and assets in good standing, except where failure to protect and defend title to such property or assets held by the Issuer in its own capacity or on behalf of others does not or its not reasonably likely to result in a Material Adverse Effect;
- (i) Reporting Requirements: furnish to the Holder, unless the Issuer shall have timely made such financial statements available on Canada's System for Electronic Document Analysis and Retrieval or on the SEC's Electronic Data Gathering, Analysis and Retrieval system or any successor thereto or on the Issuer's home page on the worldwide web:
 - (i) as soon as available and in any event within ninety (90) calendar days after the end of each fiscal year of the Issuer, the audited consolidated financial statements of the Issuer including a balance sheet and related statements of income, retained earnings and changes in cash flow as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, in accordance with GAAP;
 - (ii) as soon as available and in any event within forty-five (45) calendar days after the end of each of the first three fiscal quarters of each fiscal year of the Issuer, unaudited consolidated financial statements of the Issuer including a balance sheet and related statements of income, retained earnings and changes in cash flow as of the end of and for such fiscal

quarter and the then elapsed portion of the fiscal year which includes such fiscal quarter, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal period, all certified by an officer of the Issuer as presenting fairly in all material respects the financial condition and results of operations of the Issuer in accordance with GAAP, subject to year-end adjustments;

- (iii) a copy of all information and materials furnished to the holders of Common Shares not included in the foregoing subsections 5.1(i)(i) and (iii); and
 - (iv) such other information as the Arranger on behalf of the Holder may reasonably request from time to time, provided that the Holder shall not use any such information other than for the purposes of its status as a creditor of the Issuer.
- (j) Notice of Event of Default: provide the Holder with prompt written notice of the occurrence of any Default or Event of Default upon obtaining knowledge thereof.
- (k) Share Capital:
- (i) reserve and keep available a sufficient number of Common Shares for the purpose of enabling the Issuer to satisfy the Issuer's obligations to issue Common Shares upon the exercise of the Conversion Right;
 - (ii) cause the Common Shares and the certificates representing the Common Shares from time to time acquired pursuant to the exercise of the Conversion Right to be duly issued and delivered in accordance with the terms hereof;
 - (iii) ensure that all Common Shares which shall be issued upon exercise of the Conversion Right shall be issued as fully paid and non-assessable; and
 - (iv) make all requisite filings under Applicable Securities Laws necessary to report the exercise of the right to acquire Shares pursuant to the Conversion Right;

5.2 Negative Covenants of the Issuer

The Issuer covenants with the Holder that the Issuer shall not and shall not permit any of its Subsidiaries to, without the consent of the Arranger on behalf of the Holder:

- (a) Financial Indebtedness: incur any Indebtedness other than Permitted Financial Indebtedness;
- (b) Negative Pledge: create, incur, assume or suffer to exist any Security Interest upon or with respect to any its property other than Permitted Encumbrances;
- (c) Distributions: declare, resolve to declare or make, or make any Distribution, except for any Distributions to the Issuer by a wholly-owned Subsidiary or by a wholly-owned Subsidiary to another wholly-owned Subsidiary, and for greater certainty, A12345 may satisfy its obligation to repay the principal under the Demand Note in consideration for the transfer to the Issuer of the Shoes.com Domain Names;
- (d) Disposition: directly or indirectly, make any Disposition unless the Net Proceeds are applied in accordance with Section 3.2;

- (e) Change of Business: change in any material respect the nature of the Business nor engage directly or indirectly, in any material business, activity or purchase or otherwise acquire any material property, in either case, not primarily related to the conduct of the Business;
- (f) Subsidiaries: acquire or create any Subsidiary unless such Subsidiary unconditionally guarantees payment and performance of the Obligations in form approved by the Arranger and grants a security interest to secure payment and performance of such guarantee over all of its present and after acquired property substantially in the form of the Security Agreements; or
- (g) Merger Transaction: enter into or become party to a Merger Transaction or take any corporate action in pursuance of a Merger Transaction other than transactions contemplated by the Acquisition Agreement.

5.3 Holder May Perform Covenants

If the Issuer shall fail to perform any covenant on its part herein contained, the Holder may in its discretion perform any of said covenants capable of being performed by it and, if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose, but shall be under no obligation so to do; and all sums so expended or advanced shall be repayable by the Issuer on demand together with Interest at the Applicable Interest Rate from the date such payment or expenditure is made to the date the amount thereof and interest thereon is paid to the Holder, but no such performance or payment shall be deemed to relieve the Issuer from any default hereunder.

ARTICLE 6 DEFAULT

6.1 Events of Default

An Event of Default shall occur upon the happening of any one or more of the following:

- (a) if the Issuer defaults in payment of the Principal Sum when the same becomes due and payable under this Debenture;
- (b) if the Issuer defaults in payment of Net Proceeds or the Total Offer Price when the same becomes due and payable under this Debenture;
- (c) if the Issuer fails to deliver Common Shares to the Holder when those Common Shares are required to be delivered following the conversion of this Debenture in accordance with the provisions hereof;
- (d) if the Issuer elects to satisfy the Principal Sum by issuing and delivering Common Shares to the Holder and the Issuer fails to deliver the number of Common Shares required by the terms hereof to be issued and delivered in satisfaction of the Principal Sum;
- (e) if the Issuer defaults in payment of any Interest or any other amount payable to the Holder under this Debenture and such default continues after the fifth (5th) day following the date when the same becomes due and payable under this Debenture;
- (f) if there shall be a breach by the Issuer or any of its Subsidiaries of any other covenant, condition or provision contained in this Debenture or a Security Agreement and the breach (if capable of

being cured) is not cured within fifteen (15) Business Days after written notice by the Arranger on behalf of the Holder to the Issuer, as the case may be, provided that if such breach is curable, does not give rise to a Material Adverse Effect, cannot be cured with reasonable diligence within such fifteen (15) Business Day period and the Issuer or such Subsidiary commences to cure such breach within such fifteen (15) Business Day period and thereafter is continuously and diligently taking steps to cure such breach, such fifteen (15) Business Day period will be extended for a period of time, not exceeding sixty (60) calendar days, until such breach is cured;

- (g) if any representation or warranty in favour of the Holder or the Arranger in any agreement or instrument in respect of this Debenture of which the Holder or the Arranger has the benefit, shall have been incorrect in any material respect, or any such representation or warranty that is qualified by materiality or Material Adverse Effect shall have been untrue in any respect, in each case when made and such representation or warranty (if capable of being corrected) continues to be incorrect for a period of fifteen (15) Business Days after the Arranger on behalf of the Holder gives written notice of such incorrect representation and warranty to the Issuer;
- (h) if the Issuer or any Subsidiary of the Issuer shall: (i) institute or commence proceedings to be adjudicated a bankrupt or insolvent or consent to the filing of a bankruptcy or insolvency proceeding against the Issuer; (ii) file, institute or commence or otherwise take any proceeding relating to reorganization, adjustment, arrangement, composition, compromise, stay of proceedings or relief similar to any of the foregoing under any Applicable Law regarding bankruptcy, insolvency, reorganization or relief of debtors; (iii) consent to the filing of any such proceeding; (iv) consent to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or similar official or to the liquidation, dissolution or winding-up of its or of all or a substantial part of its property and assets; (v) make an assignment for the benefit of creditors; (vi) admit in writing its inability to pay their respective debts generally as they become due; (vii) generally not pay its debts as they come due or otherwise be insolvent; or (viii) take any corporate or other action authorizing or in furtherance of any of the foregoing;
- (i) if any proceeding is filed, instituted or commenced by any Person seeking: (i) to adjudicate the Issuer a bankrupt or insolvent or the liquidation, reorganization, winding-up, adjustment, arrangement, compromise, composition, stay of proceedings or similar relief of or for the Issuer or any of its Subsidiaries under any Applicable Law regarding bankruptcy, insolvency, reorganization or relief of debtors; or (ii) to appoint a receiver, liquidator, trustee or assignee in bankruptcy or similar official of the Issuer or any of its Subsidiaries or of all or a material part of its property and assets, if such proceeding shall continue undismissed or unstayed for a period of sixty (60) calendar days;
- (j) the occurrence of an event of default under any Financial Indebtedness of the Issuer or any of its Subsidiaries exceeding five hundred thousand Dollars (\$500,000), provided that if an event of default under any Financial Indebtedness is cured or waived, the Event of Default hereunder relating thereto shall be deemed to have been cured or waived to the same extent for all purposes;
- (k) if a writ, execution, attachment or similar process is issued or levied against all or a portion of the property of the Issuer in connection with any judgment or judgments against the Issuer or any of its Subsidiaries aggregating in excess of two hundred fifty thousand Dollars (\$250,000) and is not released, satisfied, discharged, vacated or stayed within thirty (30) calendar days after its entry, commencement or levy;
- (l) if final judgments for the payment of money aggregating in excess of two hundred fifty thousand Dollars (\$250,000) shall be rendered against the Issuer or any of its Subsidiaries, by a court of last

resort and the same shall remain undischarged for a period of thirty (30) calendar days during which time such judgments shall not be on appeal or execution thereof shall not be effectively stayed;

- (m) in the reasonable opinion of the Arranger a Material Adverse Effect exists or a Material Adverse Change has occurred; or
- (n) the holder of any Bank Debt requires, as a condition to any advance of such Bank Debt, that the Arranger (for and on behalf of the Holder) enter into an agreement with such holder that has the effect of limiting or restricting the payment of interest on the Principal Sum before a period of 180 days, and after the occurrence of an event or circumstance that is a default or event of default under the terms of such Bank Debt and the holder of such Bank Debt does not take proceedings (other than giving of notice of default or acceleration) to collect to realize upon the security for such Bank Debt within such 180 day period.

6.2 Acceleration

Upon the occurrence of an Event of Default which is continuing, the Arranger on behalf of the Holder may by notice in writing to the Issuer declare the Principal Sum and all accrued interest thereon and all other Obligations to be immediately due and payable and the same shall become immediately due and payable to the Holder and the Issuer shall forthwith pay the same to the Holder failing which all rights and remedies of the Holder hereunder and under the Security Agreements or under Applicable Laws in respect of such non-payment shall become enforceable; provided that upon the occurrence of an Event of Default specified in Section 6.1(h) or 6.1(i), the Principal Sum and all accrued interest thereon and all other Obligations shall automatically become due and payable without any requirement that notice be given by the Holder.

6.3 Remedies - General

Upon and following the occurrence of an Event of Default and acceleration of the Principal Sum in accordance with Section 6.2, the Arranger may, in its sole and absolute discretion exercise all such rights and remedies that may be exercised under the Security Agreements and all other rights and remedies recognized under Applicable Laws against the Issuer or in respect of the Collateral or any part thereof for the enforcement of full payment and performance of all the Obligations.

6.4 Remedies Not Exclusive

No right, power or remedy herein conferred upon or reserved to the Holder or any person acting for or on behalf of the Holder is intended to be exclusive of any other right, power or remedy or remedies, and each and every right, power and remedy shall, to the extent permitted by Applicable Laws, be cumulative and shall be in addition to every other right, power or remedy given hereunder or now or hereafter existing at law, in equity or by statute. The Holder shall have the power to waive any default, provided no such waiver shall be effective unless made in writing by the Holder and shall not constitute a waiver of any other or subsequent default. No delay or omission of the Holder in the exercise of any right, power or remedy accruing upon any default shall impair any such right, power or remedy or shall be construed to be a waiver of any such default or an acquiescence therein. Every right, power and remedy given to the Holder by this Debenture or under Applicable Laws may be exercised from time to time and as often as may be deemed expedient by the Holder. In case the Holder shall have proceeded to enforce any right under this Debenture or any Security Agreement and the proceedings for the enforcement thereof shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Holder, then and in every such case the Issuer and the Holder shall, without any further action hereunder, to the full extent permitted by Applicable Laws, subject to any determination in such proceedings, severally

and respectively, be restored to their former positions and rights hereunder and thereafter all rights, remedies and powers of the Holder shall continue as though no such proceeding had been taken.

6.5 Application of Monies

Subject to Applicable Laws, all monies collected or received by the Holder pursuant to or in exercise of any right or remedy shall be applied on account of the amounts outstanding hereunder in such manner as the Holder deems best or, at the option of the Holder, may be held unappropriated in a collateral account or released to the Issuer, all without prejudice to the liability of the Issuer or the rights of the Holder hereunder, and any surplus shall be accounted for as required by Applicable Laws.

ARTICLE 7 INDEMNITY AND EXPENSES

7.1 No Set-off and Taxes

The Issuer and each Guarantor shall make all payments to the Holder hereunder without any set-off or counterclaim whatsoever and free and clear of, and without deduction for or on account of, any Tax. If any Tax is deducted or withheld from any payments, the Issuer or Guarantor shall promptly remit to the Holder the equivalent of the amounts so deducted or withheld together with such additional amounts as may be necessary so that after making all required deductions or withholdings, including deductions or withholdings applicable to additional amounts paid under this Section 7.1, the Holder shall receive an amount equal to the amount the Holder would have received if no deduction or withholding had been made.

In the event the Issuer or a Guarantor has made a payment pursuant to this Section 7.1 and the Holder determines thereafter that the Holder has been granted or received a credit, refund or remission in respect of the Tax for which the deduction was made, then the Holder shall promptly refund to the Issuer or such Guarantor such amount (if any) as the Holder determines in good faith will leave the Holder in no worse position than would have been the case if there had been no obligation to make such deduction or withholding in the first place. The Holder shall not be obligated to provide to the Issuer or such Guarantor copies of all or any part of the Holder's tax returns, financial statements or other corporate financial data by reason of any such matter.

7.2 Indemnity

- (a) The Issuer hereby covenants with the Holder that the Issuer shall at all times hereafter keep the Holder indemnified and held harmless from and against all suits (whether founded or unfounded), actions, proceedings, judgments, demands or claims asserted, instituted or made against the Holder, and all costs, losses, liabilities, damages and expenses (including all legal fees on a solicitor and his own client, full indemnity, basis) ("Losses") incurred by the Holder in any way relating to, arising out of, or incidental to any of the transactions contemplated by this Debenture, except to the extent such Losses arise out of the intentional or gross fault, gross negligence, willful misconduct or fraud of the Holder or the Arranger. If and for so long as no Default or Event of Default has occurred and is continuing, the Issuer, at the Issuer's option, shall be entitled to conduct the defence of such suit, action or proceeding with the participation of and taking into account the best interests of the Holder. If the Holder shall determine in good faith that a conflict of interest exists or the defence of any such suit, action or proceeding is not being conducted in the best interests of the Holder, the Holder shall on notice to the Issuer (and for the account of the Issuer) be entitled to take over the sole conduct of the defence of such suit, action or proceeding. This indemnity shall extend to the officers, directors, employees and assignees of the Holder.

- (b) The Issuer hereby jointly and severally agrees to indemnify, defend and hold harmless the Holder from and against any and all Environmental Liabilities, losses, costs, expenses, damages, claims, judgments, suits, awards, fines, sanctions and liabilities whatsoever (including any costs or expenses of preparing any necessary environmental assessment report or other similar reports) (collectively, "Environmental Claims") incurred by the Holder as a result of:
- (i) any breach of applicable Environmental Laws which relates to the property or operations of the Issuer;
 - (ii) any Release, presence, use, creation, transportation, storage or disposal of Hazardous Substances which relate to the property or operations of the Issuer; or
 - (iii) any claim or order for any clean-up, restoration, detoxification, reclamation, repair or other securing or remedial action which relates to the property or operations of the Issuer;

provided, however, that this indemnity shall not apply in respect of any such Environmental Claims which are caused by the negligence or wilful misconduct of the Holder by reason of any act of, or any act or omission taken at the direction of, the Holder or any of the officers, directors, employees or assignees thereof. This indemnity shall extend to the officers, directors, employees, agents and assignees of the Holder as well as to the Holder itself, and the Holder will hold the benefit of this indemnity in trust for such other indemnified persons to the extent necessary to give effect thereto.

7.3 Expenses

- (a) The Issuer shall supply all statements, reports, certificates, opinions and other documents or information required to be furnished to the Holder by the Issuer under this Debenture without cost to the Holder.
- (b) If the Issuer fails to pay any amounts required to be paid by the Issuer under this Debenture or if the Issuer fails to observe or perform any of the covenants and obligations set forth in this Debenture to be observed or performed by the Issuer, the Holder may, but shall be under no obligation to, pay such amounts or do such act or things as may be required to ensure such observance and performance, without waiving any of the Holder's rights under this Debenture. No such payment, act or thing by the Holder or any receiver shall relieve the Issuer from any Default under this Debenture or the consequences of such Default. The reasonable expenses (including the cost of any insurance and payment of Taxes or other charges and legal fees and expenses on a solicitor and his own client, full indemnity, basis) paid by the Holder shall be deemed advanced to the Issuer by the Holder, shall become part of the Obligations, and shall, from the time they are paid by the Holder or such receiver until repaid by the Issuer, bear interest at the Applicable Interest Rate.
- (c) The Issuer shall pay all reasonable expenses (including legal fees and expenses on a solicitor and his own client basis) incurred by the Holder in connection with the preparation, perfection, execution, protection, enforcement of and advice with respect to this Debenture (including the realization, disposition, retention, protection or collection of the Collateral or any part thereof and the protection and enforcement of the rights of the Holder hereunder and under the Security Agreement and including any expenses incurred in connection with any insolvency, bankruptcy or similar proceedings in respect of or affecting the Issuer or any Guarantor) and such expenses shall become part of the Obligations, and shall, from the time they are paid by the Holder until repaid by the Issuer, bear interest at the Applicable Interest Rate.

7.4 Currency

Unless otherwise provided, all dollar amounts referred to in this Debenture are to Canadian dollars. If, in connection with any action or proceeding brought in connection with this Debenture or any resulting judgment or order, it becomes necessary to convert any amount due hereunder in one currency (the "first currency") into another currency (the "second currency"), then, except to the extent otherwise required by Applicable Laws, the conversion shall be made at the Judgment Conversion Rate on the first Business Day prior to the day on which payment is received. If the conversion is not able to be made in the manner contemplated by the preceding paragraph in the jurisdiction in which the action or proceeding is brought, then the conversion shall, except to the extent otherwise required by Applicable Laws, be made at the Judgment Conversion Rate on the day on which the judgment is given. If the Judgment Conversion Rate on the date of payment is different from the Judgment Conversion Rate on such first Business Day or on the date of judgment, as the case may be, the party shall pay such additional amount (if any) in the second currency as may be necessary to ensure that the amount paid on such payment date is the aggregate amount in the second currency which, when converted at the Judgment Conversion Rate on the date of payment, is the amount due in the first currency, together with all costs, charges and expenses of conversion. Any additional amount owing pursuant to the provisions of this section shall be due as a separate debt and shall give rise to a separate cause of action and shall not be affected by or merged into any judgment obtained for any other amounts due under or in respect of this Debenture.

The term "Judgment Conversion Rate" used in this section means the noon rate of exchange for Canadian interbank transactions in Canadian dollars in the other currency published by the Bank of Canada for the date in question.

ARTICLE 8 TRANSFER OF DEBENTURE

8.1 Register of the Debenture

The Issuer shall keep or cause to be kept a register in which the Holder of this Debenture shall be registered. The name and address of each holder of this Debenture and particulars of this Debenture held shall be entered in the register. For the purposes of this Debenture, the Issuer may treat the Person registered as the Holder as the beneficial owner thereof for all purposes.

8.2 Transfer of Debenture

Except as otherwise expressly provided in this Debenture and subject to the other Transaction Documents and Applicable Laws, the provisions hereof shall enure to the benefit of, and be binding upon, the Parties and their respective successors, permitted assigns, permitted transferees, heirs, executors, administrators and personal representatives. The Holder shall not, without the prior written consent of the Issuer, which consent shall not be unreasonably withheld, assign, transfer or otherwise convey its rights under this Debenture to any Person, provided that the Holder may assign, transfer or otherwise convey its rights under this Debenture to any Person whose investment account in which the Debenture is held is to be managed by the Arranger. Any transfer or assignment shall be subject to Applicable Securities Laws and the transferee agreeing to be bound by the provisions of the Collateral Agency Agreement as successor and assignee of the transferring Holder. Any purported assignment of rights or delegation of obligations in violation of this Section 8.2 shall be null and void, and of no effect.

8.3 Exchange of Debenture

Any one or more Debentures may, upon compliance with the reasonable requirements of the Issuer (including compliance with Applicable Securities Laws), be exchanged for one or more other Debentures representing the same aggregate Principal Sum as represented by this Debenture so exchanged. Any Debenture tendered for exchange shall be cancelled and surrendered by the Holder to the Issuer.

8.4 Replacement Debenture

If this Debenture becomes mutilated or is lost, destroyed or stolen, the Issuer, subject to Applicable Laws, shall issue and deliver, a new debenture of like tenor as the one mutilated, lost, destroyed or stolen in exchange for and in place of and upon cancellation of this Debenture. The Holder shall bear the cost of the issue of a replacement Debenture and in case of loss, destruction or theft shall, as a condition precedent to the issuance thereof, furnish to the Issuer such evidence of ownership and of the loss, destruction or theft of this Debenture as shall be satisfactory to the Issuer, in the Issuer's sole discretion, and the Holder may also be required to furnish an indemnity or security in amount and form satisfactory to the Issuer, in the Issuer's sole discretion, and shall pay the reasonable charges of the Issuer in connection therewith.

ARTICLE 9 SUCCESSOR ISSUER

9.1 Restriction on and in each case etc.

The Issuer shall not carry out a Merger Transaction or enter into any Merger Transaction whereby all or substantially all of the Issuer's undertaking, property and assets would become the property of:

- (a) any other Person; or
- (b) in the case of an amalgamation or merger, of the continuing corporation resulting therefrom;

(in this Section 9.1, such other Person or continuing corporation, as the case may be, is hereinafter referred to as a "Successor Issuer"), unless the Issuer has obtained the consent of the Arranger on behalf of the Holder under Section 5.2, if required, and the Successor Issuer shall execute, prior to or contemporaneously with the consummation of the Merger Transaction, such instruments, if any, as are in the opinion of counsel to the Holder necessary or advisable to evidence:

- (c) the assumption by the Successor Issuer of liability for the due and punctual payment and performance of the Obligations;
- (d) the agreement of the Successor Issuer to observe and perform all the other covenants and obligations of the Issuer under this Debenture and the Security Agreement;
- (e) the grant of Security Interests in the property of such Successor on the terms of the Security Agreement subject to no Encumbrance other than Permitted Encumbrances; and
- (f) the enforceability of this Debenture against the Successor Issuer; and
- (g) the delivery to the Holder of an opinion of independent legal counsel to the Issuer to the effect that terms thereof are substantially to preserve and not impair the Security Interests or any of the powers

or rights of the Holder or of the Arranger under the Security Agreement in respect of the Obligations.

ARTICLE 10 GUARANTEES

10.1 Debenture Guarantees

Each of the Guarantors hereby, jointly and severally, unconditionally guarantees to the Holder and its successors and assigns, irrespective of the validity and enforceability of other provisions of this Debenture:

- (a) the prompt payment in full when due of the Principal Sum of, and Interest on, this Debenture, whether on the Maturity Date, by acceleration, redemption or otherwise, and interest on the overdue Principal Sum of and Interest on this Debenture, if any;
- (b) the prompt payment and performance by the Issuer of all other Obligations of the Issuer to the Holder under this Debenture, all in accordance with the terms of this Debenture; and
- (c) in case of any extension of time of payment or renewal of any Obligation, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay and perform the same immediately.

Each of the Guarantors acknowledges and agrees that it will benefit, directly or indirectly, from the funding being made to the Issuer pursuant to this Debenture and the Debenture Purchase Agreement.

Each of the Guarantors hereby agree that its obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of other provisions of this Debenture, the absence of any action to enforce the same, any waiver or consent by the Holder or any other holder of the Debentures or the Arranger on behalf of the Holder with respect to any provisions of this Debenture, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor.

Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer any right to require a proceeding first against the Issuer, protest, notice (other than notices required pursuant to this Debenture) and all demands whatsoever and covenant that this Debenture Guarantee will not be discharged except by payment and performance in full of the obligations contained in this Debenture as provided herein.

If the Holder is required by any court or otherwise to return to any Obligor or any custodian, trustee, liquidator or other similar official acting in relation to any Obligor, any amount paid to the Holder under this Debenture or this Debenture Guarantee, such amount, to the extent theretofore discharged, will be reinstated in full force and effect.

Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holder in respect of any Obligations guaranteed hereby until payment and performance in full of all

Obligations guaranteed hereby as provided herein. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holder on the other hand, (i) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Section 6.2 for the purposes of this Debenture Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Obligations as provided in Section 6.2, such Obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Debenture Guarantee. In accordance with the provisions of Section 10.8, the Guarantors will have the right to seek contribution from any non-paying Guarantor or from the Issuer so long as the exercise of such right does not impair the rights of the Holder under this Debenture Guarantee.

10.2 Acknowledgements of the Guarantors

Each Guarantor acknowledges and agrees that the Holder may, subject to the terms and conditions of this Debenture:

- (a) renew or extend all or any portion of the Obligations;
- (b) make changes in the dates specified for payments or performance of any Obligation;
- (c) otherwise modify the terms of this Debenture;
- (d) take and hold the Security for the performance of the Obligations and exchange, enforce, waive and release any such Security;
- (e) enforce the Security and direct the order or manner of sale thereof as the Arranger on behalf of the Holder in its sole discretion may determine if permitted under the Security Agreements or any of them; and
- (f) release, substitute or add any one or more guarantors of the Obligations,

all of the foregoing without prejudice to or in any way releasing, discharging, terminating, limiting, reducing, lessening, impairing or in any way affecting the obligations of any Guarantor under this Debenture Guarantee.

10.3 Waiver of Defences

Each Guarantor hereby waives as against the Holder to the fullest extent permitted by Applicable Laws, any defence relating to:

- (a) any defence based upon any incapacity, disability or lack or limitation of status or power of such Guarantor, any other Obligor or any other person or of the directors, officers, employees, partners or agents thereof, or that any Obligor or any other person may not be a legal entity;
- (b) any change in the existence, structure, constitution, name, control or ownership of such Guarantor, any other Obligor or any other person;
- (c) any limitation, postponement, prohibition, subordination or other restriction on the rights of the Holder to payment of all or any part of the Obligations or to take any steps in respect thereof;

- (d) any defence arising by reason of any failure of the Holder to proceed against any other Obligor or any other person, to proceed against, apply or exhaust any of the Security, or to proceed against or to pursue any other remedy in the power of the Holder whatsoever;
- (e) the benefit of any law which provides that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the Principal Sum obligation or which reduces a guarantor's obligation in proportion to the Principal Sum obligations;
- (f) any defence arising by reason of any failure by the Holder to obtain, perfect or maintain a perfected (or any) Security Interest in or lien or encumbrance upon any Collateral or by reason of any interest of the Holder in any property, whether as owner thereof or the holder of a Security Interest therein or lien or encumbrance thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment by the Holder of any right to recourse or collateral;
- (g) any defence arising by reason of the failure of the Holder to marshal any assets or to apply such principle to any sums of money which it shall be entitled to receive or to other assets upon which it may possess rights;
- (h) any dealing whatsoever with such Guarantor, any other Obligor or other Person or any security, or any failure to do so; and
- (i) any other circumstances which might otherwise constitute a defence available to, or a discharge of such Guarantor, any other act or omission to act or delay of any kind by any other Obligor, such Guarantor or any other person or any other circumstance whatsoever, whether similar or dissimilar to the foregoing, which might, but for the provisions of this Section 10.3, constitute a legal or equitable discharge, limitation or reduction of the obligations of such Guarantor hereunder (other than the payment or satisfaction in full of all of the Obligations).

10.4 Execution and Delivery of Debenture Guarantee

In the event that the Issuer or any of its Subsidiaries creates or acquires any Subsidiary after the date of this Debenture, the Issuer will cause such Subsidiary, as applicable, to comply with the provisions of this Article 10.

10.5 Release of Debenture Guarantees

The Debenture Guarantee contemplated hereby constitutes a continuing guarantee and remains in full force and effect until payment and performance in full and discharge of all Obligations as provided herein.

10.6 Additional Security

This Debenture Guarantee is in addition to and not in substitution for any other security or guarantee given by anyone whomsoever and shall not prejudice any and all security furnished to the Holder or to the Arranger on behalf of the Holder by anyone whomsoever, and held by it or them at any time whatsoever.

10.7 Renunciation to the Benefits of Division and Discussion and Subrogation

The Holder shall not be obliged to exercise any of its rights, remedies or recourses against the Issuer or against others, or to discuss any of the Security or any other security which it may hold from time to time, before being entitled to the full payment and performance by any of the Guarantors of the obligations guaranteed hereunder as provided herein and it shall not be bound to offer or to deliver its Security, if any, before being paid in full. Each Guarantor renounces to the benefits of discussion and division. No Guarantor shall be entitled to any rights of subrogation as against the Holder or the Issuer or any other Obligor or any of their property until the full payment and performance of the Obligations as provided herein.

10.8 Contribution

The Issuer and Guarantors shall, subject to the conditions of Section 10.1, be entitled to contribution from the other of the Issuer and Guarantors, as applicable, the intent of the Issuer and Guarantors being that they shall share in the Obligations in the same proportion as they have benefited from the funding provided directly or indirectly pursuant to this Debenture.

10.9 No Fraudulent Conveyance

Notwithstanding any provision of this Debenture Guarantee to the contrary, it is intended that this Debenture Guarantee, and any interests, liens and Security Interests granted by the Guarantors as security for this Debenture Guarantee, not constitute a "Fraudulent Conveyance" (as defined below) in the event that this Debenture Guarantee or such interest is subject to the U.S. Bankruptcy Code or any applicable fraudulent conveyance or fraudulent transfer law or similar law of any state. Consequently, the Guarantors and the Holder agree that if this Debenture Guarantee, or any such interests, liens or Security Interests securing this Debenture Guarantee, would, but for the application of this sentence, constitute a Fraudulent Conveyance, this Debenture Guarantee and each such lien and Security Interest shall be valid and enforceable only to the maximum extent that would not cause this Debenture Guarantee or such interest, lien or Security Interest to constitute a Fraudulent Conveyance with respect to the relevant Guarantor, and this Debenture Guarantee shall automatically be deemed to have been amended accordingly at all relevant times. For purposes hereof, "Fraudulent Conveyance" means a fraudulent conveyance under Section 548 of the U.S. Bankruptcy Code or a fraudulent conveyance or fraudulent transfer under the provisions of any applicable fraudulent conveyance or fraudulent transfer law or similar law of any state, as in effect from time to time. Furthermore, the amount guaranteed hereunder and the payments to be made under this Debenture Guarantee shall be limited to an amount and payments that will not result in prohibited dividend or distribution under applicable state law.

The foregoing limitation on the liability of the Guarantors is not a restriction on the amount of the guaranteed Obligations of the Issuer or any other guarantor to the Holder, whether in the aggregate or at any one time. If the Holder now holds one or more Guarantees, or hereafter receives additional Guarantees from any Guarantor or any other guarantor of the guaranteed Obligations, the rights of the Holder under all such Guarantees shall be cumulative unless otherwise specified therein. In any such event, this Debenture Guarantee shall not, unless specifically provided otherwise to the contrary, affect or invalidate any of such other Guarantees. The liability of each Guarantor will be the aggregate liability of such Guarantor under the terms of this Debenture Guarantee and any such other Guarantees.

ARTICLE 11 MISCELLANEOUS

11.1 Severability

If any one or more of the provisions or parts thereof contained in this Debenture should be judicially determined to be invalid, illegal or unenforceable, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and:

- (a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed;
- (b) the invalidity, illegality or unenforceability of any provision or any part thereof contained in this Debenture shall not affect or impair such provision or part thereof or any other provisions of this Debenture; and
- (c) to the extent permitted by Applicable Laws, each of the parties hereto hereby waives any provision of law that renders any provision hereof unenforceable in any respect.

11.2 Laws of British Columbia

This Debenture shall be deemed to have been made and shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, without regard to the conflict of laws provisions thereof, and shall be treated in all respects as a British Columbia contract. The Issuer hereby irrevocably submits to the jurisdiction of the courts of the Province of British Columbia for any action, suit or any other proceeding arising out of or relating to this Debenture and any other agreement or instrument mentioned therein or any of the transactions contemplated thereby.

11.3 Submission to Jurisdiction; Waivers

Each Guarantor that is not incorporated under the laws of a Canada or a Province thereof hereby irrevocably and unconditionally:

- (a) submits, for itself and its property, in any action, suit or proceeding relating to this Debenture, or for recognition and enforcement of any judgment in respect thereof, to the sole and exclusive jurisdiction of the Courts of the Province of British Columbia, Canada, sitting in Vancouver, and appellate courts from any decision thereof;
- (b) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action, suit or proceeding in any such court or that such action, suit or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;
- (c) appoints the Issuer as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any action, suit or proceeding of the nature referred to above; said designation and appointment shall, to the fullest extent permitted by Applicable Laws, be irrevocable until this Debenture is terminated; if any such agent shall cease to act, the Guarantor shall without delay appoint another such agent with an address in Vancouver, British Columbia and shall promptly deliver to the Arranger on behalf of the Holder evidence in writing of such other agent's acceptance of such appointment;

- (d) consents, to the fullest extent it may effectively do so under Applicable Laws, to process being served in any action, suit or proceeding of the nature referred to above by mailing a copy thereof by registered or certified air mail, postage prepaid, return receipt requested, to the address of the party to whom it is addressed specified in or designated pursuant to Section 11.4(a) or by serving a copy thereof upon the relevant agent for service of process referred to above at the address set forth in respect of such agent in subsection (c) above (whether or not the appointment of such agent shall for any reason prove to be ineffective or such agent shall accept or acknowledge such service);
- (e) waives, to the fullest extent it may effectively do so under Applicable Laws, all claim of error by reason of any such service and agrees, to the fullest extent it may effectively do so under Applicable Laws, that such service (i) shall be deemed in every respect effective service of process upon a party hereto in any such action, suit or proceeding and (ii) shall be taken and held to be valid personal service upon and personal delivery to such party; and
- (f) agrees that nothing contained herein shall affect the right of any party hereto to serve process in any other manner permitted by Applicable Laws.

11.4 Notices

All notices, reports or other communication required or permitted by this Debenture must be in writing and shall be delivered by (a) personal delivery, (b) certified or registered mail (first class postage pre-paid), (c) guaranteed overnight delivery by recognized national courier, or (d) facsimile transmission or email transmission, addressed to the party to which the notice is to be given at its address, facsimile number or email address for service herein (or to such other address which such party may subsequently designate by ten (10) calendar days' advance written notice to the other party). Any notice, consent, waiver, direction or other communication made or given by personal delivery, courier or facsimile transmission to the party to whom it was addressed as aforesaid shall be deemed to have been given and received on the date on which it was so delivered at such address (if a Business Day, and if not, or received after 4:00 p.m. local time, the next succeeding Business Day) or if sent by prepaid registered mail be deemed to have been given and received on the fourth Business Day following the date of its mailing or if sent by email transmission be deemed to have been given and received at the time of receipt unless actually received after 4:00 p.m. local time or on a date that does not fall on a Business Day at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address, facsimile or email address for service of each of the parties shall be as follows or at such other address as a party may designate by ten (10) calendar days' advance written notice to the other party:

- (a) if to the Issuer or any Guarantor:

1006903 B.C. Ltd.
Suite 2390 - 1055 West Hastings Street
Vancouver, B.C. V6E 2E9
Canada

Attention: Nicholas Bozikis
email: nick@hardycapital.com

with a copy to (which shall not constitute notice):

A-45

Michael, Evrensel & Pawar LLP
Suite 650, 669 Howe Street
Vancouver, British Columbia V6C 0B4

Attention: Ryan Patryluk
Telecopier No.: 604-669-1953
email: rpatryluk@meplaw.ca

(b) if to the Holder:

Deans Knight Capital Management Ltd.
1500-999 West Hastings Street
Vancouver, British Columbia V6C 2W2
Canada

Attention: Dillon Cameron
Telecopier No.: 604-669-0238
email: dcameron@deansknight.com

with a copy to (which shall not constitute notice):

Farris, Vaughan, Wills & Murphy LLP
25th Floor – 700 W. Georgia St.
Vancouver, British Columbia V7Y 1B3
Canada

Attention: Mitchell Gropper, Q.C.
Telecopier No.: 604-661-9349
email: mgropper@farris.com

or the last address or telecopier number of the party concerned, notice of which was given in accordance with this Section 11.4.

11.5 No Amendment or Waiver

Notwithstanding any other provisions of this Debenture, no amendment or waiver of any provisions of this Debenture, nor consent to any departure by the Issuer therefrom, shall in any event be effective unless the same shall be in writing and signed by an officer of the Holder, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given and shall not extend to or be taken in any manner whatsoever to affect any subsequent breach or default or to affect the rights of the Holder resulting therefrom.

11.6 Further Assurances

The parties hereto shall at all times promptly do, make, execute, acknowledge, deliver, or cause to be done, made, executed, acknowledged or delivered, all such further acts, deeds, agreements and other instruments as may reasonably be required or desirable to give full force and effect to the terms of this Debenture and shall take such steps as may be reasonably within its power to implement the full extent of this Debenture.

11.7 Oral Agreements not Enforceable under Washington Law

ORAL AGREEMENTS OR ORAL COMMUNICATIONS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

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Exhibit A**Permitted Encumbrances**

"Permitted Encumbrances" means the following types of Encumbrances:

- (a) statutory Encumbrances of landlords and Encumbrances of carriers, warehousemen, mechanics, suppliers, material men, repairmen and other Encumbrances imposed by law incurred in the ordinary course of business and Encumbrances for taxes, assessments or governmental charges or claims, in either case, for sums not yet overdue or being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof;
- (b) Encumbrances incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, trade contracts, leases, government contracts, surety and appeal bonds, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);
- (c) Encumbrances upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (d) Encumbrances encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Issuer, including rights of offset and setoff;
- (e) bankers' liens, rights of setoff and other similar Encumbrances existing solely with respect to cash on deposit in one or more accounts maintained by the Issuer, in each case granted in the ordinary course of business in favour of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; provided, however, that in no case shall any such Encumbrances secure (either directly or indirectly) the repayment of any Indebtedness (as such term is defined in the Debentures);
- (f) leases or subleases (or any Encumbrances related thereto) granted to others that do not materially interfere with the ordinary course of business of the Issuer;
- (g) any action, claim, lis pendens, certificate of pending litigation, attachment or judgment Encumbrances which are being contested in good faith by appropriate proceedings;
- (h) easements, rights-of-way, restrictions and other similar charges or encumbrances not materially interfering with the ordinary course of business of the Issuer;
- (i) zoning restrictions, building bylaws, ordinances, regulations, licenses, and other restrictions on the use of real property or minor irregularities in title thereto, which do not materially impair the use of such real property in the ordinary course of business of the Issuer and its Subsidiaries or the value of such real property for the purpose of such business;
- (j) any right of expropriation, access and use and all other similar rights conferred upon or vested in any Governmental Authority or agency imposed by law not materially interfering with the ordinary course of business of the Issuer;

- (k) any right reserved to or vested in any Governmental Authority or agency by law or by the terms of any lease, grant or permit to terminate any such lease, grant or permit not materially interfering with the ordinary course of business of the Issuer;
- (l) any right of first refusal, right of first offer, option, contract or other agreement to sell an asset existing on the date hereof and set forth in Schedule 4 to the Debenture Purchase Agreement; and
- (m) encumbrances securing Hedging Obligations entered into for bona fide hedging purposes of the Issuer not for the purpose of speculation.

A-49

Exhibit 3.8(d)**Form of Opinion of Issuer's Counsel**

[DATE]

Deans Knight Capital Management Ltd., in its capacity as Arranger
Suite 1500, 999 West Hastings Street
Vancouver, BC V6C 2W2

Dear Mesdames and Sirs:

RE: 1006903 B.C. Ltd.

1. SCOPE OF REVIEW

We have acted as counsel to 1006903 B.C Ltd. (the "**Corporation**") in connection with the negotiation, execution and delivery of a debenture purchase agreement (the "**Debenture Purchase Agreement**") dated •, 2014 between the Corporation and Deans Knight Capital Management Ltd., in its capacity as arranger (the "**Arranger**"), pursuant to which the Arranger, in its capacity as portfolio manager for the Investors (as such term is defined in the Debenture Purchase Agreement) (the "**Investors**"), purchased secured convertible debentures of the Corporation in the aggregate principal amount of ten million Dollars (\$10,000,000), guaranteed, jointly and severally, by Shoeme Technologies Limited, A12345 Holdings, Inc., Gerler and Son, Inc. and Shoes.com, Inc.

1.1 This opinion is being provided pursuant to section 3.8(d) of the Debenture (as defined below). Capitalized terms used but otherwise not defined in this opinion have the same meaning herein as are ascribed thereto in the Debenture Purchase Agreement.

1.2 For the purposes of giving this opinion we have examined and reviewed executed copies of the following documents:

- (a) the Debenture in the aggregate principal amount of • Dollars (\$•) (the "**Debenture**") issued by the Corporation in favour of • (the "**Investor**"); and
- (b) the notice of conversion dated [] issued by the Investor to the Corporation pursuant to Section 4.1(c)(i) of the Debenture (the "**Conversion Notice**" and together with the Debenture, the "**Reviewed Documents**").

2. LEGAL SYSTEM

2.1 The scope of our review is restricted to and this opinion is rendered solely with respect to the laws of the Province of British Columbia (the "**Jurisdiction**"), and the federal laws of Canada having application therein as of the date hereof (collectively, "**Applicable Laws**"). The expression "**BC Courts**" means the courts of the Province of British Columbia and the federal courts constituted in Canada, the jurisdiction of which extends to disputes arising in the Jurisdiction.

3. RELIANCE AND ASSUMPTIONS

3.1 In the examination and consideration of the documents (including the Reviewed Documents) required to deliver this opinion, we have assumed the genuineness of all signatures thereto, other than the signatures on behalf of the Corporation, the legal capacity of all individuals, the authenticity of all documents submitted to us as originals, the conformity to authentic original documents of all documents submitted to us as photostatted, telcopied, conformed or certified copies and the truth, accuracy, currency and completeness of any information provided to us by public officials or otherwise

conveyed to us by public officials, including, without limitation, the reliability of all search results obtained by electronic transmission, of the indices and filing systems maintained by the public offices and registries where we have searched, or enquired, or have caused searches or enquiries to be made.

3.2 We have assumed that each party to the Reviewed Documents (other than the Corporation) (a) is a valid and subsisting corporation under its jurisdiction of incorporation, (b) has the necessary capacity, power and authority to execute, deliver and perform its obligations under the Reviewed Documents, (c) has taken all necessary corporate, statutory, regulatory and other action necessary to authorize the execution, delivery and performance by it of the Reviewed Documents and (d) has duly executed and delivered the Reviewed Documents and that such delivery has been properly made under all applicable laws.

3.3 We have assumed that the Reviewed Documents have not been delivered subject to any condition or escrow which has not been satisfied.

3.4 We have assumed the Reviewed Documents are the legal, valid and binding obligations of the parties thereto (other than the Corporation), enforceable against such parties in accordance with their respective terms.

3.5 We have assumed the identity and authority of any person acting or purporting to act in a representative capacity (other than representatives of the Corporation) or as a public official.

3.6 For the purposes of this opinion, we have also examined such other records, certificates and documents and have considered such questions of law and made such investigations and inquiries as we have considered necessary or advisable for the purposes of this opinion, including the following:

- (a) a Certificate of Good Standing for the Corporation dated • and issued by the Registrar of Companies for British Columbia (the "**Certificate of Good Standing**");
- (b) an officer's certificate (the "**Officer's Certificate**") of the Corporation attached hereto as Schedule "A" attaching thereto a copy of the resolutions of the Board of the Corporation;
- (c) the form of certificates for the Common Shares issuable upon conversion of the Debenture;
- (d) as to the Corporation's status as a reporting issuer in the Province of British Columbia the Corporation's profile as of • on the System for Electronic Document Analysis and Retrieval (SEDAR) maintained by the Canadian Securities Regulators and the list of reporting issuers in default maintained by the British Columbia Securities Commission as of • (the "**Reporting Issuer Documents**"); [NTD: include any other jurisdictions where the Common Shares are listed]
- (e) a certificate of • dated • in respect of the issued and outstanding share capital of the Corporation (the "**Transfer Agent Certificate**"); and
- (f) [a letter providing conditional approval from the [Exchange] (the "[**Exchange**]") dated •, pursuant to which the [Exchange] has approved the listing of the Common Shares on the satisfaction of certain conditions (the "**Listing Conditions**") specified in that letter.]

3.7 We have assumed that any person involved in any of the trades referred to below that is in the business of trading in securities or advising as to the investing in or buying or selling of securities, holds themselves out as being in the business of so trading or so advising or acts as an underwriter or agent, is duly registered as required under all Applicable Laws of any Governmental Authority relating to the

distribution, issue, transfer, trading or purchase and sale in or of securities (collectively, "**Applicable Securities Laws**"), and has complied with such laws or terms of registration.

3.8 In expressing the opinion in paragraph 4.1, we have relied exclusively upon the Certificate of Good Standing.

3.9 In expressing the opinion in paragraph 4.2, we have relied exclusively upon the Transfer Agent Certificate.

3.10 In expressing the opinions in paragraphs 4.6 and 4.7, we have assumed that the representations and warranties of the Arranger in the Debenture Purchase Agreement are true and correct as of the date hereof.

3.11 Whenever our opinion herein with respect to the existence or absence of any agreement or other instrument or any judgment, writ, injunction, decree, order, award or ruling is qualified by the expression "to our knowledge" or "of which we are aware" or words to like effect, it is based solely on the actual knowledge of our current partners and associate lawyers directly involved in, and obtained during the course of, representing the Corporation in connection with the matters contemplated by the Reviewed Documents, without having made any special inquiries in this regard.

4. **OPINION**

Based upon and subject to the foregoing and subject to the qualifications hereinafter set forth, we are of the opinion that:

4.1 The Corporation validly exists as a company under the *Business Corporations Act* (British Columbia) (the "**Act**"), and is, with respect to the filing of annual reports, in good standing with the Office of the Registrar of Companies for the Jurisdiction.

4.2 Based on the Transfer Agent Certificate, the authorized capital of the Corporation consists of an unlimited number of Common Shares of which • (•) Common Shares are issued and outstanding.

4.3 The Common Shares have been duly and validly created, authorized, reserved and allotted for issuance and are validly issued as fully paid and non-assessable shares of the Corporation.

4.4 The Company is a "reporting issuer" under Applicable Securities Laws, and is not noted in default by the British Columbia Securities Commission [**NTD: include any other jurisdictions where the Common Shares are listed**].

4.5 [As of the date hereof, the [Exchange] has approved the listing on the Exchange of the Common Shares, subject to satisfaction of the Listing Conditions.]

4.6 The issuance of the Common Shares by the Corporation to the Investor is exempt today from the prospectus requirements of the Jurisdiction, and no other document is required to be filed, no proceeding is required to be taken, and no approval, permit, consent, order or authorization of any regulatory authority of the Jurisdiction is required to be obtained under Applicable Securities Laws to permit the issuance of the Common Shares by the Corporation.

4.7 The first trade of the Common Shares in the Jurisdiction will not be deemed to be a distribution and will not be subject to the prospectus requirements under Applicable Securities Laws provided that:

- (a) the Corporation is and has been a reporting issuer in a jurisdiction in Canada for at least the four months immediately preceding the first trade;
- (b) at least four months have elapsed from the “distribution date”, as that term is defined in National Instrument 45-102 – *Resale of Securities* (“NI 45-102”), of the Debenture;
- (c) the certificate representing the Common Shares carries the legend, or an ownership statement issued under a direct registration system or other electronic book-entry system acceptable to the regulator, bearing a legend restriction notation, prescribed by section 2.5(2)(3)(i) of NI 45-102; and
- (d) at the time of such first trade:
 - (i) such first trade is not a “control distribution” as that term is defined in section 1.1 of NI 45-102;
 - (ii) no unusual effort is made to prepare the market or to create a demand for the Common Shares,
 - (iii) no extraordinary commission or consideration is paid to a person or company in respect of such trade, and
 - (iv) if the Investor is an insider of the Corporation, the Investor has no reasonable grounds to believe that the Corporation is in default of “securities legislation” (as that term is defined in National Instrument 14-101 – *Definitions*).

5. QUALIFICATIONS AND LIMITATIONS

5.1 The opinions expressed herein are subject to the following qualifications:

- (a) the effects of any applicable bankruptcy, winding up, liquidation, insolvency, fraudulent preference, reorganization, moratorium or any other laws or judicial decisions of whatsoever nature or kind affecting the enforcement of creditors' rights and remedies generally, including, without limitation, the applicable provisions of the *Bankruptcy and Insolvency Act* (Canada), *Winding-Up and Restructuring Act* (Canada), *Companies' Creditors Arrangement Act* (Canada) and *Canada Business Corporations Act*;
- (b) general principles of equity which may apply to any proceeding, whether in equity or at law, including, without limitation:
 - (i) the powers of a court to stay proceedings before it and to stay the execution of judgments and to relieve from the consequences of default;
 - (ii) the concepts of materiality, good faith and fair dealing;
 - (iii) equitable remedies, such as specific performance and injunctive relief, may only be available in the discretion of a court and accordingly may not be available as a remedy in any particular circumstance; and
 - (iv) principles limiting the availability of a remedy under a circumstance where the Investor has elected another remedy;

- (c) the ability to recover certain costs, fees and expenses in connection with litigation brought before the BC Courts to enforce provisions of the Reviewed Documents is in the discretion of the BC Courts and counsel fees are subject to taxation;
- (d) claims becoming barred under laws regarding limitation of actions;
- (e) determinations, calculations, demands, requests, instructions and acts made by the Investor in the exercise of a discretion given to it, may not be enforceable if made or performed unreasonably or arbitrarily, and may not be treated as conclusive notwithstanding contrary provisions in any Reviewed Document;
- (f) limitations upon the right of the Investor to enforce an obligation on the basis of a default of a minor or non-substantive nature or having insubstantial consequences to the Investor;
- (g) although we are unaware of any facts which would lead us to believe that a vitiating factor such as mistake, misrepresentation, duress or undue influence has occurred, the effect of such a vitiating factor; and
- (h) in expressing the opinion in paragraph 4.7 with respect to the first trade of securities, such opinion is subject to the qualifications that:
 - (i) such trade is not a trade constituting a transaction or part of a series of transactions involving a purchase and sale or repurchase and resale in the course of or incidental to a distribution, as defined in the Applicable Securities Laws;
 - (ii) at the time of such trade, no orders, ruling or decision of any court, regulatory or administrative body is in effect at any relevant time that restricts any trades in the securities of the Corporation, that affects any person who engages in such trades or that has the effect of preventing or restricting the applicable transaction; and
 - (iii) such trade is not made by a person or company in a "special relationship" with the Corporation with knowledge of a "material fact" or "material change" which has not been generally disclosed (as each such term is defined under Applicable Securities Laws).

6. RELIANCE LIMITATION

6.1 This opinion is given solely for the benefit of the addressees hereof, relates exclusively to the transactions outlined above and may not be used, relied upon or distributed to any other person, other than the Investor, or used in connection with any other transaction without our express prior written consent. This opinion is given as of the date hereof and we disclaim any obligation or undertaking to advise you of a change in law or fact affecting or bearing upon the opinions rendered herein occurring after the date hereof which may come or be brought to our attention.

Yours truly,

SCHEDULE "A"

Officer's Certificate

Exhibit 3.8(e)**Form of Accession Deed**

Reference is made to the Shareholders' Agreement dated as of July 7, 2014, among 1006903 B.C. Ltd. (the "Company") and the Shareholders party thereto, as amended, supplemented or otherwise modified (the "Shareholders' Agreement").

This Accession Deed dated the ____ day of _____, _____ is being executed and delivered pursuant to Section 3.8 or 4.1, as applicable, of the secured convertible debenture of the Company dated December 12, 2014 in the principal amount of \$_____ and registered to _____. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Shareholders' Agreement.

The undersigned, a holder of Shares in the capital of the Company, hereby agrees to be bound by and benefit from the terms and conditions of, and to become a party to, the Shareholders' Agreement (a copy of which is attached hereto) as a Shareholder, as if the undersigned had been a party to such Agreement as of the date thereof and such terms and conditions will enure to the benefit of and be binding upon the undersigned, its successors and its permitted assigns. Notwithstanding the foregoing, the undersigned shall not be bound by Article IX (*Non-Competition*) of the Shareholders' Agreement.

The undersigned hereby acknowledges (a) receipt of a complete copy of the Shareholders' Agreement and (b) that the undersigned has read and understands the provisions of the Shareholders' Agreement.

The undersigned acknowledges and confirms that, prior to executing this Accession Deed, the Company requested the undersigned to obtain independent legal advice with respect to the undersigned's rights and obligations under the Shareholders' Agreement. The undersigned confirms and agrees that (a) the undersigned has executed this Accession Deed on the undersigned's own volition and without any duress whatsoever from the Company, the other Shareholders or any other Person and (b) if the undersigned did not obtain legal advice prior to executing this Accession Deed, the undersigned will not in any proceeding relating to the enforcement of rights or obligations under the Shareholders' Agreement raise that fact as a defence or otherwise.

The undersigned's contact particulars for the purposes of the records of the Company are as follows:

[Name]

[Address]

[Fax]

[E-mail]

IN WITNESS WHEREOF, the undersigned has executed this Accession Deed on the date first noted above.

[[If a corporation:]

[insert name of acceding shareholder]

Per: _____

Name:

Title:]

A-51

[[If an individual:]

Signed, Sealed and Delivered in the presence
of:_____
Witness

Name:

Address:]

[insert name of acceding shareholder]

Acknowledged and Agreed:

1006903 B.C. LTD.

By: _____

Name:

Title:

ROGER HARDY CAPITAL CORPORATION INC.

By: _____

Name:

Title:

Date:

PELECANUS INVESTMENTS LTD.

By: _____

Name:

Title:

[Such other person as is a party to the Shareholders Agreement at the date of this Accession Deed

By: _____

Name:

Title:]

A-52

SCHEDULE A**Prepayment Notice**

1006903 B.C. Ltd.

SECURED CONVERTIBLE DEBENTURES**PREPAYMENT NOTICE**

To: Holders (the "**Holders**") of the Secured Convertible Debentures (the "**Debentures**") of 1006903 B.C. Ltd. (the "**Issuer**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the debenture purchase agreement dated December 12, 2014 among the Issuer and Deans Knight Capital Management Ltd. unless otherwise indicated. All references to \$ shall be to lawful money of Canada, unless otherwise indicated.

Notice is hereby given pursuant to Section 3.4 of each of the Debentures that the aggregate principal amount of the Debentures outstanding will be prepaid on _____ (the "**Prepayment Date**"), upon payment of the Principal Sum and all accrued and unpaid Interest thereon to but excluding the Prepayment Date (collectively, the "**Total Prepayment Price**").

Attached hereto is an Officers' Certificate certifying that the Current Market Price as at the Trading Day ending three (3) Trading Days before the date of this Prepayment Notice was not less than one hundred and seventy-five percent (175%) of the Conversion Price.

The Total Prepayment Price will be payable upon presentation and surrender of the Debentures to be prepaid at _____.

The Interest upon the Principal Sum shall cease to be payable from and after the Prepayment Date, unless payment of the Total Prepayment Price shall not be made on presentation for surrender of such Debentures at the above office on or after the Prepayment Date.

Pursuant to Section 3.4 of each of the Debenture, the Issuer hereby irrevocably elects to satisfy its obligation to pay the Principal Sum by issuing and delivering to the Holders that number of Common Shares obtained by dividing the Principal Sum by the Conversion Price in effect at the close of business on the Business Day immediately preceding the Prepayment Date, together with payment in cash of accrued and unpaid Interest, if any, up to the Prepayment Date.


Upon presentation and surrender of the Debentures for payment on the Prepayment Date, the Issuer shall, on the Prepayment Date, make the delivery to the Arranger, for delivery to and on account of each of the Holders, of certificates representing the Common Shares to which each of the Holders is entitled.

DATED: _____

1006903 B.C. Ltd.

By _____
its:

This is **EXHIBIT "B-2"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.



A Commissioner for taking
Affidavits within British Columbia

"Unless permitted under securities legislation, the holder of this security must not trade the security before the date that is 4 months and a day after the later of (i) December 12, 2014, and (ii) the date the Issuer became a reporting issuer in any province or territory.

The obligations of Gerler under this Debenture are subordinated and postponed to the obligations of Gerler to the holder of the Bank Debt pursuant to a Subordination, Postponement and Standstill Agreement to be entered into between the Arranger, on behalf of the Holder, the holder of the Bank Debt and Gerler."

1006903 B.C. LTD.
(a British Columbia company)

Secured Convertible Debenture

1006903 B.C. LTD. (the "Issuer") for value received hereby promises to pay to JAYVEE & CO ITF YTCF6310002 or such other Person or Persons who may at the time be the registered holder hereof (the "Holder") on June 30, 2017 (the "Maturity Date"), or such earlier date as the Principal Sum may become due subject to and in accordance with the terms, conditions and provisions of Schedule "A" hereto, on presentation and surrender of this Debenture, the Principal Sum of five hundred thousand Dollars (Cdn. \$500,000) in lawful money of Canada, and in the meantime to pay interest on the Principal Sum outstanding hereunder in like currency at the Applicable Interest Rate as and from the Issue Date until full and final payment and discharge hereof. Interest accruing due hereunder shall be calculated daily on the basis of a 365 or 366 day year (as the case may be) and shall be due and payable monthly in arrears on the last Business Day of each calendar month, the first such payment to fall due on the last Business Day of the month in which the Issue Date occurs. Any amount of interest not paid when due (including overdue and unpaid interest), and all interest calculated after maturity, default, demand and judgment, shall bear interest at the aforesaid rate, be calculated daily and compounded on the last Business Day of each calendar month (by adding such accrued and unpaid interest to the Principal Sum, the total of which shall then bear interest at the aforesaid rate), and shall be paid without the necessity for any demand being made. The theory of deemed reinvestment shall not apply to the calculation of interest or the payment of other amounts hereunder.

This Debenture is issued upon the terms and conditions as are set out in Schedule "A" hereto, which terms, conditions and provisions are attached hereto and are incorporated herein and form a part hereof. Unless the context otherwise requires capitalized expressions herein shall have the meanings provided for in Schedule "A" hereto.


Payment of the Obligations under this Debenture are unconditionally guaranteed by the Guarantors as set forth in Schedule "A" hereto.

IN WITNESS WHEREOF the Issuer and the Guarantors have executed this Debenture on December 12, 2014 (the "Issue Date").

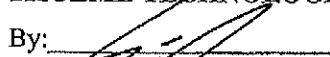
By the Issuer:

By the Guarantors:

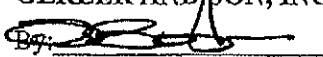
1006903 B.C. LTD.

By: 
its: CFO

SHOEME TECHNOLOGIES LIMITED

By: 
its: President and CEO


GERLER AND SON, INC.

By: 
its: CFO

A12345 HOLDINGS, INC.

By: 
its: CFO

SHOES.COM, INC.

By: 
its: CFO

SCHEDULE "A"
TO SECURED CONVERTIBLE DEBENTURE OF 1006903 B.C. LTD.

The following terms and conditions are applicable to the secured convertible note of 1006903 B.C. Ltd.

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Debenture, unless there is something in the subject matter or context inconsistent:

"90% Redemption Right" has the meaning provided for in Section 3.1(e);

"A12345" means A12345 Holdings, Inc., a Washington, USA corporation;

"Accession Deed" has the meaning provided for in Section 3.8(e);

"Acquisition Agreement" means the stock purchase agreement dated the Issue Date among the Seller, as seller, A12345, as purchaser, and the Issuer in respect of the purchase and sale of all of the issued and outstanding shares of capital stock of Shoes.com;

"Adjustment Period" means the period during which this Debenture is Outstanding;

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified;

"Aggregate Market Capitalization" means, at any date, the amount equal to the product of the Current Market Price as of the trading day immediately preceding such date and the number of Common Shares outstanding on such date;

"Applicable Interest Rate" at any time means the Interest Rate at such time;

"Applicable Laws" means, with respect to any Person, property, transaction or event, any present or future: (a) domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, convention, rule, regulation, restriction or by-law (zoning or otherwise); (b) judgment, order, writ, injunction, decision, direction, determination, ruling, decree or award; (c) regulatory policy, practice, ruling, interpretation, guideline or directive; or (d) any order, permit, approval, grant, license, consent, right, franchise, privilege, certificate exemption, waiver, registration or other authorization, binding on or affecting the Person, property, transaction or event referred to in the context in which the term is used in each case whether or not having the force of law;

"Applicable Securities Laws" means all Applicable Laws of any Governmental Authority relating to the distribution, issue, transfer, trading or purchase and sale in or of securities, including the rules and regulations of any stock exchange on which any of the securities of the Issuer are listed for trading or to which the Issuer has made an application (which has not been withdrawn) for the listing of any of its securities);

"Arranger" means Deans Knight Capital Management Ltd., a corporation governed by the Canada Business Corporations Act;

"Bank Debt" means Financial Indebtedness of Gerler at any time (a) in the aggregate principal amount of up to five million US Dollars (US\$5,000,000) under the Amended and Restated Credit Agreement dated as of April 1, 2014 between U.S. Bank National Association and Gerler; or (b) in the aggregate principal amount of up to seven million and five hundred thousand US Dollars (US\$7,500,000) under a credit agreement to be entered into by Wells Fargo Bank, National Association and Gerler;

"Bank Intercreditor Agreement" means as the context requires, the U.S. Bank Intercreditor Agreements or the Wells Fargo Intercreditor Agreement;

"BDC Loan" means Financial Indebtedness of SHOEMe in the aggregate principal amount of one hundred twenty-five thousand Dollars (\$125,000) to the Business Development Bank of Canada under a letter of offer dated October 5, 2012;

"Board" has the meaning provided for in the definition of "Change of Control";

"Board Observer Agreement" means the Board Observer Agreement in the form of Exhibit 6.4 of the Debenture Purchase Agreement;

"Brown Shoe Intercreditor Agreement" means the Subordination, Postponement and Standstill Agreement among the Arranger, the Seller, the Issuer and each of the Subsidiaries (except for Gerler) dated the Issue Date, in the form of Exhibit 2.2(a)(ii)(B) of the Debenture Purchase Agreement;

"Business" means the business of the Issuer being the sale and distribution of footwear to retail customers through the facilities of the Internet;

"Business Day" means a day (other than a Saturday, Sunday or statutory holiday) on which banks are generally open for business in the City of Vancouver, British Columbia;

"Canadian GAAP" means generally accepted accounting principles as may be described in the Canadian Institute of Chartered Accountants Handbook, including the Canadian Accounting Standards for Private Enterprises to the extent applicable, and other principal sources recognized from time to time by the Canadian Institute of Chartered Accountants;

"Change of Control" of the Issuer or any of its Subsidiaries, as applicable, means the occurrence of any of the following events, other than (i) with the approval of the Arranger on behalf of the Holder, (ii) in connection with, and at the time of completion of, an Initial Public Offering, or (iii) in connection with the Acquisition Agreement and the transactions contemplated thereby:

- (a) any Person or group of Persons acting in concert acquires Voting Shares of the Issuer or any Subsidiary of the Issuer or securities convertible into or exchangeable for Voting Shares of the Issuer or any Subsidiary of the Issuer or the right to acquire Voting Shares of the Issuer or any Subsidiary of the Issuer representing, after such acquisition and after giving effect to such conversion or exchange or exercise of such right, more than fifty percent (50%) of the Voting Shares of the Issuer or any Subsidiary of the Issuer;
- (b) (i) all or substantially all of the assets of the Issuer or any Subsidiary of the Issuer are sold or otherwise transferred to any Person other than a wholly-owned Subsidiary of the Issuer or (ii) the Issuer completes a Merger Transaction, in either case under this clause (b), in one transaction or a series of related transactions which results in the occurrence of the circumstances referred to in clause (a) above;

- (c) the Issuer shall adopt a plan of liquidation or dissolution or any such plan shall be approved by the shareholders of the Issuer; or
- (d) in any period of twelve (12) consecutive months, the individuals who are members of the board of directors (the "**Board**") of the Issuer or any Subsidiary of the Issuer at the beginning of such twelve (12) month period cease for any reason to constitute at least a majority of the Board unless the appointment or election of such individuals was approved by members of the Board of the Issuer or such Subsidiary who were members of the Board of the Issuer or such Subsidiary at the beginning of such period and any successor to any such director who was recommended or elected or appointed to succeed any such director by the affirmative vote of the directors when that affirmative vote includes the affirmative vote of at least a two-thirds (2/3) majority of the directors then on the Board of the Issuer or such Subsidiary;

"Change of Control Notice" has the meaning provided for in Section 3.1(a);

"Change of Control Offer" has the meaning provided for in Section 3.1(a);

"Collateral" has the meaning given thereto in the Security Agreements;

"Collateral Agency Agreement" means the Collateral Agency Agreement in the form of Exhibit 2.2(a)(ii)(A) of the Debenture Purchase Agreement;

"Common Shares" or **"Shares"** means, subject to Section 4.10(d), the shares of common stock in the capital of the Issuer;

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise and **"Controlling"** and **"Controlled"** have meanings correlative thereto;

"Conversion Date" in respect of the exercise by the Holder or the Issuer of a Conversion Right, means the date on which the Holder gives notice of the conversion of the whole or part of the Principal Sum pursuant to Section 4.1(c) or the date on which the Issuer gives notice to the Holder of the conversion of the whole or any part of the Principal Sum pursuant to Section 4.1(d);

"Conversion Period" means the period during which the Holder or the Issuer may exercise the Conversion Right pursuant to Section 4.1(a);

"Conversion Price" means, at any time, the price per Common Share at which the Principal Sum shall at such time be convertible into Common Shares as adjusted in accordance with the provisions of Article 4 which shall initially be the Initial Conversion Price;

"Conversion Right" means the right of the Holder to convert or of the Issuer to force conversion, as the case may be, of the whole or any portion of the Principal Sum into Shares at the Conversion Price pursuant to Section 4.1(a);

"Corporate Reorganization" has the meaning provided in Section 4.10(d);

"Counsel" means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Issuer and acceptable to the Arranger on behalf of the Holder, acting reasonably;

"Current Market Price" means at any date of determination, the Weighted Average Price per Share for the twenty (20) consecutive Trading Days (sixty (60) Trading Days in the case of the exercise of the Issuer's Conversion Right) ending on the third (3rd) Trading Day preceding the date of determination on the Toronto Stock Exchange or, if on such date the Common Shares are not listed on the Toronto Stock Exchange, on such stock exchange upon which the Common Shares are listed and as selected by the Directors;

"DBRS" means DBRS Limited;

"Debenture" means this Debenture and **"Debentures"** means secured convertible debentures of the Issuer in the form of this Debenture in the aggregate principal amount of ten million Dollars (\$10,000,000);

"Debenture Guarantee" means the guarantee of each Debenture by the Guarantors pursuant to Article 10;

"Debenture Purchase Agreement" means the agreement dated the Issue Date between the Issuer and the Arranger;

"Default" means any event or circumstance, which with the giving of notice or lapse of time, would constitute an Event of Default;

"deliver" or any derivative thereof means, actual delivery to the other party or its professional advisors;

"Demand Note" means the demand promissory note dated as of the date hereof issued by A12345 to the Issuer in the aggregate principal amount of four million US Dollars (US\$4,000,000);

"Director" means a director of the Issuer and, unless otherwise specified herein, reference to action "by the directors" means action by the directors of the Issuer as a board or, whenever duly empowered, action by any committee of such board;

"Disposition" or **"Dispose"** means the sale, assignment, lease, conveyance, transfer or other disposition of property of the Issuer, or any agreement to do any of the foregoing, other than a Permitted Disposition or in respect of a Permitted Disposition;

"Distribution" means any of the following:

- (a) the declaration or payment of any dividend or any other distribution on Equity Interests of the Issuer or any payment made to the direct or indirect holders (in their capacities as such) of Equity Interests of the Issuer, including any payment in connection with any Merger Transaction;
- (b) the redemption of any Equity Interests of the Issuer or any Subsidiary of the Issuer, including, any payment in connection with any Merger Transaction;
- (c) any Investment other than a Permitted Investment;
- (d) any payment of principal of or redemption prior to the scheduled maturity or prior to any scheduled repayment of principal or sinking fund payment, as the case may be, in respect of any Financial Indebtedness of the Issuer except Permitted Financial Indebtedness;
- (e) any payment on account of, or for the purpose of setting apart, any property for a sinking or other analogous fund for: (i) the purchase, redemption, retirement or other acquisition of Equity Interest in the Issuer; (ii) any principal of or interest or premium on or of any amount in respect of a sinking

or analogous fund or defeasance fund for any Indebtedness of the Issuer ranking in right of payment subordinate to any liability of the Issuer under this Debenture; or

- (f) any management, consulting or similar fee or any bonus payment or comparable payment, or by way of gift or other gratuity, to any Affiliate of the Issuer or to any director or officer thereof other than as compensation for services rendered to the Issuer or any of its Subsidiaries in the ordinary course;

"Dollars" and the symbol "\$" each means lawful money of Canada;

"Encumbrance" includes any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale leaseback arrangement, any right of set-off and any guarantees or indemnities;

"Environment" means soil, surface waters, groundwater, land, stream sediments, surface or subsurface strata and ambient air;

"Environmental Claims" has the meaning provided in Section 7.2(b);

"Environmental Laws" means all Applicable Laws that address, are related to, or are otherwise concerned with, the protection of the Environment, health or safety issues (including occupational safety and health);

"Environmental Liabilities" means any and all indebtedness, liabilities and obligations for any Release, any environmental damage, any contamination or any other environmental problem caused or alleged to have been caused to any Person, property or the environment as a result of any Release or the condition of any property or asset, whether or not caused by a breach of Applicable Laws, including all indebtedness, liabilities and obligations arising from or related to: (i) any surface, underground, air, groundwater, or surface water contamination; (ii) the abandonment or plugging of any well; (iii) restorations and reclamations; (iv) the removal of or failure to remove any foundations, structures or equipment; (v) the cleaning up or reclamation of storage sites; (vi) any Release; (vii) violation of pollution standards; and (viii) personal injury (including sickness, disease or death) and property damage arising from the foregoing;

"Equity Interests" of any Person means (i) any and all shares or other equity interests (including common shares, preferred shares, partnership interests, trust interests, limited liability company interests and limited liability partnership interests) in such Person; and (ii) all rights to purchase, warrants or options, including securities convertible into or exchangeable for, participations or other equivalents of or interests in (however designated) such shares or other interests in such Person (whether or not currently exercisable, exchangeable or convertible);

"Event of Default" means any event or circumstance specified in Section 6.1, which has not been waived or cured or remedied;

"Excess Bid Consideration" has the meaning provided for in Section 4.10(f);

"Excess Distribution" has the meaning provided for in Section 4.10(e);

"Expiration Time" has the meaning provided for in Section 4.10(f);

"Financial Indebtedness" of any Person at any date means, without duplication, all Indebtedness of such Person: (i) for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof); (ii) evidenced by bonds, debentures, Debentures or other similar instruments; (iii) in respect of financial letters of credit or other similar instruments (or reimbursement obligations with respect thereto); (iv) to pay the deferred and unpaid purchase price of property or services; (v) in respect of leases of such Person that are required to be shown as a liability on the financial statements of such Person prepared in accordance with GAAP; (vi) secured by an Encumbrance on any property of such Person, whether or not such Indebtedness is assumed by such Person or the recourse of the holder of such Indebtedness is limited to such property; (vii) under conditional sale or other title retention agreements relating to assets purchased by such Person; (viii) in respect of redemption obligations with respect to any shares of any other Person which are (I) redeemable, retractable, payable or required to be purchased or otherwise retired or extinguished, or convertible into debt of such Person (A) at a fixed or determinable date, (B) at the option of any holder thereof, or (C) upon the occurrence of a condition not solely within the control and discretion of such Person; or (II) convertible into any other shares described in (I) above; (ix) to the extent not otherwise included in this definition, Hedging Obligations of such Person; and (x) all Guarantees of Indebtedness of the type referred to in any of the foregoing sub-clauses (i) to (ix) of another Person. Notwithstanding the foregoing, the following shall not be considered Financial Indebtedness: (i) earn-outs or similar profit sharing arrangements provided for in acquisition agreements which are determined on the basis of future operating earnings or other similar performance criteria (which are not determinable at the time of acquisition) of the acquired assets or entities; and (ii) accrued expenses, trade payables, customer deposits or deferred income taxes arising in the ordinary course of business of such Person. Any Indebtedness which is incurred at a discount to the principal amount at maturity thereof shall be deemed to have been incurred at the full principal amount at maturity thereof. For all purposes hereof, the Financial Indebtedness of any Person shall include the Financial Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly non-recourse to such Person;

"GAAP" means Canadian GAAP and/or US GAAP, as the context requires;

"Gerler" means Gerler and Son, Inc., a Washington, USA corporation;

"Governmental Authority" means any (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government or any governmental or public department, (ii) court, tribunal, arbitral body, statutory body, commission, board, bureau or agency, (iii) self-regulatory organization or authority, including any stock exchange on which any securities of the Issuer are listed, (iv) subdivision, agent, commission, board or authority of any of the foregoing, or (v) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing and includes a Securities Regulatory Authority;

"Guarantee" means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the **"primary obligor"**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part). The amount of any Guarantee shall be deemed to be an amount equal to the stated or

determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning;

"Guarantor" means each of SHOEme, A12345, Gerler and Shoes.com;

"Hazardous Substances" means any pollutant, contaminant, waste of any nature, hazardous substance, hazardous material, toxic substance, dangerous substance, dangerous good or other substance that is prohibited, listed, defined, designated or classified as dangerous, hazardous, radioactive, explosive or toxic or a pollutant or a contaminant under or pursuant to any applicable Environmental Laws, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefore and asbestos or asbestos-containing materials or any substance which is deemed under Environmental Laws to be deleterious to natural resources or worker or public health and safety;

"Hedging Obligations" of any Person means the obligations of such Person pursuant to (i) any interest rate swap agreement, interest rate collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in interest rates, (ii) agreements or arrangements designed to protect such Person against fluctuations in foreign currency exchange rates in the conduct of its operations, or (iii) any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in commodity prices, in each case entered into in the ordinary course of business for bona fide hedging purposes and not for the purpose of speculation;

"Holder" has the meaning provided for on the first page of this Debenture and its successors and permitted assigns or the Person or Persons from time to time registered as the holder or holders of this Debenture pursuant to Section 8.1;

"including" means including, without limitation, and shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it, and "includes" shall be construed in a like manner;

"incur" means, with respect to any Indebtedness, incur, create, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to such Indebtedness, and "incurrence" has a corresponding meaning;

"Indebtedness" means all present and future obligations, indebtedness, liabilities, covenants, agreements and undertakings of a Person howsoever arising, whether direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred, including all future advances and re-advances, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether such Person be bound alone or with others and whether as principal or surety, including all interest, fees, expenses, indemnities and costs;

"Initial Conversion Price" means a price per Common Share that is the lesser of: (i) ten Dollars (\$10) or, if, by January 31, 2015, the Issuer has completed an issuance of Equity Interests for gross proceeds of at least five million Dollars (\$5,000,000), fourteen Dollars (\$14); and (ii) the price that is at a thirty percent (30%) discount to the price per Common Share paid to the Issuer in the first issuance of Common Shares by the Issuer next following the Issue Date to a Person whose relationship with the Issuer is not non-arm's length ("**non-arm's length**" for this purpose having the same meaning as such term has under the Tax Act); provided that the amounts set forth in this definition are subject to adjustment *mutatis mutandis* in the same manner as the Conversion Price is adjusted pursuant to Section 4.10;

“Initial Public Offering” means the issue of Common Shares in connection with the Issuer becoming a “reporting issuer” under Applicable Securities Laws and the listing of the Common Shares on a stock exchange or a Merger Transaction where the resulting entity is a “reporting issuer” under Applicable Securities Laws;

“Intercompany Notes” means Financial Indebtedness of A12345 (i) in the aggregate principal amount of ten million US Dollars (US\$10,000,000) under a secured promissory note dated July 7, 2014 issued by A12345 to the Issuer, as subsequently assigned to and assumed by SHOEmc, as payee, pursuant to an Assignment and Assumption Agreement dated November 26, 2014 among the Issuer, SHOEmc and A12345; (ii) in the aggregate principal amount of two million US Dollars (US\$2,000,000) under a promissory note dated the date hereof issued by A12345 to the Issuer; and (iii) under the Demand Note, each as subordinated pursuant to the Brown Shoe Intercreditor Agreement;

“Interest” means interest at the Applicable Interest Rate calculated and payable pursuant to Article 2 on the Principal Sum and any other amounts owing by the Issuer to the Holder under this Debenture;

“Interest Payment Date” means the last day of each month for so long as this Debenture is outstanding, and the Maturity Date, provided that in the event that all or any part of the Principal Sum is partially or totally prepaid at any time other than on an Interest Payment Date, then the date upon which such partial or total prepayment is made shall be an Interest Payment Date in respect of the amount of such Principal Sum so prepaid;

“Interest Period” means:

- (a) the period beginning on (and including) the Issue Date and ending on (and including) the last day of the month in which the Issue Date occurs; and
- (b) thereafter, successive periods beginning on (but excluding) each successive Interest Payment Date and ending on (and including) the earlier of the next Interest Payment Date and the Maturity Date;

“Interest Rate” means: (i) a rate of ten per cent (10%) per annum; and (ii) while an Event of Default exists, fifteen per cent (15%) per annum;

“Investment” of any Person means: (i) all direct or indirect investments by such Person in any other Person in the form of loans, advances or capital contributions or other credit extensions constituting Indebtedness of such other Person, and any guarantee of Indebtedness of any other Person; (ii) all purchases (or other acquisitions for consideration) by such Person of Indebtedness, Equity Interests or other securities of any other Person; and (iii) all other items that would be classified as investments on a balance sheet of such Person prepared in accordance with GAAP;

“Issuance Date” has the meaning set forth on the first page of this Debenture;

“Issuer” has the meaning set forth on the first page of this Debenture;

“Judgment Conversion Rate” has the meaning provided for in Section 7.4;

“Losses” has the meaning provided for in Section 7.2(a);

“Material Adverse Change” means any event, occurrence, development after the date hereof or state of occurrence or state of circumstances or facts that exists at any time on or after the date hereof that has or had or would reasonably be expected to have a Material Adverse Effect;

"Material Adverse Effect" means any event, occurrence, development or state of occurrence or state of circumstances or facts that has or had or would reasonably be expected to have an effect that, individually or when taken together with all other events, occurrences, developments or states of occurrence or states of circumstances or fact is reasonably or would reasonably be expected to be: (i) material and adverse to the business, condition (financial or otherwise), results of operations or assets or liabilities (actual or contingent) of the Issuer and its Subsidiaries considered as a whole; (ii) a material impairment of the ability of the Issuer or any of its Subsidiaries to perform its obligations under any Transaction Document to which it is a party; (iii) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer or any of its Subsidiaries of any Transaction Document to which it is a party; (iv) a material adverse effect on the rights or remedies of the Holder in respect of this Debenture or of the Arranger under the Debenture Purchase Agreement or in respect of the Security Agreements; or (v) a material adverse effect on the value of the Collateral or the ability of the Arranger to exercise its remedies at the times and in the manner contemplated by the Security Agreements; provided, however, that the term Material Adverse Effect shall exclude any effect described in sub-clause (i) above resulting from or arising in connection with: (A) any change in GAAP; (B) any change in the global, national or regional conditions (including the outbreak of war or acts of terrorism) or in the national or global financial or capital markets, (C) any change in the business in which the Issuer and its Subsidiaries operate, provided that for the purposes of (B) and (C) such effect does not primarily relate to (or have the effect primarily relating to) the Issuer and its Subsidiaries or disproportionately adversely affects the Issuer and its Subsidiaries compared to other entities operating in the business in which the Issuer operates, or (D) the Board Observer Agreement;

"Maturity Date" has the meaning provided for on the first page of this Debenture;

"Merger Transaction" means any transaction of merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's or any Subsidiary of the Issuer's undertaking, property or assets would become the property of any other Person, other than by or between wholly-owned Subsidiaries of the Issuer or the Issuer and such Subsidiaries, other than in connection with, but not after the completion of, an Initial Public Offering;

"Net Proceeds" means proceeds in cash, cheques or other cash equivalent financial instruments, as and when received by the Person making a Disposition, net of: (i) the direct costs relating to such Disposition excluding amounts payable to the Issuer or any Affiliate of the Issuer, (ii) sale, use or other transaction taxes paid or payable as a result thereof including income taxes, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Financial Indebtedness secured by an Encumbrance on the property which is the subject of such Disposition;

"Next Trading Day" has the meaning provided in Section 4.10(f);

"Obligations" means any and all Indebtedness of the Issuer to the Holder under this Debenture;

"Obligor" means each of the Issuer and each Guarantor;

"Offer Price" has the meaning provided in Section 3.1(a);

"Officers' Certificate" means a certificate signed by any one of the following officers of the Issuer: President and Chief Executive Officer, Chief Financial Officer, any Vice-President, Secretary or Treasurer;

"ordinary course of business" or **"ordinary course"** when used in relation to the taking of any action by any Person means that the action is consistent in its nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the day to day operations of the business of such Person;

"Outstanding" when used in relation to this Debenture has the meaning provided for in Section 1.6;

"Payment Account" means such account as the Holder may from time to time advise the Issuer in writing;

"Permitted Dispositions" means:

- (a) Dispositions of inventory, or worn-out, obsolete or other surplus equipment, all in the ordinary course of business;
- (b) Dispositions, non-renewals and exchange properties in the ordinary course of business;
- (c) Dispositions which are made for fair market value and the mandatory repayment in the amount of the Net Proceeds of such Disposition is made as required by Section 3.2;
- (d) Dispositions between wholly-owned Subsidiaries of the Issuer or between the Issuer and such Subsidiaries, and for greater certainty, includes the transfer by A12345 to the Issuer of the Shoes.com Domain Names, subject to the Security Interests in the Security Agreements; or
- (e) Dispositions with the consent of the Arranger on behalf of the Holder;

"Permitted Encumbrances" means:

- (a) Security Interests, upon or in any property acquired by the Issuer after the date hereof in the ordinary course of business, created at the time of such purchase or within sixty (60) calendar days thereafter to secure the purchase price of such property or to secure Financial Indebtedness incurred solely for the purpose of financing the acquisition of such property and Security Interests existing on such property at the time of its acquisition (other than any such Security Interest created in contemplation of such acquisition), provided that no such Security Interest shall extend to any property of the Issuer other than the property so acquired;
- (b) Encumbrances of the type referred to in Exhibit A attached hereto;
- (c) Encumbrances existing as of the date of the Debenture Purchase Agreement and securing each of the Bank Debt with U.S. Bank National Association, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt; and
- (d) Encumbrances securing the Bank Debt with Wells Fargo Bank, National Association;

"Permitted Financial Indebtedness" means any of the following:

- (a) Financial Indebtedness incurred under each of the Bank Debt, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt;
- (b) Financial Indebtedness represented by the Debentures; and
- (c) trade payables and accrued liabilities of the Issuer and its Subsidiaries incurred in the ordinary course of business of the Issuer and its Subsidiaries;

"Permitted Investment" of any Person means: (a) loans and advances to directors, employees and officers of the Issuer for bona fide business purposes and to purchase Equity Interests of the Issuer not in excess of one million Dollars (\$1,000,000) at any one time outstanding; (b) cash and cash equivalents; (c) receivables owing to such Person if created or acquired in the ordinary course of business and payable or dischargeable

in accordance with customary trade terms; provided, however, that such trade terms may include such concessionary trade terms as such Person deems reasonable under the circumstances; (d) Investments in securities of trade creditors or customers received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers; (e) share, obligations or securities received in settlement of debts created in the ordinary course of business and owing to such Person or in satisfaction of judgments; and (f) book based securities, negotiable instruments, Investments or securities which evidence (i) short term redeemable Investments (having a term to maturity of not more than one year) issued or fully guaranteed by the Government of Canada or any Province of Canada with a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (ii) demand deposits, term deposits or certificates of deposit of banks listed in Schedule I of the *Bank Act* (Canada), which have a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (iii) commercial paper directly issued by Schedule I Banks having, at the time of the investment therein, a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (iv) call loans to and notes or bankers' acceptances issued or accepted by any depository institution described in (ii) above and (v) term deposits with an entity, the commercial paper of which has a rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P;

"Person" means any individual, firm, partnership, company, corporation or other body corporate, government, governmental body, agency, instrumentality, unincorporated body or association and the heirs, executors, administrators or other legal representatives of an individual;

"Prepayment Date" has the meaning provided in Section 3.4;

"Prepayment Notice" has the meaning provided in Section 3.4;

"Principal Sum" in respect of this Debenture means the amount set forth as the principal sum on the first page of this Debenture or such lesser principal sum as is owing under this Debenture from time to time, and in respect of all Debentures means the aggregate of such amounts in respect of all Debentures;

"Release" has the meaning prescribed in any Environmental Law and includes any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, migration, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Substance, whether accidental or intentional, into the environment;

"S&P" means Standard & Poor's Financial Services LLC;

"securities" has the meaning ascribed thereto in the *Securities Act* (British Columbia);

"Securities Regulatory Authorities" means the securities commissions or similar regulatory authorities in each of the provinces and territories of Canada and any other applicable jurisdiction;

"Security Agreements" means the: (i) General Security Agreement of the Issuer; (ii) General Security Agreement of SHOEme; (iii) Security Agreement of A12345; (iv) Security Agreement of Gerler; (v) Intellectual Property Security Agreement of Gerler; (vi) Trademark Security Agreement of Gerler; (vii) Security Agreement of Shoes.com; (viii) Intellectual Property Security Agreement of Shoes.com; and (ix) Control Agreement of Shoes.com, each in substantially the respective forms set out in Exhibit 2.2(b)(ii) of the Debenture Purchase Agreement;

"Security Interest" means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement

whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale-leaseback arrangement, any right of set-off and any guarantees or indemnities;

"Seller" means Brown Shoe Investment Company, Inc.;

"Shareholders' Agreement" means the Shareholders' Agreement dated July 7, 2014 entered into among the Issuer, Roger Hardy Capital Corporation Inc., Pelecanus Investments Ltd. and such other persons as shall from time to time become bound pursuant to the provisions of Section 2.4 thereof, as amended, supplemented or otherwise modified;

"SHOEmc" means SHOEmc Technologies Limited, a corporation governed by the Canada Business Corporations Act;

"Shoes.com" means Shoes.com, Inc., a Delaware, USA corporation;

"Shoes.com Domain Names" means all right, title and interest in, to and under any domain name registration or uniform resource locator or URL owned on the date hereof by Shoes.com, including without limitation, Shhhshoes.com, Shoes.com and Ssshshoes.com, any trademarks and associated goodwill related to any such domain name, social media accounts (i.e. Facebook, Twitter, Pinterest, Instagram, Google+ and YouTube), and any accounts receivable, Accounts, Instruments, General Intangibles and Payment Intangibles and contract rights arising from or related to use of such domain name or uniform resource locator or URL;

"Subordinated Debt" means Financial Indebtedness of A12345 in the aggregate principal amount of seven million and five hundred thousand US Dollars (US\$7,500,000) to the Seller under the convertible subordinated note dated the Issue Date bearing interest in accordance with the terms thereof and due on December 12, 2019, or such earlier date pursuant to the terms of such convertible subordinated note, and convertible into Common Shares at a conversion price of \$21.50 per Common Share, subject to adjustment as provided for in such convertible subordinated note, secured by the security interests provided in a guarantee and security agreement dated the Issue Date among the Seller, the Issuer and each of the Subsidiaries, which Financial Indebtedness is or will be subordinated to the Bank Debt and the Debentures pursuant to the Bank Intercreditor Agreement and the Brown Shoe Intercreditor Agreement;

"Subsidiary" or **"subsidiary"** means: (i) any corporation or company of which at least a majority of the outstanding securities having by the terms thereof ordinary voting power to elect a majority of the board of such corporation or company is at the time directly, indirectly or beneficially owned or under the Control of the Issuer; (ii) any partnership of which, at the time, the Issuer directly, indirectly or beneficially owns or controls at least a majority of the voting interests (however designated) thereof, or otherwise controls such partnership; and (iii) any other Person of which at least a majority of the voting interests (however designated) are at the time directly, indirectly or beneficially owned or controlled by the Issuer, and for greater certainty, includes Shoes.com;

"Successor Issuer" has the meaning provided in Section 9.1;

"Tax" or **"Taxes"** means any federal, provincial, state, county, local, or foreign tax, charge, fee, levy, impost, duty, or other assessment, including income, gross receipts, excise, employment, sales, use, consumption, asset, transfer, recording, license, payroll, franchise, severance, documentary, stamp, occupation, windfall profits, environmental, highway use, commercial rent, customs duty, capital stock, paid-up capital, profits, withholding, waste water discharge, social security, social security contribution quotas, housing fund contribution quotas, retirement fund contribution quotas, single business,

unemployment, disability, real property, personal property, registration, ad valorem, value added, alternative or add-on minimum, workplace safety insurance board premiums, employment insurance premiums and deductions, pension plan deductions and contributions, employer health, goods and services, estimated, or other tax or governmental fee of any kind whatsoever, imposed or required to be withheld by any Governmental Authority, including any estimated payments relating thereto;

"Total Offer Price" has the meaning provided in Section 3.1(a);

"Trading Day" means, with respect to a stock exchange, a day on which such exchange is open for the transaction of business;

"Transaction Documents" means the Debentures, the Debenture Purchase Agreement, the Collateral Agency Agreement, the Brown Shoe Intercreditor Agreement, the Security Agreements, the Board Observer Agreement and, only after execution thereof, the Wells Fargo Intercreditor Agreement and the U.S. Bank Intercreditor Agreements;

"U.S. Bank Intercreditor Agreements" means (a) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger and Gerler (as borrower); and (b) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger, the Seller and Gerler (as borrower), each to be entered into after the Closing Date, in a form mutually agreeable by the parties, each acting reasonably;

"US GAAP" means United States generally accepted accounting principles as established under the standards of the Financial Accounting Standards Board;

"Vendor Take Back Loan" means Financial Indebtedness of the A12345 in the aggregate principal amount of three million US Dollars (US\$3,000,000) to Daniel Gerler under a secured convertible subordinated promissory note dated July 8, 2014;

"Voting Shares" with respect to any Person, means securities of any class of shares of such Person entitling the holders thereof (whether at all times or only so long as no senior class of share or other relevant equity interest has voting power by reason of any contingency) to vote in the election of members of the board of directors of such Person;

"Weighted Average Price" means with respect to a share, the aggregate sale price of all shares of a particular class sold or traded on an exchange or market, as the case may be, divided by the total number of shares of that class so sold or traded, during a stated period of time;

"Wells Fargo Intercreditor Agreement" means the Subordination, Postponement, Standstill and Intercreditor Agreement to be entered into after the Closing Date among Wells Fargo Bank, National Association, the Arranger, the Seller and Gerler (as borrower), in a form mutually agreeable by the parties, each acting reasonably; and

"written consent of the Issuer" and **"certificate of the Issuer"** mean, respectively, a written consent and certificate signed in the name of the Issuer's President and Chief Executive Officer, Chief Financial Officer, any Vice-President, Secretary or Treasurer, and may consist of one or more instruments so executed.

1.2 Headings, Etc.

The division of this Debenture into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Debenture.

1.3 Monetary References

Unless otherwise provided, references to "Dollars" or "\$" in this Debenture refer to lawful currency of Canada and references to "US Dollars" and "US\$" in this Debenture refer to lawful currency of the United States of America.

1.4 Consents and Approvals

It shall be a condition hereof that any consent or approval of the Holder required hereby shall be obtained in writing prior to the event for which it is required and any such consent or approval may be given or withheld by the Holder in the Holder's sole and unfettered discretion.

1.5 Expanded Meanings

Unless the context requires otherwise, (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Transaction Document) in accordance with the terms hereof and thereof, (d) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (e) the words "herein", "hereof" and "hereunder", and words of similar import, when used in any Transaction Document, shall be construed to refer to such Transaction Document in its entirety and not to any particular provision thereof, (f) all references in a Transaction Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Debenture or the other Transaction Document in which such references appear, (g) any reference to any Applicable Laws shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Applicable Laws and any reference to any Applicable Laws shall, unless otherwise specified, refer to such Applicable Laws as amended, modified or supplemented from time to time, (h) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (i) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (j) the word "will" shall be construed to have the same meaning and effect as the word "shall", and (k) in the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.

1.6 Interpretation of "Outstanding"

This Debenture shall be deemed to be Outstanding until the later of the date on which:

- (a) moneys for the payment of the Principal Sum, interest and all other amounts owing to the Holder hereunder shall have been fully, finally and indefeasibly paid to the Holder; and
- (b) the Obligations shall have been duly performed as herein contemplated, or otherwise discharged to the satisfaction of the Holder.

1.7 Generally Accepted Accounting Principles

All financial statements required to be furnished by the Issuer to the Holder hereunder shall be prepared in accordance with GAAP. Each accounting term used in this Debenture, unless otherwise

defined herein, has the meaning assigned to it under GAAP. Reference to any balance sheet item, statement of income and retained earnings item or statement of cash flows or changes in cash position item means such item as computed from the applicable financial statement prepared in accordance with GAAP.

ARTICLE 2 INTEREST PAYMENTS AND PAYMENTS

2.1 Interest on Principal Sum

The Issuer shall pay interest to the Holder on the Principal Sum at a per annum rate of interest equal to the Interest Rate. Such Interest shall accrue as and from the Issue Date and shall be payable in arrears on each Interest Payment Date for the Interest Period which includes such Interest Payment Date, and shall be calculated on a daily basis and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as applicable.

2.2 Payment of Interest

The Issuer shall pay Interest, on each Interest Payment Date by causing to be deposited an amount equal to Interest accrued and unpaid to and including such Interest Payment Date in immediately available funds to the Payment Account.

2.3 Calculation and Payment of Overdue Interest

The Issuer shall pay Interest on all overdue payments in connection with this Debenture from the date any such payment becomes due or if no date for the payment of the same is expressly provided for herein, when payment of the same is demanded by the Holder and for so long as such amount remains overdue. Amounts of Interest not paid when due (including overdue and unpaid Interest), and all Interest calculated after maturity, default, demand or judgment, shall bear interest at the Applicable Interest Rate from time to time, to be calculated daily and compounded on the Interest Payment Date that such interest was to be paid (by adding such accrued and unpaid interest to the Principal Sum, the total of which shall then bear interest at the aforesaid rate), and shall be paid without the necessity for any demand being made.

2.4 Waiver

To the extent permitted by Applicable Laws, any provision of the *Court Order Interest Act* (British Columbia) and the *Interest Act* (Canada), which restricts the rate of interest on any judgment debt, shall be inapplicable to this Debenture and is hereby waived by the Issuer.

2.5 Interest Generally

The theory of deemed reinvestment shall not apply to the calculation of Interest or payment of fees or other amounts hereunder, notwithstanding anything contained in this Debenture, and all Interest and fees payable by the Issuer to the Holder shall accrue from day to day and be computed as described herein in accordance with the "nominal rate" method of interest calculation.

2.6 Limitation on Interest Payments

None of the terms and provisions hereof will be construed or interpreted to require the Issuer to pay, nor shall the Issuer be required to pay, for the use, forbearance or detention of money in excess of the maximum amount of Interest permitted to be contracted for, charged, or received by Applicable Laws from time to time in effect. The Issuer shall never be liable for or be required to pay any

amount for Interest in excess of the maximum amount that may be lawfully contracted for, charged, or received under Applicable Laws from time to time in effect, and the provisions of this Section 2.6 shall control over all other provisions hereof which may be in conflict or apparent conflict herewith. If (a) the maturity of any Obligation is accelerated for any reason, (b) any Obligation is prepaid and as a result any amounts held to constitute interest under Applicable Laws are determined to be in excess of the legal maximum, or (c) the Holder shall otherwise collect moneys which are determined to constitute interest which would otherwise increase the interest on any or all of the Obligations to an amount in excess of that permitted to be charged by Applicable Laws then in effect, then all sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding Principal Sum or, at the option of the Holder, promptly returned to the Issuer or the other payor thereof upon such determination. In determining whether or not the interest paid or payable, under any specific circumstance, exceeds the maximum amount permitted under Applicable Laws, the Holder shall to the greatest extent permitted under Applicable Laws (i) characterize any non-principal payment as an expense, fee or premium rather than as interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread the total amount of interest throughout the entire contemplated term of the instruments evidencing the Obligations in accordance with the amounts outstanding from time to time thereunder and the maximum legal rate of interest from time to time in effect under Applicable Laws in order to lawfully contract for, charge, or receive the maximum amount of interest permitted under Applicable Laws.

2.7 Time, Place and Currency of Payment

Payments of the Principal Sum and Interest and all other amounts payable by the Issuer pursuant to this Debenture shall be paid in Canadian Dollars for value at or before 2:00 p.m. (Vancouver, B.C. time) on the day such amount is due. If any such day is not a Business Day, such amount shall be deemed for all purposes of this Debenture to be due on the immediately preceding Business Day. All payments shall be made to the Payment Account.

2.8 Security for Obligations

The Issuer acknowledges that the Obligations are secured by the Security Agreements.

2.9 Payments Pro Rata

The Issuer shall not make any payment of the Principal Sum or Interest on this Debenture (including by the issuance of Common Shares pursuant to Section 3.7) or purchase this Debenture in whole or in part unless the Issuer pays an amount on, or issues Common Shares, or purchases, all other Debentures in the same proportion to the Principal Sum of each other Debenture as the payment made on or the number of Common Shares issued or, purchase price paid of, this Debenture bears to the Principal Sum, and any payment or issue of Common Shares to or received by the Holder in excess of the amount or number provided for in this Section 2.9 shall be received by and held by the Holder in trust for the Persons who are the holders of the other Debentures and shall be paid or delivered over to the Issuer or a Person representing the Issuer for payment or delivery to such Persons in proportion to the Principal Sums of the Debentures held by such Persons.

2.10 Repayment at the Maturity Date

The Issuer shall repay the Principal Sum in full, together with all accrued and unpaid Interest then outstanding hereunder, as well as any and all other Obligations, on the Maturity Date.

ARTICLE 3
PURCHASE AND REPAYMENT BY THE ISSUER

3.1 Offer to Purchase on Change of Control

Upon the occurrence of a Change of Control, and subject to the provisions and conditions of this Section 3.1, the Issuer shall be obligated to offer to purchase this Debenture and all other Debentures. The terms and conditions of such obligation are set forth below:

- (a) Within thirty (30) calendar days following the occurrence of a Change of Control, the Issuer shall deliver to the Holder at the address set forth in Section 11.4 a notice stating that there has been a Change of Control and specifying the circumstances surrounding such event (a "**Change of Control Notice**") together with an offer in writing (the "**Change of Control Offer**") to purchase this Debenture made in accordance with the requirements of Applicable Securities Laws (provided that, for greater certainty, the Issuer shall use the Issuer's commercially reasonable efforts to obtain all requisite regulatory consents and to comply with Applicable Securities Laws in connection with the receiving and completion of such Change of Control Offer) at a price equal to one hundred and one percent (101%) of the Principal Sum outstanding at the time of the Change of Control (the "**Offer Price**") plus accrued and unpaid Interest on this Debenture up to, but excluding, the date of payment of the Offer Price to the Holder (collectively, the "**Total Offer Price**"), which Change of Control Offer must be open for not less than twenty (20) calendar days (or such lesser period as may be agreed to by the Arranger on behalf of the Holder).
- (b) If the Holder or the Arranger on behalf of the Holder has accepted the Change of Control Offer, this Debenture shall become due and payable at the Total Offer Price on the fifth (5th) Business Day following the date of expiry of the Change of Control Offer, in the same manner and with the same effect as if it were the Maturity Date specified in this Debenture, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Change of Control Offer, if the Issuer has paid or caused to be paid to the Holder the Total Offer Price on the fifth (5th) Business Day following the date of expiry of the Change of Control Offer, this Debenture shall be deemed purchased and cancelled and the Issuer shall have no further obligations in relation thereto.
- (c) If the Holder has accepted the Change of Control Offer, but the Holder shall fail on or before the date of expiry of the Change of Control Offer to surrender this Debenture or shall not within such time accept the full payment of the Total Offer Price, or give a receipt therefor, if any, money in an amount equal to the Total Offer Price may be set aside in trust in an account at a Canadian chartered bank listed in Schedule I to the *Bank Act* (Canada), and such setting aside shall for all purposes be deemed a payment to the Holder of the sum so set aside and the Holder shall have no other right except to receive payment of the moneys so paid and deposited, upon surrender and delivery up of this Debenture.
- (d) The Issuer's obligation to make a Change of Control Offer will be satisfied if a third party makes the Change of Control Offer in the manner and at the times and otherwise in compliance with the requirements applicable to a Change of Control Offer to be made by the Issuer and purchases the Debenture for the Total Offer Price under the Change of Control Offer.
- (e) If holders of ninety percent (90%) or more in aggregate Principal Sum of Debentures outstanding on the date the Issuer provides the Change of Control Notice and Change of Control Offer have accepted the Offer on the expiration thereof, the Issuer has the right and obligation upon written notice to the remaining Holders within ten (10) Business Days following the expiration of the

Change of Control Offer, to repay and shall repay the remaining outstanding Debentures on the expiration of the Offer at the Total Offer Price (the "90% Redemption Right").

- (f) The notice to each holder of Debentures that did not previously accept the Offer will state that:
 - (i) the Issuer has exercised the 90% Redemption Right and is repaying the Principal Sum of all Debentures effective on the expiry of the Change of Control Offer at the Total Offer Price, and shall include a calculation of the amount and type of consideration payable to such holders as payment of the Total Offer Price;
 - (ii) each such holder must surrender their Debentures to the Issuer on the same terms as those holders that accepted the Change of Control Offer within ten (10) calendar days after the sending of such notice; and
 - (iii) the rights of such holder under the terms of this Debenture shall cease effective as of the date of expiry of the Change of Control Offer provided the Issuer pays the Total Offer Price to, or to the order of, the such holder and thereafter the Debentures shall not be considered to be Outstanding and such holder shall not have any right except to receive such holder's Total Offer Price upon surrender and delivery of this Debenture.
- (g) If the Holder accepts the Change of Control Offer or if the Issuer exercises the 90% Redemption Right, the Principal Sum and any unpaid Interest thereon becomes due and payable at the Total Offer Price on the date of expiry of the Change of Control Offer, in the same manner and with the same effect as if it were the Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Change of Control Offer, if the moneys to pay the Total Offer Price shall have been paid this Debenture shall not be considered as outstanding and interest upon the Principal Sum of this Debenture shall cease.
- (h) If this Debenture is purchased under this Section 3.1, it shall be cancelled and no debenture shall be issued in substitution therefor.

3.2 Dispositions

If the Issuer or any of its Subsidiaries at any time, or from time to time, makes or agrees to make a Disposition, then (a) the Issuer shall promptly notify the Holder by written notice to the address set forth in Section 11.4 of such proposed Disposition (including the amount of the estimated Net Proceeds to be received by the Issuer in respect thereof) and (b) promptly upon receipt by the Issuer of the Net Proceeds of such Disposition, the Issuer shall deliver, or cause to be delivered, such excess Net Proceeds to the Holder and the holders of the other Debentures (each in the proportion of the Net Proceeds as determined pursuant to Section 2.9); the whole be applied by the Holder in payment; (i) firstly towards Interest accrued and unpaid to the date of receipt of such funds by the Holder and then (ii) as a repayment of the Principal Sum of this Debenture.

3.3 Prepayment

The Principal Sum shall not be prepayable by the Issuer at any time before the Maturity Date, except in the event of the satisfaction of certain conditions after a Change of Control has occurred in accordance with Section 3.1 or to the extent permitted pursuant to this Section 3.3.

Subject to Sections 2.9 and 3.8, the Principal Sum may be repayable prior to the Maturity Date at any time, in whole but not in part, at the option of the Issuer, upon payment of the Principal Sum,

together with accrued and unpaid Interest thereon to but excluding the Prepayment Date, (a) in cash or (b) in Common Shares at the Conversion Price in effect at the close of business on the Business Day immediately preceding the Prepayment Date.

3.4 Prepayment Notice and Officers' Certificate

Notice of intention to prepay the Principal Sum (a "**Prepayment Notice**") prior to the Maturity Date shall be given by or on behalf of the Issuer to the Holder at the address set forth in Section 11.4 not more than ninety (90) calendar days and not less than sixty (60) calendar days prior to the date to be fixed for prepayment (a "**Prepayment Date**"), in the manner provided in this Section 3.4. The Prepayment Notice shall be substantially in the form set out in Schedule "A" hereto. Every Prepayment Notice shall specify: (a) the Prepayment Date; (b) whether the amount to be prepaid will be paid in cash or in Common Shares in accordance with Section 3.7; and (c) that all Interest on the Principal Sum shall cease as of and after such Prepayment Date and the right to convert the Principal Sum into Common Shares will terminate and expire at the close of business on the Business Day immediately prior to the Prepayment Date, unless the Issuer shall make default in the payment of Principal Sum and Interest accrued thereon on the Prepayment Date, and shall have attached thereto an Officers' Certificate certifying that the Current Market Price as at the Trading Day ending three (3) Trading Days before the date of the Prepayment Notice was not less than one hundred and seventy-five percent (175%) of the Conversion Price.

3.5 Principal Sum Due on Prepayment Dates

Upon the provision of a Prepayment Notice, the Principal Sum shall thereupon be and become due and payable on the Prepayment Date in the same manner and with the same effect as if it were the Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after the Prepayment Date, if the moneys necessary to prepay the Principal Sum have been paid, the Principal Sum shall not be considered as Outstanding hereunder and Interest upon the Principal Sum shall cease.

3.6 Surrender of Debentures for Cancellation

If the Principal Sum is to be repaid before the Maturity Date, the Holder must surrender this Debenture for cancellation and the Issuer shall pay or cause to be paid the Principal Sum and Interest accrued and unpaid thereon and upon such surrender and payment this Debenture shall be cancelled by the Issuer and no debenture shall be issued in substitution therefor.

3.7 Optional Conversion at Maturity

Subject to Sections 2.9 and 3.8, the Issuer, at its option, may elect to satisfy all of its obligations to pay the outstanding Principal Sum on the Maturity Date by issuing and delivering to the Holder on or prior to 8:30 a.m. (Vancouver, BC time) on the Maturity Date: (a) that number of fully paid, non-assessable Common Shares obtained by dividing the Principal Sum by eighty-five percent (85%) of the lesser of: (i) the Current Market Price of the Common Shares on the third (3rd) Trading Day immediately preceding the Maturity Date; and (ii) the closing price of the Common Shares on The Toronto Stock Exchange or such other stock exchange in the United States selected in good faith by the directors on such third (3rd) Trading Day preceding the Maturity Date and (b) with payment in cash of any accrued and unpaid Interest, *provided that* the Issuer has provided (x) written notice to Holder not more than sixty (60) calendar days and not less than forty (40) calendar days prior to the Maturity Date of its intention to repay the Principal Sum by issuing and delivering Common Shares in accordance with this Section 3.7 and (y) an Officers' Certificate attesting to such Current Market Price in the case of (i) above.

3.8 Conditions to Prepayment or Optional Conversion

The Issuer shall not repay the Principal Sum at any time (in cash or by means of issuing Common Shares) pursuant to Section 3.3 or convert the Principal Sum into Common Shares at Maturity pursuant to Section 3.7, unless:

- (a) no Default has occurred and is continuing and the Issuer has delivered an Officers' Certificate to such effect to the Holder;
- (b) the Common Shares are listed on either The Toronto Stock Exchange, any stock exchange in United States or any other stock exchange approved by the Arranger on behalf of the Holder;
- (c) all approvals under Applicable Securities Law in connection with the issuance of any such Common Shares have been obtained, if required, at the Issuer's expense that allow such Common Shares to be immediately traded free of hold periods or other re-sale restrictions under the Applicable Securities Laws where the Common Shares are distributed;
- (d) the Holder shall have received an opinion from Counsel in the form attached hereto as Exhibit 3.8(d), at the Issuer's expense, that the condition specified in Section 3.8(c) has been satisfied; and
- (e) if the Holder has been approved to enter into the Shareholders' Agreement with the prior written consent of the Issuer, which consent not to be unreasonably withheld, the Holder has entered into the Accession Deed to the Shareholders' Agreement (the "Accession Deed"), which shall be acknowledged and agreed to by the Issuer and the Shareholders (as defined in the Shareholders' Agreement), substantially in the form attached hereto as Exhibit 3.8(e) in connection with the proposed issuance and delivery of such Common Shares.

3.9 Issuer to pay Costs

All costs and expenses associated with the issuance and delivery of Common Shares pursuant to Sections 3.7 or 4.1(a)(ii) shall be borne exclusively by the Issuer.

3.10 No Other Prepayment of Debentures

The Issuer shall not, except as herein provided, prepay the Principal Sum or any part thereof.

3.11 Purchase by the Issuer

- (a) Subject to Section 2.9, the Issuer may, at any time and from time to time, at the Issuer's option, purchase this Debenture for cancellation by tender or by private contract, at any price agreed to by the Holder.
- (b) The Issuer may not purchase this Debenture by private contract if a Default has occurred and is continuing.

ARTICLE 4 CONVERSION OF DEBENTURE BY HOLDER

4.1 Conversion Right

- (a) Upon and subject to the terms and conditions of this Article 4;

- (i) the Holder shall have the right, at the Holder's option, at any time and from time to time prior to 4:30 p.m. (Vancouver, BC time) on the last Business Day prior to the Maturity Date, to convert the Principal Sum, in whole or in whole multiples of one thousand Dollars (\$1,000), into fully paid and non-assessable Common Shares at the Conversion Price in effect on the Conversion Date; and
 - (ii) subject to Section 3.8, provided the Current Market Price at the Prepayment Notice Date is at least one hundred and seventy-five percent (175%) of the Conversion Price then in effect, the Issuer shall have the right to require the conversion of the Principal Sum, in whole, into fully paid and non-assessable Common Shares at the Conversion Price in effect on the Business Day immediately preceding the Prepayment Date.
- (b) The Conversion Right shall entitle the Holder to receive (i) Common Shares; and (ii) payment of all accrued and unpaid Interest to and including the Conversion Date on the Principal Sum so converted and any other amount then payable by the Issuer to the Holder under this Debenture up to and including the Conversion Date.
- (c) The Holder may exercise the Conversion Right by surrendering to the Issuer during the Conversion Period this Debenture with:
 - (i) a duly completed and executed exercise notice, specifying the following:
 - (A) the Principal Sum in respect of which the Conversion Right is being exercised by the Holder;
 - (B) the address where the new Debenture, if any, representing the unconverted portion of this Debenture is to be sent; and
 - (C) the number of Common Shares of which the Holder and its Affiliates are currently the beneficial owner; and
 - (ii) if the Holder has been approved to enter into the Shareholders' Agreement with the prior written consent of the Issuer, which consent not to be unreasonably withheld, a duly completed and executed Accession Deed, provided that upon the Holder providing the Issuer with such Accession Deed, the Issuer and the Shareholders (as defined in the Shareholders' Agreement) will execute and deliver an executed counterpart of such Accession Deed to the Holder.
- (d) The Issuer may exercise the Conversion Right by delivering a notice to the Holder specifying the following:
 - (i) the Principal Sum in respect of which the Conversion Right is being exercised by the Issuer; and
 - (ii) the number of Common Shares which the Holder will acquire as a result of the exercise of the Conversion Right by the Issuer (being not more than those which the Holder is entitled to acquire).

4.2 Effect of Exercise of Conversion Right

- (a) Upon the exercise of the Conversion Right pursuant to Section 4.1, the Shares subscribed for shall be deemed to have been issued on the Conversion Date and the Holder shall be deemed to have become the Holder of record of such Shares on the Conversion Date unless the transfer registers of the Issuer shall be closed on such date (including by application of any Applicable Laws), in which case the Shares subscribed for shall be deemed to have been issued and the Holder deemed to have become the holder of record of such Shares, on the date on which such transfer registers are first reopened.
- (b) Within five (5) Business Days after the Conversion Date, the Issuer shall cause to be delivered to the Holder, a share certificate for the appropriate number of Shares to be issued by the Issuer upon the exercise of such Conversion Right together with payment of all accrued and unpaid Interest to and including the Conversion Date on the Principal Sum so converted and any other amount then payable by the Issuer to the Holder under this Debenture up to and including the Conversion Date; provided that the Holder simultaneously surrenders this Debenture for cancellation, in whole or in part, as applicable.

4.3 Partial Exercise of Conversion Right; Fractions

- (a) The Holder may elect to convert, and the Issuer may elect to require the conversion of, less than the whole Principal Sum (in whole multiples of one thousand Dollars (\$1,000)), in which case the Holder upon such exercise shall, in addition, be entitled to receive, without charge therefor, a new Debenture in respect of the balance of the Principal Sum which is not converted.
- (b) Notwithstanding anything herein contained including any adjustment provided for in Section 4.10, the Issuer shall not be required, upon the exercise of the Conversion Right, to issue fractions of Shares or to distribute certificates which evidence fractional Shares. In lieu of fractional Shares, the Issuer shall pay to the Holder within five (5) Business Days after the date upon which the fractional Shares would otherwise have been deemed to have been issued pursuant to Section 4.2, an amount in Canadian Dollars equal to the Current Market Price of the Shares on such date multiplied by an amount equal to the fractional interest of Shares the Holder would otherwise have been entitled to receive upon such exercise, provided that the Issuer shall not be required to make any payment, calculated as aforesaid, that is less than five Dollars (\$5.00).

4.4 Cancellation and Destruction of Debenture

Any portion of this Debenture converted under this Article 4 shall forthwith be cancelled by the Issuer and no debenture shall be issued in substitution for the portion so cancelled.

4.5 Expiration of Conversion Right

Immediately after the Maturity Date, the Conversion Right shall cease and terminate with respect to any amount of the Principal Sum which has not been converted except to the extent that the Holder has not received certificates representing the Shares issued upon exercise of the Conversion Right, in which instance the Holder's rights hereunder shall continue until the Holder has received such certificates.

4.6 Listing of Common Shares

Upon the Issuer making application to list or post the Common Shares for trading on any stock exchange, the Issuer will include in such application the listing of the Common Shares to be issued

upon the conversion of the whole of the Principal Sum into Common Shares, and will use reasonable commercial efforts to obtain the approval or acceptance of such application, and pay all fees payable to such stock exchange in respect of the listing or posting for trading of such Common Shares.

4.7 Securities Restrictions

Notwithstanding anything herein contained, Shares will only be issued pursuant to the Conversion Right in compliance with Applicable Securities Laws, and without limiting the generality of the foregoing, the certificates representing the Shares to be issued upon the exercise of the Conversion Right will bear such legend as may, in the opinion of Counsel to the Issuer, be required under Applicable Securities Laws, provided that if, at any time, such legends are no longer necessary in order to avoid a violation of any such laws, and the holder of any such legended certificates provides the Issuer with an opinion of counsel satisfactory in form and substance to the Issuer to the effect that such holder is entitled to sell or otherwise transfer such Shares in a transaction in which such legends are not required, such legended certificates may thereafter be surrendered to the Issuer in exchange for certificates which do not bear such legend.

4.8 Holder not a Shareholder

Nothing in this Debenture shall, in itself, confer or be construed as conferring upon the Holder any right or interest whatsoever as a shareholder of the Issuer, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Issuer, or the right to receive dividends and other distributions from the Issuer in respect of Shares.

4.9 Charges for Exchange or Transfer

The Issuer will from time to time promptly pay or make provision satisfactory to the Holder for the payment of any and all Taxes which may be imposed by Applicable Law with respect to the issuance or delivery of the Shares to the Holder, upon the exercise of the Conversion Right.

4.10 Adjustment of Conversion Price

The Conversion Price in effect at any date shall be subject to adjustment from time to time as follows:

- (a) if and whenever at any time during the Adjustment Period, the Issuer shall:
 - (i) subdivide, re-divide or change the Issuer's outstanding Common Shares into a greater number of shares;
 - (ii) reduce, combine or consolidate the Issuer's outstanding Common Shares into a smaller number of shares; or
 - (iii) distribute Common Shares by way of dividend, or issue Common Shares or securities exchangeable into or convertible for, or having rights to acquire, Common Shares at a price per Common Share less than the Conversion Price, to the holders of all or substantially all of the outstanding Common Shares;

the Conversion Price in effect on the effective date of such subdivision, re-division, change, reduction, combination, consolidation or distribution, as the case may be, shall in the case of the events referred to in (i) and (iii) above, be decreased in proportion to the number of outstanding

Common Shares resulting from such subdivision, re-division, change, distribution or issuance, or shall, in the case of the events referred to in (ii) above, be increased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation in each such case by multiplying the Conversion Price in effect on such effective date by a fraction of which the numerator shall be the total number of Common Shares outstanding immediately prior to such date and the denominator shall be the total number of Common Shares outstanding immediately after such date. Such adjustment shall be made successively whenever any event referred to in this Section 4.10(a) shall occur;

- (b) if and whenever at any time during the Adjustment Period, the Issuer shall fix a record date for the issuance of rights, options or warrants to all or substantially all the holders of the Issuer's outstanding Common Shares entitling them, for a period expiring not more than 60 days after such record date, to subscribe for or purchase Common Shares (or securities convertible or exchangeable into, or rights to acquire, Common Shares) at a price per share (or having a conversion or exchange or exercise price per share) less than the Conversion Price on such record date, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the amount determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date plus that number of Common Shares equal to the number arrived at by dividing the aggregate price of the total number of additional Common Shares offered for subscription or purchase (or the aggregate conversion or exchange price or exercise price of the convertible or exchangeable securities or rights so offered) by the Conversion Price before giving effect to the adjustment to be made pursuant to this subsection (b), and of which the denominator shall be the total number of Common Shares outstanding on such record date plus the total number of additional Common Shares offered for subscription or purchase or into which the convertible or exchangeable securities or rights so offered are convertible or exchangeable or exercisable; any Common Shares owned by or held for the account of the Issuer or any Subsidiary of the Issuer shall be deemed not to be outstanding for the purpose of any such computation; such adjustment shall be made successively whenever such a record date is fixed; to the extent that any such rights, options or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon the number of Common Shares (or securities convertible or exchangeable into or rights to acquire Common Shares) actually issued upon the exercise of such rights, options or warrants, as the case may be;
- (c) if and whenever at any time during the Adjustment Period, the Issuer shall fix a record date for the making of a distribution to all or substantially all the holders of the Issuer's outstanding Common Shares of (i) securities of any class, whether of the Issuer or any other corporation, including rights, options or warrants (excluding those referred to in Section 4.10(b) above) to subscribe for or purchase Common Shares or other securities convertible into or exchangeable for Common Shares, (ii) evidences of the Issuer's Indebtedness or (iii) assets (including cash) of the Issuer or any Subsidiary, then, in each such case, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date multiplied by the Conversion Price before giving effect to the adjustment to be made pursuant to this subsection (c), less the fair market value (as determined by the Directors in good faith, which determination shall be conclusive) of such shares, rights, options, warrants, evidences of Indebtedness or assets so distributed, and of which the denominator shall be the total number of Common Shares outstanding on such record date multiplied by such Conversion Price; and Common Shares owned by or held for the account of the Issuer or any Subsidiary of the Issuer shall be deemed not to be outstanding for the purpose of any such

computation; such adjustment shall be made successively whenever such a record date is fixed; to the extent that such distribution is not so made, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon such shares or rights, options or warrants or evidences of Indebtedness or assets actually distributed, as the case may be;

- (d) if and whenever at any time during the Adjustment Period, there is a reclassification of the Common Shares or a capital reorganization of the Issuer other than as described in Section 4.10(a) or a merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's undertaking, property or assets would become the property of any other Person that is approved by the Holder or is not required to be approved by the Holder (any such reclassification or merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's undertaking, property or assets would become the property of any other Person is herein called a "**Corporate Reorganization**"), the Holder shall, upon the exercise of the Conversion Right, be entitled to receive and shall accept, in lieu of the number of Shares then sought to be acquired by the Holder, the number of Shares or other securities or property of the Issuer or of the Person resulting from such Corporate Reorganization, that the Holder would have been entitled to receive on such Corporate Reorganization if, on the record date or the effective date thereof, as the case may be, the Holder had been the registered holder of the number of Shares sought to be acquired by the Holder and to which the Holder was entitled to acquire upon the exercise of the Conversion Right. If appropriate, to give effect to or to evidence the provisions of this Section 4.10(d), the Issuer, the Issuer's successor, or such purchasing Person, as the case may be, shall, prior to or contemporaneously with any such Corporate Reorganization, enter into an agreement which shall provide for the application of the provisions set forth in this Debenture with respect to the rights and interests thereafter of the Holder including adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 4.10 and which shall apply to successive Corporate Reorganization to the end that the provisions set forth in this Debenture shall thereafter correspondingly be made applicable with respect to any shares, other securities or property to which the Holder is entitled on the exercise of the Conversion Right;
- (e) if and whenever at any time during the Adjustment Period, the Issuer shall pay or make a dividend or other distribution on its Common Shares exclusively in cash and the aggregate of: (i) such dividend or other distribution paid exclusively in cash; and (ii) all other cash dividends or other distributions made by the Issuer to all holders of the Common Shares within the preceding 12 months which did not trigger an adjustment to the Conversion Price, exceeds 1% of the Issuer's Aggregate Market Capitalization (such excess hereinafter the "**Excess Distribution**") on the record date in respect of the last such cash dividend or other distribution, the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to such record date by a fraction, of which the denominator shall be the Aggregate Market Capitalization on such record date and of which the numerator shall be such Aggregate Market Capitalization minus the amount of the Excess Distribution. Such adjustment shall become effective immediately prior to the opening of business on the day following such record date. In the event the amount of the Excess Distribution is equal to or greater than the Aggregate Market Capitalization on the record date, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive upon conversion the amount of cash such holder would have received had such holder converted this Debenture to Common Shares immediately prior to the record date (less 1% of the Current Market Price multiplied by such number Common Shares). In the event that such dividend or distribution is not

so paid or made, the Conversion Price shall be readjusted to be the Conversion Price which would then be in effect if such dividend or other distribution had not been declared;

- (f) if and whenever at any time during the Adjustment Period, an issuer bid or a tender or exchange offer (other than an odd-lot offer) made by the Issuer or a Subsidiary of the Issuer for all or any portion of the Common Shares shall expire and such issuer bid or tender or exchange offer shall involve payment by the Issuer or a Subsidiary of the Issuer of cash or other consideration (based on the acceptance of all Common Shares validly tendered or exchanged and not withdrawn up to any maximum specified in the terms of the issuer bid or tender or exchange offer, such shares, up to such maximum) having a fair market value (as determined in good faith by the Directors, whose determination shall be described in a resolution of the Directors) at the time (the "**Expiration Time**") tenders or exchanges may be made pursuant to such issuer bid or tender or exchange offer (as amended), together with: the total of (i) any cash and the fair market value of other consideration (as determined in good faith by the Directors described in a resolution of the Directors) payable in respect of an issuer bid or a tender or exchange offer by the Issuer or a Subsidiary of the Issuer for Common Shares concluded within the preceding twelve months which did not trigger an adjustment to the Conversion Price, and (ii) the aggregate amount of any all-cash dividends or other distributions made by the Issuer to all holders of Common Shares made within the twelve months preceding such issuer bid or tender or exchange offer which did not trigger an adjustment to the Conversion Price exceeds 5% of the Aggregate Market Capitalization (such excess hereinafter the "**Excess Bid Consideration**") on the Trading Day next succeeding the Expiration Time (the "**Next Trading Day**"), the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the opening of business on the Next Trading Day by a fraction, of which the denominator shall be the Aggregate Market Capitalization on the Next Trading Day and of which the numerator shall be Aggregate Market Capitalization on the Next Trading Day minus the amount of the Excess Bid Consideration. Such adjustment shall become effective immediately prior to the opening of business on the Next Trading Day. In the event that no shares are validly accepted in such issuer bid or tender or exchange offer, the Conversion Price shall be readjusted to be the Conversion Price which would then be in effect if such record date had not been fixed;
- (g) in any case in which it is required that an adjustment be made to the Conversion Price, no such adjustment shall be made if, subject to the prior approval of any stock exchange upon which the Common Shares are listed, if any, the Holder elects to receive the rights, options or warrants referred to in Section 4.10(b) or the shares, rights, options, warrants, evidences of Indebtedness or assets referred to in Section 4.10(c), as the case may be, in such kind and number as the Holder would have received if the Holder had been a holder of Shares on the applicable record date or effective date, as the case may be, by virtue of the Principal Sum having then been converted into Common Shares at the Conversion Price in effect on the applicable record or effective date, as the case may be;
- (h) the adjustments provided for in this Section 4.10 are cumulative, and shall be computed to the nearest whole cent and shall apply to successive subdivisions, re-divisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section 4.10;
- (i) in case the Issuer shall take any action affecting the Common Shares other than action described in this Section 4.10, which in the opinion of the directors of the Issuer would materially affect the rights of the Holder, the Conversion Price shall be adjusted in such manner and at such time, by action of the directors, subject to the prior written consent of any stock exchange upon which the Common Shares are listed, if required, as the directors in their sole discretion may determine to be

equitable in the circumstances and not inconsistent with the provisions of this Debenture. Failure of the directors to make such an adjustment shall be conclusive evidence that the directors have determined that it is equitable to make no adjustment in the circumstances.

4.11 Voluntary Decrease

The Issuer from time to time may decrease the Conversion Price (subject to Applicable Laws and the receipt of all regulatory approvals, including, after an Initial Public Offering the consent of the Toronto Stock Exchange and such other exchanges on which the Common Shares may be listed) by any amount and for any period of time if the Directors have determined in good faith (to be evidenced by a resolution of the Directors) that such decrease is in the Issuer's best interests. Whenever the Conversion Price is decreased, the Issuer shall deliver to the Holder a notice of the decrease and the Conversion Price for all purposes of this Debenture following the delivery of such notice is the Conversion Price set forth in such notice, but subject to adjustment thereafter in accordance with Section 4.10 and this Section 4.11. The Issuer shall deliver the notice at least fifteen (15) calendar days before the date the decreased Conversion Price becomes effective.

4.12 Entitlement to Shares on Exercise of Conversion Right

All shares of any class or other securities which the Holder is at the time in question entitled to receive on the exercise of the Conversion Right, whether or not as a result of adjustments made pursuant to Section 4.10 shall, for the purposes of the interpretation of this Debenture, be deemed to be shares which the Holder is entitled to acquire pursuant to the exercise of the Conversion Right.

4.13 No Adjustment for Stock Options

Notwithstanding anything in Section 4.10, no adjustment shall be made in the Conversion Price if the issuance of Shares is being made upon the exercise of the Conversion Right or pursuant to any stock option plan in force from time to time for directors, officers and employees of the Issuer entitling them to purchase, in the aggregate, not more than ten percent (10%) of the issued and outstanding Common Shares (determined on a fully diluted basis as if all rights to purchase Common Shares upon the exercise of all rights of conversion or exchange for Common Shares and all rights under options, rights or warrants (other than the foregoing stock options but including this Debenture) outstanding at such time other than had been exercised and the Common Shares issuable as a result thereof had been issued).

4.14 Determination by Issuer's Auditors

In the event of any question arising with respect to the adjustments provided for in Section 4.10, such question shall be conclusively determined by the Issuer's independent auditors, or such other firm of chartered accountants mutually acceptable to the Issuer and the Arranger on behalf of the Holder, who shall have access to all necessary records of the Issuer, and such determination shall be binding upon the Issuer, the Holder and all other Persons interested therein.

4.15 Proceedings Prior to any Action Requiring Adjustment

As a condition precedent to the taking of any action which would require an adjustment in any of the conversion rights pursuant hereto, including the number of Shares which are to be received upon the exercise thereof, the Issuer shall take any corporate action which may, in the opinion of Counsel to the Issuer, be necessary in order that the Issuer has unissued and reserved in the Issuer's authorized capital and may validly and legally issue as fully paid and non-assessable all the Shares which the Holder is entitled to receive on the full exercise of the Conversion Right in accordance with the provisions hereof.

4.16 Certificate of Adjustment

The Issuer shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 4.10, deliver a certificate of the Issuer to the Holder specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

4.17 Notice of Special Matters

The Issuer covenants that the Issuer will give notice to the Holder of the Issuer's intention to fix a record date that is prior to the Maturity Date for the issuance of rights, options or warrants referred to in Section 4.10(b) or the distribution of the shares, rights, options, warrants, evidences of Indebtedness or assets referred to in Section 4.10(c) to all or substantially all the holders of the Issuer's outstanding Common Shares. Such notice shall specify the particulars of such event, the record date for such event and, if prepared or available as at the date that such notice is required to be given pursuant to this Section 4.17, such notice shall be accompanied by the material (i.e., proxy circulars, information booklets etc.) sent to the holders of Common Shares in respect of the event in question, provided that the Issuer shall only be required to specify in the notice such particulars of the event as shall have been fixed and determined on the date on which the notice is given. The notice shall be given in each case not less than fourteen (14) calendar days prior to such applicable record date.

4.18 No Action after Notice

The Issuer covenants that the Issuer will not close the Issuer's transfer books or take any other corporate action which might deprive the Holder of the opportunity to exercise the Issuer's right of conversion pursuant thereto during the period of fourteen (14) calendar days after the giving of the certificate or notices set forth in Sections 4.16 and 4.17.

4.19 Holder not a Shareholder

Nothing in this Debenture shall, in itself, confer or be construed as conferring upon the Holder any right or interest whatsoever as a shareholder of the Issuer, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Issuer, or the right to receive dividends and other distributions from the Issuer in respect of Shares.

4.20 Charges for Exchange or Transfer

The Issuer will from time to time promptly pay or make provision satisfactory to the Holder for the payment of any and all Taxes which may be imposed by Applicable Laws with respect to the issuance or delivery of the Shares to the Holder, upon the exercise of the Conversion Right.

4.21 Securities Qualification Requirements

- (a) If, in the reasonable opinion of Counsel to the Holder, any instrument is required to be filed with, or any permission is required to be obtained from any Governmental Authority or any other Governmental Approval is required before any Shares which the Holder is entitled to receive on the exercise of the Conversion Right may properly and legally be delivered, issued or traded (subject to applicable hold periods and other than in respect of the status of the Holder as a "control person" within the meaning of Applicable Securities Laws) upon due exercise thereof and thereafter

traded, without further formality or restriction, the Issuer covenants that the Issuer will take such reasonably required action at the sole cost and expense of the Issuer.

- (b) The Issuer will give written notice of the issue of Shares pursuant to the exercise of the Conversion Right to each Securities Regulatory Authority and any stock exchange on which the Issuer's Shares may be listed for trading as may be necessary in such detail as may be required in order that the issue of Shares issuable upon the exercise of the Conversion Right and the subsequent disposition of the Shares so issued (subject to applicable hold periods) will not be subject to the prospectus qualification requirements of Applicable Securities Laws.
- (c) If the Issuer becomes a "reporting issuer" under any Securities Laws, the Issuer will prepare and file, in the form and manner and in the time required by Applicable Securities Laws, all documents, reports, and other information required to be prepared and filed by the Issuer under Applicable Securities Laws.

ARTICLE 5 COVENANTS

5.1 Positive Covenants

The Issuer covenants with the Holder that the Issuer shall:

- (a) Payment and Performance: duly and punctually pay all amounts due by the Issuer hereunder and shall perform all other obligations on the Issuer's part to be performed under the terms of this Debenture at the times and places and in the manner provided for herein;
- (b) Corporate Existence: maintain the Issuer's and each of its Subsidiaries' corporate existence in good standing under the laws of its jurisdiction of incorporation and register and qualify and remain registered and qualified as a corporation authorized to carry on business under the laws of each jurisdiction in which the nature of the Business or the character of any material properties and assets owned or leased by it requires such registration and qualification, except such as would not have a Material Adverse Effect;
- (c) Insurance: maintain in full force and effect such policies of insurance, including public liability and property damage insurance, in such amounts issued by insurers of recognized standing covering the Issuer's properties and operations, including business interruption insurance and replacement cost insurance, as are customarily maintained by Persons engaged in the same or similar business in the localities where the Issuer's properties and operations are located, and, if requested by the Arranger on behalf of the Holder, furnish the Arranger with certificates or other evidence confirming compliance with the foregoing insurance requirements;
- (d) Compliance With Applicable Laws:
 - (i) carry on and conduct and cause its Subsidiaries to carry on conduct the Business and keep, maintain and operate the its assets and properties in all respects in accordance with all Applicable Laws, including Environmental Laws and Applicable Securities Laws, and in a good and workmanlike manner and in accordance with sound businesslike and industry practice, except where such non-compliance is not and is not reasonably likely to result in a Material Adverse Effect; and

- (ii) observe and conform in all respects to all valid requirements of any Governmental Authority relative to any of the Issuer's and each of its Subsidiaries' assets and properties and all covenants, terms and conditions of all agreements upon or under which any of its assets and properties are held, except where such non-compliance is not and is not reasonably likely to result in a Material Adverse Effect;
- (e) Payment of Taxes:
 - (i) file all income tax returns for the Issuer and for each of its Subsidiaries which are required to be filed; and
 - (ii) pay or make provision for payment (in accordance with Generally Accepted Accounting Principles) of all Taxes which are due and payable by the Issuer and each of its Subsidiaries, or to provide adequate reserves (in accordance with Generally Accepted Accounting Principles) for the payment of any Tax, the payment of which is being contested in good faith;
- (f) Payment of Other Obligations: pay or cause to be paid all rents, royalties, Taxes and other Indebtedness to pay money validly imposed upon the Issuer or any of its Subsidiaries, or upon the Issuer's or any of its Subsidiaries' properties or assets or any part thereof, and all Indebtedness of the Issuer and each of its Subsidiaries as and when the same became due and payable or shall provide adequate reserves (in accordance with GAAP) for the payment of any such obligation or Indebtedness, the payment of which is being contested in good faith;
- (g) Maintenance of Books and Records: keep or cause to be kept proper and adequate records and books of account in which true and complete entries will be made in a manner sufficient to enable the preparation of financial statements in accordance with Generally Accepted Accounting Principles;
- (h) Defend Title to Assets: maintain, protect and defend title to all property and assets held by the Issuer or any of its Subsidiaries, and take all such acts and steps as are necessary or advisable at any time and from time to time to maintain their respective property and assets in good standing, except where failure to protect and defend title to such property or assets held by the Issuer in its own capacity or on behalf of others does not or its not reasonably likely to result in a Material Adverse Effect;
- (i) Reporting Requirements: furnish to the Holder, unless the Issuer shall have timely made such financial statements available on Canada's System for Electronic Document Analysis and Retrieval or on the SEC's Electronic Data Gathering, Analysis and Retrieval system or any successor thereto or on the Issuer's home page on the worldwide web:
 - (i) as soon as available and in any event within ninety (90) calendar days after the end of each fiscal year of the Issuer, the audited consolidated financial statements of the Issuer including a balance sheet and related statements of income, retained earnings and changes in cash flow as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, in accordance with GAAP;
 - (ii) as soon as available and in any event within forty-five (45) calendar days after the end of each of the first three fiscal quarters of each fiscal year of the Issuer, unaudited consolidated financial statements of the Issuer including a balance sheet and related statements of income, retained earnings and changes in cash flow as of the end of and for such fiscal

quarter and the then elapsed portion of the fiscal year which includes such fiscal quarter, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal period, all certified by an officer of the Issuer as presenting fairly in all material respects the financial condition and results of operations of the Issuer in accordance with GAAP, subject to year-end adjustments;

- (iii) a copy of all information and materials furnished to the holders of Common Shares not included in the foregoing subsections 5.1(i)(i) and (iii); and
 - (iv) such other information as the Arranger on behalf of the Holder may reasonably request from time to time, provided that the Holder shall not use any such information other than for the purposes of its status as a creditor of the Issuer.
- (j) Notice of Event of Default: provide the Holder with prompt written notice of the occurrence of any Default or Event of Default upon obtaining knowledge thereof.
- (k) Share Capital:
- (i) reserve and keep available a sufficient number of Common Shares for the purpose of enabling the Issuer to satisfy the Issuer's obligations to issue Common Shares upon the exercise of the Conversion Right;
 - (ii) cause the Common Shares and the certificates representing the Common Shares from time to time acquired pursuant to the exercise of the Conversion Right to be duly issued and delivered in accordance with the terms hereof;
 - (iii) ensure that all Common Shares which shall be issued upon exercise of the Conversion Right shall be issued as fully paid and non-assessable; and
 - (iv) make all requisite filings under Applicable Securities Laws necessary to report the exercise of the right to acquire Shares pursuant to the Conversion Right;

5.2 Negative Covenants of the Issuer

The Issuer covenants with the Holder that the Issuer shall not and shall not permit any of its Subsidiaries to, without the consent of the Arranger on behalf of the Holder:

- (a) Financial Indebtedness: incur any Indebtedness other than Permitted Financial Indebtedness;
- (b) Negative Pledge: create, incur, assume or suffer to exist any Security Interest upon or with respect to any its property other than Permitted Encumbrances;
- (c) Distributions: declare, resolve to declare or make, or make any Distribution, except for any Distributions to the Issuer by a wholly-owned Subsidiary or by a wholly-owned Subsidiary to another wholly-owned Subsidiary, and for greater certainty, A12345 may satisfy its obligation to repay the principal under the Demand Note in consideration for the transfer to the Issuer of the Shoes.com Domain Names;
- (d) Disposition: directly or indirectly, make any Disposition unless the Net Proceeds are applied in accordance with Section 3.2;

- (e) Change of Business: change in any material respect the nature of the Business nor engage directly or indirectly, in any material business, activity or purchase or otherwise acquire any material property, in either case, not primarily related to the conduct of the Business;
- (f) Subsidiaries: acquire or create any Subsidiary unless such Subsidiary unconditionally guarantees payment and performance of the Obligations in form approved by the Arranger and grants a security interest to secure payment and performance of such guarantee over all of its present and after acquired property substantially in the form of the Security Agreements; or
- (g) Merger Transaction: enter into or become party to a Merger Transaction or take any corporate action in pursuance of a Merger Transaction other than transactions contemplated by the Acquisition Agreement.

5.3 Holder May Perform Covenants

If the Issuer shall fail to perform any covenant on its part herein contained, the Holder may in its discretion perform any of said covenants capable of being performed by it and, if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose, but shall be under no obligation so to do; and all sums so expended or advanced shall be repayable by the Issuer on demand together with Interest at the Applicable Interest Rate from the date such payment or expenditure is made to the date the amount thereof and interest thereon is paid to the Holder, but no such performance or payment shall be deemed to relieve the Issuer from any default hereunder.

ARTICLE 6 DEFAULT

6.1 Events of Default

An Event of Default shall occur upon the happening of any one or more of the following:

- (a) if the Issuer defaults in payment of the Principal Sum when the same becomes due and payable under this Debenture;
- (b) if the Issuer defaults in payment of Net Proceeds or the Total Offer Price when the same becomes due and payable under this Debenture;
- (c) if the Issuer fails to deliver Common Shares to the Holder when those Common Shares are required to be delivered following the conversion of this Debenture in accordance with the provisions hereof;
- (d) if the Issuer elects to satisfy the Principal Sum by issuing and delivering Common Shares to the Holder and the Issuer fails to deliver the number of Common Shares required by the terms hereof to be issued and delivered in satisfaction of the Principal Sum;
- (e) if the Issuer defaults in payment of any Interest or any other amount payable to the Holder under this Debenture and such default continues after the fifth (5th) day following the date when the same becomes due and payable under this Debenture;
- (f) if there shall be a breach by the Issuer or any of its Subsidiaries of any other covenant, condition or provision contained in this Debenture or a Security Agreement and the breach (if capable of

being cured) is not cured within fifteen (15) Business Days after written notice by the Arranger on behalf of the Holder to the Issuer, as the case may be, provided that if such breach is curable, does not give rise to a Material Adverse Effect, cannot be cured with reasonable diligence within such fifteen (15) Business Day period and the Issuer or such Subsidiary commences to cure such breach within such fifteen (15) Business Day period and thereafter is continuously and diligently taking steps to cure such breach, such fifteen (15) Business Day period will be extended for a period of time, not exceeding sixty (60) calendar days, until such breach is cured;

- (g) if any representation or warranty in favour of the Holder or the Arranger in any agreement or instrument in respect of this Debenture of which the Holder or the Arranger has the benefit, shall have been incorrect in any material respect, or any such representation or warranty that is qualified by materiality or Material Adverse Effect shall have been untrue in any respect, in each case when made and such representation or warranty (if capable of being corrected) continues to be incorrect for a period of fifteen (15) Business Days after the Arranger on behalf of the Holder gives written notice of such incorrect representation and warranty to the Issuer;
- (h) if the Issuer or any Subsidiary of the Issuer shall: (i) institute or commence proceedings to be adjudicated a bankrupt or insolvent or consent to the filing of a bankruptcy or insolvency proceeding against the Issuer; (ii) file, institute or commence or otherwise take any proceeding relating to reorganization, adjustment, arrangement, composition, compromise, stay of proceedings or relief similar to any of the foregoing under any Applicable Law regarding bankruptcy, insolvency, reorganization or relief of debtors; (iii) consent to the filing of any such proceeding; (iv) consent to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or similar official or to the liquidation, dissolution or winding-up of its or of all or a substantial part of its property and assets; (v) make an assignment for the benefit of creditors; (vi) admit in writing its inability to pay their respective debts generally as they become due; (vii) generally not pay its debts as they come due or otherwise be insolvent; or (viii) take any corporate or other action authorizing or in furtherance of any of the foregoing;
- (i) if any proceeding is filed, instituted or commenced by any Person seeking: (i) to adjudicate the Issuer a bankrupt or insolvent or the liquidation, reorganization, winding-up, adjustment, arrangement, compromise, composition, stay of proceedings or similar relief of or for the Issuer or any of its Subsidiaries under any Applicable Law regarding bankruptcy, insolvency, reorganization or relief of debtors; or (ii) to appoint a receiver, liquidator, trustee or assignee in bankruptcy or similar official of the Issuer or any of its Subsidiaries or of all or a material part of its property and assets, if such proceeding shall continue undismissed or unstayed for a period of sixty (60) calendar days;
- (j) the occurrence of an event of default under any Financial Indebtedness of the Issuer or any of its Subsidiaries exceeding five hundred thousand Dollars (\$500,000), provided that if an event of default under any Financial Indebtedness is cured or waived, the Event of Default hereunder relating thereto shall be deemed to have been cured or waived to the same extent for all purposes;
- (k) if a writ, execution, attachment or similar process is issued or levied against all or a portion of the property of the Issuer in connection with any judgment or judgments against the Issuer or any of its Subsidiaries aggregating in excess of two hundred fifty thousand Dollars (\$250,000) and is not released, satisfied, discharged, vacated or stayed within thirty (30) calendar days after its entry, commencement or levy;
- (l) if final judgments for the payment of money aggregating in excess of two hundred fifty thousand Dollars (\$250,000) shall be rendered against the Issuer or any of its Subsidiaries, by a court of last

resort and the same shall remain undischarged for a period of thirty (30) calendar days during which time such judgments shall not be on appeal or execution thereof shall not be effectively stayed;

- (m) in the reasonable opinion of the Arranger a Material Adverse Effect exists or a Material Adverse Change has occurred; or
- (n) the holder of any Bank Debt requires, as a condition to any advance of such Bank Debt, that the Arranger (for and on behalf of the Holder) enter into an agreement with such holder that has the effect of limiting or restricting the payment of interest on the Principal Sum before a period of 180 days, and after the occurrence of an event or circumstance that is a default or event of default under the terms of such Bank Debt and the holder of such Bank Debt does not take proceedings (other than giving of notice of default or acceleration) to collect to realize upon the security for such Bank Debt within such 180 day period.

6.2 Acceleration

Upon the occurrence of an Event of Default which is continuing, the Arranger on behalf of the Holder may by notice in writing to the Issuer declare the Principal Sum and all accrued interest thereon and all other Obligations to be immediately due and payable and the same shall become immediately due and payable to the Holder and the Issuer shall forthwith pay the same to the Holder failing which all rights and remedies of the Holder hereunder and under the Security Agreements or under Applicable Laws in respect of such non-payment shall become enforceable; provided that upon the occurrence of an Event of Default specified in Section 6.1(h) or 6.1(i), the Principal Sum and all accrued interest thereon and all other Obligations shall automatically become due and payable without any requirement that notice be given by the Holder.

6.3 Remedies - General

Upon and following the occurrence of an Event of Default and acceleration of the Principal Sum in accordance with Section 6.2, the Arranger may, in its sole and absolute discretion exercise all such rights and remedies that may be exercised under the Security Agreements and all other rights and remedies recognized under Applicable Laws against the Issuer or in respect of the Collateral or any part thereof for the enforcement of full payment and performance of all the Obligations.

6.4 Remedies Not Exclusive

No right, power or remedy herein conferred upon or reserved to the Holder or any person acting for or on behalf of the Holder is intended to be exclusive of any other right, power or remedy or remedies, and each and every right, power and remedy shall, to the extent permitted by Applicable Laws, be cumulative and shall be in addition to every other right, power or remedy given hereunder or now or hereafter existing at law, in equity or by statute. The Holder shall have the power to waive any default, provided no such waiver shall be effective unless made in writing by the Holder and shall not constitute a waiver of any other or subsequent default. No delay or omission of the Holder in the exercise of any right, power or remedy accruing upon any default shall impair any such right, power or remedy or shall be construed to be a waiver of any such default or an acquiescence therein. Every right, power and remedy given to the Holder by this Debenture or under Applicable Laws may be exercised from time to time and as often as may be deemed expedient by the Holder. In case the Holder shall have proceeded to enforce any right under this Debenture or any Security Agreement and the proceedings for the enforcement thereof shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Holder, then and in every such case the Issuer and the Holder shall, without any further action hereunder, to the full extent permitted by Applicable Laws, subject to any determination in such proceedings, severally

and respectively, be restored to their former positions and rights hereunder and thereafter all rights, remedies and powers of the Holder shall continue as though no such proceeding had been taken.

6.5 Application of Monies

Subject to Applicable Laws, all monies collected or received by the Holder pursuant to or in exercise of any right or remedy shall be applied on account of the amounts outstanding hereunder in such manner as the Holder deems best or, at the option of the Holder, may be held unappropriated in a collateral account or released to the Issuer, all without prejudice to the liability of the Issuer or the rights of the Holder hereunder, and any surplus shall be accounted for as required by Applicable Laws.

ARTICLE 7 INDEMNITY AND EXPENSES

7.1 No Set-off and Taxes

The Issuer and each Guarantor shall make all payments to the Holder hereunder without any set-off or counterclaim whatsoever and free and clear of, and without deduction for or on account of, any Tax. If any Tax is deducted or withheld from any payments, the Issuer or Guarantor shall promptly remit to the Holder the equivalent of the amounts so deducted or withheld together with such additional amounts as may be necessary so that after making all required deductions or withholdings, including deductions or withholdings applicable to additional amounts paid under this Section 7.1, the Holder shall receive an amount equal to the amount the Holder would have received if no deduction or withholding had been made.

In the event the Issuer or a Guarantor has made a payment pursuant to this Section 7.1 and the Holder determines thereafter that the Holder has been granted or received a credit, refund or remission in respect of the Tax for which the deduction was made, then the Holder shall promptly refund to the Issuer or such Guarantor such amount (if any) as the Holder determines in good faith will leave the Holder in no worse position than would have been the case if there had been no obligation to make such deduction or withholding in the first place. The Holder shall not be obligated to provide to the Issuer or such Guarantor copies of all or any part of the Holder's tax returns, financial statements or other corporate financial data by reason of any such matter.

7.2 Indemnity

- (a) The Issuer hereby covenants with the Holder that the Issuer shall at all times hereafter keep the Holder indemnified and held harmless from and against all suits (whether founded or unfounded), actions, proceedings, judgments, demands or claims asserted, instituted or made against the Holder, and all costs, losses, liabilities, damages and expenses (including all legal fees on a solicitor and his own client, full indemnity, basis) ("Losses") incurred by the Holder in any way relating to, arising out of, or incidental to any of the transactions contemplated by this Debenture, except to the extent such Losses arise out of the intentional or gross fault, gross negligence, willful misconduct or fraud of the Holder or the Arranger. If and for so long as no Default or Event of Default has occurred and is continuing, the Issuer, at the Issuer's option, shall be entitled to conduct the defence of such suit, action or proceeding with the participation of and taking into account the best interests of the Holder. If the Holder shall determine in good faith that a conflict of interest exists or the defence of any such suit, action or proceeding is not being conducted in the best interests of the Holder, the Holder shall on notice to the Issuer (and for the account of the Issuer) be entitled to take over the sole conduct of the defence of such suit, action or proceeding. This indemnity shall extend to the officers, directors, employees and assignees of the Holder.

- (b) The Issuer hereby jointly and severally agrees to indemnify, defend and hold harmless the Holder from and against any and all Environmental Liabilities, losses, costs, expenses, damages, claims, judgments, suits, awards, fines, sanctions and liabilities whatsoever (including any costs or expenses of preparing any necessary environmental assessment report or other similar reports) (collectively, "Environmental Claims") incurred by the Holder as a result of:
- (i) any breach of applicable Environmental Laws which relates to the property or operations of the Issuer;
 - (ii) any Release, presence, use, creation, transportation, storage or disposal of Hazardous Substances which relate to the property or operations of the Issuer; or
 - (iii) any claim or order for any clean-up, restoration, detoxification, reclamation, repair or other securing or remedial action which relates to the property or operations of the Issuer;

provided, however, that this indemnity shall not apply in respect of any such Environmental Claims which are caused by the negligence or wilful misconduct of the Holder by reason of any act of, or any act or omission taken at the direction of, the Holder or any of the officers, directors, employees or assignees thereof. This indemnity shall extend to the officers, directors, employees, agents and assignees of the Holder as well as to the Holder itself, and the Holder will hold the benefit of this indemnity in trust for such other indemnified persons to the extent necessary to give effect thereto.

7.3 Expenses

- (a) The Issuer shall supply all statements, reports, certificates, opinions and other documents or information required to be furnished to the Holder by the Issuer under this Debenture without cost to the Holder.
- (b) If the Issuer fails to pay any amounts required to be paid by the Issuer under this Debenture or if the Issuer fails to observe or perform any of the covenants and obligations set forth in this Debenture to be observed or performed by the Issuer, the Holder may, but shall be under no obligation to, pay such amounts or do such act or things as may be required to ensure such observance and performance, without waiving any of the Holder's rights under this Debenture. No such payment, act or thing by the Holder or any receiver shall relieve the Issuer from any Default under this Debenture or the consequences of such Default. The reasonable expenses (including the cost of any insurance and payment of Taxes or other charges and legal fees and expenses on a solicitor and his own client, full indemnity, basis) paid by the Holder shall be deemed advanced to the Issuer by the Holder, shall become part of the Obligations, and shall, from the time they are paid by the Holder or such receiver until repaid by the Issuer, bear interest at the Applicable Interest Rate.
- (c) The Issuer shall pay all reasonable expenses (including legal fees and expenses on a solicitor and his own client basis) incurred by the Holder in connection with the preparation, perfection, execution, protection, enforcement of and advice with respect to this Debenture (including the realization, disposition, retention, protection or collection of the Collateral or any part thereof and the protection and enforcement of the rights of the Holder hereunder and under the Security Agreement and including any expenses incurred in connection with any insolvency, bankruptcy or similar proceedings in respect of or affecting the Issuer or any Guarantor) and such expenses shall become part of the Obligations, and shall, from the time they are paid by the Holder until repaid by the Issuer, bear interest at the Applicable Interest Rate.

7.4 Currency

Unless otherwise provided, all dollar amounts referred to in this Debenture are to Canadian dollars. If, in connection with any action or proceeding brought in connection with this Debenture or any resulting judgment or order, it becomes necessary to convert any amount due hereunder in one currency (the "first currency") into another currency (the "second currency"), then, except to the extent otherwise required by Applicable Laws, the conversion shall be made at the Judgment Conversion Rate on the first Business Day prior to the day on which payment is received. If the conversion is not able to be made in the manner contemplated by the preceding paragraph in the jurisdiction in which the action or proceeding is brought, then the conversion shall, except to the extent otherwise required by Applicable Laws, be made at the Judgment Conversion Rate on the day on which the judgment is given. If the Judgment Conversion Rate on the date of payment is different from the Judgment Conversion Rate on such first Business Day or on the date of judgment, as the case may be, the party shall pay such additional amount (if any) in the second currency as may be necessary to ensure that the amount paid on such payment date is the aggregate amount in the second currency which, when converted at the Judgment Conversion Rate on the date of payment, is the amount due in the first currency, together with all costs, charges and expenses of conversion. Any additional amount owing pursuant to the provisions of this section shall be due as a separate debt and shall give rise to a separate cause of action and shall not be affected by or merged into any judgment obtained for any other amounts due under or in respect of this Debenture.

The term "**Judgment Conversion Rate**" used in this section means the noon rate of exchange for Canadian interbank transactions in Canadian dollars in the other currency published by the Bank of Canada for the date in question.

ARTICLE 8 TRANSFER OF DEBENTURE

8.1 Register of the Debenture

The Issuer shall keep or cause to be kept a register in which the Holder of this Debenture shall be registered. The name and address of each holder of this Debenture and particulars of this Debenture held shall be entered in the register. For the purposes of this Debenture, the Issuer may treat the Person registered as the Holder as the beneficial owner thereof for all purposes.

8.2 Transfer of Debenture

Except as otherwise expressly provided in this Debenture and subject to the other Transaction Documents and Applicable Laws, the provisions hereof shall enure to the benefit of, and be binding upon, the Parties and their respective successors, permitted assigns, permitted transferees, heirs, executors, administrators and personal representatives. The Holder shall not, without the prior written consent of the Issuer, which consent shall not be unreasonably withheld, assign, transfer or otherwise convey its rights under this Debenture to any Person, provided that the Holder may assign, transfer or otherwise convey its rights under this Debenture to any Person whose investment account in which the Debenture is held is to be managed by the Arranger. Any transfer or assignment shall be subject to Applicable Securities Laws and the transferee agreeing to be bound by the provisions of the Collateral Agency Agreement as successor and assignee of the transferring Holder. Any purported assignment of rights or delegation of obligations in violation of this Section 8.2 shall be null and void, and of no effect.

8.3 Exchange of Debenture

Any one or more Debentures may, upon compliance with the reasonable requirements of the Issuer (including compliance with Applicable Securities Laws), be exchanged for one or more other Debentures representing the same aggregate Principal Sum as represented by this Debenture so exchanged. Any Debenture tendered for exchange shall be cancelled and surrendered by the Holder to the Issuer.

8.4 Replacement Debenture

If this Debenture becomes mutilated or is lost, destroyed or stolen, the Issuer, subject to Applicable Laws, shall issue and deliver, a new debenture of like tenor as the one mutilated, lost, destroyed or stolen in exchange for and in place of and upon cancellation of this Debenture. The Holder shall bear the cost of the issue of a replacement Debenture and in case of loss, destruction or theft shall, as a condition precedent to the issuance thereof, furnish to the Issuer such evidence of ownership and of the loss, destruction or theft of this Debenture as shall be satisfactory to the Issuer, in the Issuer's sole discretion, and the Holder may also be required to furnish an indemnity or security in amount and form satisfactory to the Issuer, in the Issuer's sole discretion, and shall pay the reasonable charges of the Issuer in connection therewith.

ARTICLE 9 SUCCESSOR ISSUER

9.1 Restriction on and in each case etc.

The Issuer shall not carry out a Merger Transaction or enter into any Merger Transaction whereby all or substantially all of the Issuer's undertaking, property and assets would become the property of:

- (a) any other Person; or
- (b) in the case of an amalgamation or merger, of the continuing corporation resulting therefrom;

(in this Section 9.1, such other Person or continuing corporation, as the case may be, is hereinafter referred to as a "Successor Issuer"), unless the Issuer has obtained the consent of the Arranger on behalf of the Holder under Section 5.2, if required, and the Successor Issuer shall execute, prior to or contemporaneously with the consummation of the Merger Transaction, such instruments, if any, as are in the opinion of counsel to the Holder necessary or advisable to evidence:

- (c) the assumption by the Successor Issuer of liability for the due and punctual payment and performance of the Obligations;
- (d) the agreement of the Successor Issuer to observe and perform all the other covenants and obligations of the Issuer under this Debenture and the Security Agreement;
- (e) the grant of Security Interests in the property of such Successor on the terms of the Security Agreement subject to no Encumbrance other than Permitted Encumbrances; and
- (f) the enforceability of this Debenture against the Successor Issuer; and
- (g) the delivery to the Holder of an opinion of independent legal counsel to the Issuer to the effect that terms thereof are substantially to preserve and not impair the Security Interests or any of the powers

or rights of the Holder or of the Arranger under the Security Agreement in respect of the Obligations.

ARTICLE 10 GUARANTEES

10.1 Debenture Guarantees

Each of the Guarantors hereby, jointly and severally, unconditionally guarantees to the Holder and its successors and assigns, irrespective of the validity and enforceability of other provisions of this Debenture:

- (a) the prompt payment in full when due of the Principal Sum of, and Interest on, this Debenture, whether on the Maturity Date, by acceleration, redemption or otherwise, and interest on the overdue Principal Sum of and Interest on this Debenture, if any;
- (b) the prompt payment and performance by the Issuer of all other Obligations of the Issuer to the Holder under this Debenture, all in accordance with the terms of this Debenture; and
- (c) in case of any extension of time of payment or renewal of any Obligation, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay and perform the same immediately.

Each of the Guarantors acknowledges and agrees that it will benefit, directly or indirectly, from the funding being made to the Issuer pursuant to this Debenture and the Debenture Purchase Agreement.

Each of the Guarantors hereby agree that its obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of other provisions of this Debenture, the absence of any action to enforce the same, any waiver or consent by the Holder or any other holder of the Debentures or the Arranger on behalf of the Holder with respect to any provisions of this Debenture, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor.

Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer any right to require a proceeding first against the Issuer, protest, notice (other than notices required pursuant to this Debenture) and all demands whatsoever and covenant that this Debenture Guarantee will not be discharged except by payment and performance in full of the obligations contained in this Debenture as provided herein.

If the Holder is required by any court or otherwise to return to any Obligor or any custodian, trustee, liquidator or other similar official acting in relation to any Obligor, any amount paid to the Holder under this Debenture or this Debenture Guarantee, such amount, to the extent theretofore discharged, will be reinstated in full force and effect.

Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holder in respect of any Obligations guaranteed hereby until payment and performance in full of all

Obligations guaranteed hereby as provided herein. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holder on the other hand, (i) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Section 6.2 for the purposes of this Debenture Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Obligations as provided in Section 6.2, such Obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Debenture Guarantee. In accordance with the provisions of Section 10.8, the Guarantors will have the right to seek contribution from any non-paying Guarantor or from the Issuer so long as the exercise of such right does not impair the rights of the Holder under this Debenture Guarantee.

10.2 Acknowledgements of the Guarantors

Each Guarantor acknowledges and agrees that the Holder may, subject to the terms and conditions of this Debenture:

- (a) renew or extend all or any portion of the Obligations;
- (b) make changes in the dates specified for payments or performance of any Obligation;
- (c) otherwise modify the terms of this Debenture;
- (d) take and hold the Security for the performance of the Obligations and exchange, enforce, waive and release any such Security;
- (e) enforce the Security and direct the order or manner of sale thereof as the Arranger on behalf of the Holder in its sole discretion may determine if permitted under the Security Agreements or any of them; and
- (f) release, substitute or add any one or more guarantors of the Obligations,

all of the foregoing without prejudice to or in any way releasing, discharging, terminating, limiting, reducing, lessening, impairing or in any way affecting the obligations of any Guarantor under this Debenture Guarantee.

10.3 Waiver of Defences

Each Guarantor hereby waives as against the Holder to the fullest extent permitted by Applicable Laws, any defence relating to:

- (a) any defence based upon any incapacity, disability or lack or limitation of status or power of such Guarantor, any other Obligor or any other person or of the directors, officers, employees, partners or agents thereof, or that any Obligor or any other person may not be a legal entity;
- (b) any change in the existence, structure, constitution, name, control or ownership of such Guarantor, any other Obligor or any other person;
- (c) any limitation, postponement, prohibition, subordination or other restriction on the rights of the Holder to payment of all or any part of the Obligations or to take any steps in respect thereof;

- (d) any defence arising by reason of any failure of the Holder to proceed against any other Obligor or any other person, to proceed against, apply or exhaust any of the Security, or to proceed against or to pursue any other remedy in the power of the Holder whatsoever;
- (e) the benefit of any law which provides that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the Principal Sum obligation or which reduces a guarantor's obligation in proportion to the Principal Sum obligations;
- (f) any defence arising by reason of any failure by the Holder to obtain, perfect or maintain a perfected (or any) Security Interest in or lien or encumbrance upon any Collateral or by reason of any interest of the Holder in any property, whether as owner thereof or the holder of a Security Interest therein or lien or encumbrance thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment by the Holder of any right to recourse or collateral;
- (g) any defence arising by reason of the failure of the Holder to marshal any assets or to apply such principle to any sums of money which it shall be entitled to receive or to other assets upon which it may possess rights;
- (h) any dealing whatsoever with such Guarantor, any other Obligor or other Person or any security, or any failure to do so; and
- (i) any other circumstances which might otherwise constitute a defence available to, or a discharge of such Guarantor, any other act or omission to act or delay of any kind by any other Obligor, such Guarantor or any other person or any other circumstance whatsoever, whether similar or dissimilar to the foregoing, which might, but for the provisions of this Section 10.3, constitute a legal or equitable discharge, limitation or reduction of the obligations of such Guarantor hereunder (other than the payment or satisfaction in full of all of the Obligations).

10.4 Execution and Delivery of Debenture Guarantee

In the event that the Issuer or any of its Subsidiaries creates or acquires any Subsidiary after the date of this Debenture, the Issuer will cause such Subsidiary, as applicable, to comply with the provisions of this Article 10.

10.5 Release of Debenture Guarantees

The Debenture Guarantee contemplated hereby constitutes a continuing guarantee and remains in full force and effect until payment and performance in full and discharge of all Obligations as provided herein.

10.6 Additional Security

This Debenture Guarantee is in addition to and not in substitution for any other security or guarantee given by anyone whomsoever and shall not prejudice any and all security furnished to the Holder or to the Arranger on behalf of the Holder by anyone whomsoever, and held by it or them at any time whatsoever.

10.7 Renunciation to the Benefits of Division and Discussion and Subrogation

The Holder shall not be obliged to exercise any of its rights, remedies or recourses against the Issuer or against others, or to discuss any of the Security or any other security which it may hold from time to time, before being entitled to the full payment and performance by any of the Guarantors of the obligations guaranteed hereunder as provided herein and it shall not be bound to offer or to deliver its Security, if any, before being paid in full. Each Guarantor renounces to the benefits of discussion and division. No Guarantor shall be entitled to any rights of subrogation as against the Holder or the Issuer or any other Obligor or any of their property until the full payment and performance of the Obligations as provided herein.

10.8 Contribution

The Issuer and Guarantors shall, subject to the conditions of Section 10.1, be entitled to contribution from the other of the Issuer and Guarantors, as applicable, the intent of the Issuer and Guarantors being that they shall share in the Obligations in the same proportion as they have benefited from the funding provided directly or indirectly pursuant to this Debenture.

10.9 No Fraudulent Conveyance

Notwithstanding any provision of this Debenture Guarantee to the contrary, it is intended that this Debenture Guarantee, and any interests, liens and Security Interests granted by the Guarantors as security for this Debenture Guarantee, not constitute a "Fraudulent Conveyance" (as defined below) in the event that this Debenture Guarantee or such interest is subject to the U.S. Bankruptcy Code or any applicable fraudulent conveyance or fraudulent transfer law or similar law of any state. Consequently, the Guarantors and the Holder agree that if this Debenture Guarantee, or any such interests, liens or Security Interests securing this Debenture Guarantee, would, but for the application of this sentence, constitute a Fraudulent Conveyance, this Debenture Guarantee and each such lien and Security Interest shall be valid and enforceable only to the maximum extent that would not cause this Debenture Guarantee or such interest, lien or Security Interest to constitute a Fraudulent Conveyance with respect to the relevant Guarantor, and this Debenture Guarantee shall automatically be deemed to have been amended accordingly at all relevant times. For purposes hereof, "**Fraudulent Conveyance**" means a fraudulent conveyance under Section 548 of the U.S. Bankruptcy Code or a fraudulent conveyance or fraudulent transfer under the provisions of any applicable fraudulent conveyance or fraudulent transfer law or similar law of any state, as in effect from time to time. Furthermore, the amount guaranteed hereunder and the payments to be made under this Debenture Guarantee shall be limited to an amount and payments that will not result in prohibited dividend or distribution under applicable state law.

The foregoing limitation on the liability of the Guarantors is not a restriction on the amount of the guaranteed Obligations of the Issuer or any other guarantor to the Holder, whether in the aggregate or at any one time. If the Holder now holds one or more Guarantees, or hereafter receives additional Guarantees from any Guarantor or any other guarantor of the guaranteed Obligations, the rights of the Holder under all such Guarantees shall be cumulative unless otherwise specified therein. In any such event, this Debenture Guarantee shall not, unless specifically provided otherwise to the contrary, affect or invalidate any of such other Guarantees. The liability of each Guarantor will be the aggregate liability of such Guarantor under the terms of this Debenture Guarantee and any such other Guarantees.

**ARTICLE 11
MISCELLANEOUS**

11.1 Severability

If any one or more of the provisions or parts thereof contained in this Debenture should be judicially determined to be invalid, illegal or unenforceable, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and:

- (a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed;
- (b) the invalidity, illegality or unenforceability of any provision or any part thereof contained in this Debenture shall not affect or impair such provision or part thereof or any other provisions of this Debenture; and
- (c) to the extent permitted by Applicable Laws, each of the parties hereto hereby waives any provision of law that renders any provision hereof unenforceable in any respect.

11.2 Laws of British Columbia

This Debenture shall be deemed to have been made and shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, without regard to the conflict of laws provisions thereof, and shall be treated in all respects as a British Columbia contract. The Issuer hereby irrevocably submits to the jurisdiction of the courts of the Province of British Columbia for any action, suit or any other proceeding arising out of or relating to this Debenture and any other agreement or instrument mentioned therein or any of the transactions contemplated thereby.

11.3 Submission to Jurisdiction; Waivers

Each Guarantor that is not incorporated under the laws of a Canada or a Province thereof hereby irrevocably and unconditionally:

- (a) submits, for itself and its property, in any action, suit or proceeding relating to this Debenture, or for recognition and enforcement of any judgment in respect thereof, to the sole and exclusive jurisdiction of the Courts of the Province of British Columbia, Canada, sitting in Vancouver, and appellate courts from any decision thereof;
- (b) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action, suit or proceeding in any such court or that such action, suit or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;
- (c) appoints the Issuer as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any action, suit or proceeding of the nature referred to above; said designation and appointment shall, to the fullest extent permitted by Applicable Laws, be irrevocable until this Debenture is terminated; if any such agent shall cease to act, the Guarantor shall without delay appoint another such agent with an address in Vancouver, British Columbia and shall promptly deliver to the Arranger on behalf of the Holder evidence in writing of such other agent's acceptance of such appointment;

- (d) consents, to the fullest extent it may effectively do so under Applicable Laws, to process being served in any action, suit or proceeding of the nature referred to above by mailing a copy thereof by registered or certified air mail, postage prepaid, return receipt requested, to the address of the party to whom it is addressed specified in or designated pursuant to Section 11.4(a) or by serving a copy thereof upon the relevant agent for service of process referred to above at the address set forth in respect of such agent in subsection (c) above (whether or not the appointment of such agent shall for any reason prove to be ineffective or such agent shall accept or acknowledge such service);
- (e) waives, to the fullest extent it may effectively do so under Applicable Laws, all claim of error by reason of any such service and agrees, to the fullest extent it may effectively do so under Applicable Laws, that such service (i) shall be deemed in every respect effective service of process upon a party hereto in any such action, suit or proceeding and (ii) shall be taken and held to be valid personal service upon and personal delivery to such party; and
- (f) agrees that nothing contained herein shall affect the right of any party hereto to serve process in any other manner permitted by Applicable Laws.

11.4 Notices

All notices, reports or other communication required or permitted by this Debenture must be in writing and shall be delivered by (a) personal delivery, (b) certified or registered mail (first class postage pre-paid), (c) guaranteed overnight delivery by recognized national courier, or (d) facsimile transmission or email transmission, addressed to the party to which the notice is to be given at its address, facsimile number or email address for service herein (or to such other address which such party may subsequently designate by ten (10) calendar days' advance written notice to the other party). Any notice, consent, waiver, direction or other communication made or given by personal delivery, courier or facsimile transmission to the party to whom it was addressed as aforesaid shall be deemed to have been given and received on the date on which it was so delivered at such address (if a Business Day, and if not, or received after 4:00 p.m. local time, the next succeeding Business Day) or if sent by prepaid registered mail be deemed to have been given and received on the fourth Business Day following the date of its mailing or if sent by email transmission be deemed to have been given and received at the time of receipt unless actually received after 4:00 p.m. local time or on a date that does not fall on a Business Day at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address, facsimile or email address for service of each of the parties shall be as follows or at such other address as a party may designate by ten (10) calendar days' advance written notice to the other party:

- (a) if to the Issuer or any Guarantor:

1006903 B.C. Ltd.
Suite 2390 - 1055 West Hastings Street
Vancouver, B.C. V6E 2E9
Canada

Attention: Nicholas Bozikis
email: nick@hardycapital.com

with a copy to (which shall not constitute notice):

A-45

Michael, Eyrensel & Pawar LLP
Suite 650, 669 Howe Street
Vancouver, British Columbia V6C 0B4

Attention: Ryan Patryluk
Telecopier No.: 604-669-1953
email: rpatryluk@meplaw.ca

(b) if to the Holder:

Deans Knight Capital Management Ltd.
1500-999 West Hastings Street
Vancouver, British Columbia V6C 2W2
Canada

Attention: Dillon Cameron
Telecopier No.: 604-669-0238
email: dcameron@deansknight.com

with a copy to (which shall not constitute notice):

Farris, Vaughan, Wills & Murphy LLP
25th Floor – 700 W. Georgia St.
Vancouver, British Columbia V7Y 1B3
Canada

Attention: Mitchell Gropper, Q.C.
Telecopier No.: 604-661-9349
email: mgropper@farris.com

or the last address or telecopier number of the party concerned, notice of which was given in accordance with this Section 11.4.

11.5 No Amendment or Waiver

Notwithstanding any other provisions of this Debenture, no amendment or waiver of any provisions of this Debenture, nor consent to any departure by the Issuer therefrom, shall in any event be effective unless the same shall be in writing and signed by an officer of the Holder, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given and shall not extend to or be taken in any manner whatsoever to affect any subsequent breach or default or to affect the rights of the Holder resulting therefrom.

11.6 Further Assurances

The parties hereto shall at all times promptly do, make, execute, acknowledge, deliver, or cause to be done, made, executed, acknowledged or delivered, all such further acts, deeds, agreements and other instruments as may reasonably be required or desirable to give full force and effect to the terms of this Debenture and shall take such steps as may be reasonably within its power to implement the full extent of this Debenture.

11.7 Oral Agreements not Enforceable under Washington Law

ORAL AGREEMENTS OR ORAL COMMUNICATIONS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

[Remainder of page intentionally left blank]

Exhibit A**Permitted Encumbrances**

"Permitted Encumbrances" means the following types of Encumbrances:

- (a) statutory Encumbrances of landlords and Encumbrances of carriers, warehousemen, mechanics, suppliers, material men, repairmen and other Encumbrances imposed by law incurred in the ordinary course of business and Encumbrances for taxes, assessments or governmental charges or claims, in either case, for sums not yet overdue or being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof;
- (b) Encumbrances incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, trade contracts, leases, government contracts, surety and appeal bonds, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);
- (c) Encumbrances upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (d) Encumbrances encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Issuer, including rights of offset and setoff;
- (e) bankers' liens, rights of setoff and other similar Encumbrances existing solely with respect to cash on deposit in one or more accounts maintained by the Issuer, in each case granted in the ordinary course of business in favour of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; provided, however, that in no case shall any such Encumbrances secure (either directly or indirectly) the repayment of any Indebtedness (as such term is defined in the Debentures);
- (f) leases or subleases (or any Encumbrances related thereto) granted to others that do not materially interfere with the ordinary course of business of the Issuer;
- (g) any action, claim, lis pendens, certificate of pending litigation, attachment or judgment Encumbrances which are being contested in good faith by appropriate proceedings;
- (h) easements, rights-of-way, restrictions and other similar charges or encumbrances not materially interfering with the ordinary course of business of the Issuer;
- (i) zoning restrictions, building bylaws, ordinances, regulations, licenses, and other restrictions on the use of real property or minor irregularities in title thereto, which do not materially impair the use of such real property in the ordinary course of business of the Issuer and its Subsidiaries or the value of such real property for the purpose of such business;
- (j) any right of expropriation, access and use and all other similar rights conferred upon or vested in any Governmental Authority or agency imposed by law not materially interfering with the ordinary course of business of the Issuer;

- (k) any right reserved to or vested in any Governmental Authority or agency by law or by the terms of any lease, grant or permit to terminate any such lease, grant or permit not materially interfering with the ordinary course of business of the Issuer;
- (l) any right of first refusal, right of first offer, option, contract or other agreement to sell an asset existing on the date hereof and set forth in Schedule 4 to the Debenture Purchase Agreement; and
- (m) encumbrances securing Hedging Obligations entered into for bona fide hedging purposes of the Issuer not for the purpose of speculation.

A-49

Exhibit 3.8(d)**Form of Opinion of Issuer's Counsel**

[DATE]

Deans Knight Capital Management Ltd., in its capacity as Arranger
Suite 1500, 999 West Hastings Street
Vancouver, BC V6C 2W2

Dear Mesdames and Sirs:

RE: 1006903 B.C. Ltd.

1. SCOPE OF REVIEW

We have acted as counsel to 1006903 B.C. Ltd. (the "**Corporation**") in connection with the negotiation, execution and delivery of a debenture purchase agreement (the "**Debenture Purchase Agreement**") dated •, 2014 between the Corporation and Deans Knight Capital Management Ltd., in its capacity as arranger (the "**Arranger**"), pursuant to which the Arranger, in its capacity as portfolio manager for the Investors (as such term is defined in the Debenture Purchase Agreement) (the "**Investors**"), purchased secured convertible debentures of the Corporation in the aggregate principal amount of ten million Dollars (\$10,000,000), guaranteed, jointly and severally, by Shoeme Technologies Limited, A12345 Holdings, Inc., Gerler and Son, Inc. and Shoes.com, Inc.

1.1 This opinion is being provided pursuant to section 3.8(d) of the Debenture (as defined below). Capitalized terms used but otherwise not defined in this opinion have the same meaning herein as are ascribed thereto in the Debenture Purchase Agreement.

1.2 For the purposes of giving this opinion we have examined and reviewed executed copies of the following documents:

- (a) the Debenture in the aggregate principal amount of • Dollars (\$•) (the "**Debenture**") issued by the Corporation in favour of • (the "**Investor**"); and
- (b) the notice of conversion dated [] issued by the Investor to the Corporation pursuant to Section 4.1(c)(i) of the Debenture (the "**Conversion Notice**" and together with the Debenture, the "**Reviewed Documents**").

2. LEGAL SYSTEM

2.1 The scope of our review is restricted to and this opinion is rendered solely with respect to the laws of the Province of British Columbia (the "**Jurisdiction**"), and the federal laws of Canada having application therein as of the date hereof (collectively, "**Applicable Laws**"). The expression "**BC Courts**" means the courts of the Province of British Columbia and the federal courts constituted in Canada, the jurisdiction of which extends to disputes arising in the Jurisdiction.

3. RELIANCE AND ASSUMPTIONS

3.1 In the examination and consideration of the documents (including the Reviewed Documents) required to deliver this opinion, we have assumed the genuineness of all signatures thereto, other than the signatures on behalf of the Corporation, the legal capacity of all individuals, the authenticity of all documents submitted to us as originals, the conformity to authentic original documents of all documents submitted to us as photostatted, telecopied, conformed or certified copies and the truth, accuracy, currency and completeness of any information provided to us by public officials or otherwise

conveyed to us by public officials, including, without limitation, the reliability of all search results obtained by electronic transmission, of the indices and filing systems maintained by the public offices and registries where we have searched, or enquired, or have caused searches or enquiries to be made.

3.2 We have assumed that each party to the Reviewed Documents (other than the Corporation) (a) is a valid and subsisting corporation under its jurisdiction of incorporation, (b) has the necessary capacity, power and authority to execute, deliver and perform its obligations under the Reviewed Documents, (c) has taken all necessary corporate, statutory, regulatory and other action necessary to authorize the execution, delivery and performance by it of the Reviewed Documents and (d) has duly executed and delivered the Reviewed Documents and that such delivery has been properly made under all applicable laws.

3.3 We have assumed that the Reviewed Documents have not been delivered subject to any condition or escrow which has not been satisfied.

3.4 We have assumed the Reviewed Documents are the legal, valid and binding obligations of the parties thereto (other than the Corporation), enforceable against such parties in accordance with their respective terms.

3.5 We have assumed the identity and authority of any person acting or purporting to act in a representative capacity (other than representatives of the Corporation) or as a public official.

3.6 For the purposes of this opinion, we have also examined such other records, certificates and documents and have considered such questions of law and made such investigations and inquiries as we have considered necessary or advisable for the purposes of this opinion, including the following:

- (a) a Certificate of Good Standing for the Corporation dated • and issued by the Registrar of Companies for British Columbia (the "**Certificate of Good Standing**");
- (b) an officer's certificate (the "**Officer's Certificate**") of the Corporation attached hereto as Schedule "A" attaching thereto a copy of the resolutions of the Board of the Corporation;
- (c) the form of certificates for the Common Shares issuable upon conversion of the Debenture;
- (d) as to the Corporation's status as a reporting issuer in the Province of British Columbia the Corporation's profile as of • on the System for Electronic Document Analysis and Retrieval (SEDAR) maintained by the Canadian Securities Regulators and the list of reporting issuers in default maintained by the British Columbia Securities Commission as of • (the "**Reporting Issuer Documents**"); [NTD: include any other jurisdictions where the Common Shares are listed]
- (e) a certificate of • dated • in respect of the issued and outstanding share capital of the Corporation (the "**Transfer Agent Certificate**"); and
- (f) [a letter providing conditional approval from the [Exchange] (the "[**Exchange**]") dated •, pursuant to which the [Exchange] has approved the listing of the Common Shares on the satisfaction of certain conditions (the "**Listing Conditions**") specified in that letter.]

3.7 We have assumed that any person involved in any of the trades referred to below that is in the business of trading in securities or advising as to the investing in or buying or selling of securities, holds themselves out as being in the business of so trading or so advising or acts as an underwriter or agent, is duly registered as required under all Applicable Laws of any Governmental Authority relating to the

distribution, issue, transfer, trading or purchase and sale in or of securities (collectively, "**Applicable Securities Laws**"), and has complied with such laws or terms of registration.

3.8 In expressing the opinion in paragraph 4.1, we have relied exclusively upon the Certificate of Good Standing.

3.9 In expressing the opinion in paragraph 4.2, we have relied exclusively upon the Transfer Agent Certificate.

3.10 In expressing the opinions in paragraphs 4.6 and 4.7, we have assumed that the representations and warranties of the Arranger in the Debenture Purchase Agreement are true and correct as of the date hereof.

3.11 Whenever our opinion herein with respect to the existence or absence of any agreement or other instrument or any judgment, writ, injunction, decree, order, award or ruling is qualified by the expression "to our knowledge" or "of which we are aware" or words to like effect, it is based solely on the actual knowledge of our current partners and associate lawyers directly involved in, and obtained during the course of, representing the Corporation in connection with the matters contemplated by the Reviewed Documents, without having made any special inquiries in this regard.

4. OPINION

Based upon and subject to the foregoing and subject to the qualifications hereinafter set forth, we are of the opinion that:

4.1 The Corporation validly exists as a company under the *Business Corporations Act* (British Columbia) (the "**Act**"), and is, with respect to the filing of annual reports, in good standing with the Office of the Registrar of Companies for the Jurisdiction.

4.2 Based on the Transfer Agent Certificate, the authorized capital of the Corporation consists of an unlimited number of Common Shares of which • (•) Common Shares are issued and outstanding.

4.3 The Common Shares have been duly and validly created, authorized, reserved and allotted for issuance and are validly issued as fully paid and non-assessable shares of the Corporation.

4.4 The Company is a "reporting issuer" under Applicable Securities Laws, and is not noted in default by the British Columbia Securities Commission [**NTD: include any other jurisdictions where the Common Shares are listed**].

4.5 [As of the date hereof, the [Exchange] has approved the listing on the Exchange of the Common Shares, subject to satisfaction of the Listing Conditions.]

4.6 The issuance of the Common Shares by the Corporation to the Investor is exempt today from the prospectus requirements of the Jurisdiction, and no other document is required to be filed, no proceeding is required to be taken, and no approval, permit, consent, order or authorization of any regulatory authority of the Jurisdiction is required to be obtained under Applicable Securities Laws to permit the issuance of the Common Shares by the Corporation.

4.7 The first trade of the Common Shares in the Jurisdiction will not be deemed to be a distribution and will not be subject to the prospectus requirements under Applicable Securities Laws provided that:

- (a) the Corporation is and has been a reporting issuer in a jurisdiction in Canada for at least the four months immediately preceding the first trade;
- (b) at least four months have elapsed from the "distribution date", as that term is defined in National Instrument 45-102 – *Resale of Securities* ("NI 45-102"), of the Debenture;
- (c) the certificate representing the Common Shares carries the legend, or an ownership statement issued under a direct registration system or other electronic book-entry system acceptable to the regulator, bearing a legend restriction notation, prescribed by section 2.5(2)(3)(i) of NI 45-102; and
- (d) at the time of such first trade:
 - (i) such first trade is not a "control distribution" as that term is defined in section 1.1 of NI 45-102;
 - (ii) no unusual effort is made to prepare the market or to create a demand for the Common Shares,
 - (iii) no extraordinary commission or consideration is paid to a person or company in respect of such trade, and
 - (iv) if the Investor is an insider of the Corporation, the Investor has no reasonable grounds to believe that the Corporation is in default of "securities legislation" (as that term is defined in National Instrument 14-101 – *Definitions*).

5. QUALIFICATIONS AND LIMITATIONS

5.1 The opinions expressed herein are subject to the following qualifications:

- (a) the effects of any applicable bankruptcy, winding up, liquidation, insolvency, fraudulent preference, reorganization, moratorium or any other laws or judicial decisions of whatsoever nature or kind affecting the enforcement of creditors' rights and remedies generally, including, without limitation, the applicable provisions of the *Bankruptcy and Insolvency Act* (Canada), *Winding-Up and Restructuring Act* (Canada), *Companies' Creditors Arrangement Act* (Canada) and *Canada Business Corporations Act*;
- (b) general principles of equity which may apply to any proceeding, whether in equity or at law, including, without limitation:
 - (i) the powers of a court to stay proceedings before it and to stay the execution of judgments and to relieve from the consequences of default;
 - (ii) the concepts of materiality, good faith and fair dealing;
 - (iii) equitable remedies, such as specific performance and injunctive relief, may only be available in the discretion of a court and accordingly may not be available as a remedy in any particular circumstance; and
 - (iv) principles limiting the availability of a remedy under a circumstance where the Investor has elected another remedy;

- (c) the ability to recover certain costs, fees and expenses in connection with litigation brought before the BC Courts to enforce provisions of the Reviewed Documents is in the discretion of the BC Courts and counsel fees are subject to taxation;
- (d) claims becoming barred under laws regarding limitation of actions;
- (e) determinations, calculations, demands, requests, instructions and acts made by the Investor in the exercise of a discretion given to it, may not be enforceable if made or performed unreasonably or arbitrarily, and may not be treated as conclusive notwithstanding contrary provisions in any Reviewed Document;
- (f) limitations upon the right of the Investor to enforce an obligation on the basis of a default of a minor or non-substantive nature or having insubstantial consequences to the Investor;
- (g) although we are unaware of any facts which would lead us to believe that a vitiating factor such as mistake, misrepresentation, duress or undue influence has occurred, the effect of such a vitiating factor; and
- (h) in expressing the opinion in paragraph 4.7 with respect to the first trade of securities, such opinion is subject to the qualifications that:
 - (i) such trade is not a trade constituting a transaction or part of a series of transactions involving a purchase and sale or repurchase and resale in the course of or incidental to a distribution, as defined in the Applicable Securities Laws;
 - (ii) at the time of such trade, no orders, ruling or decision of any court, regulatory or administrative body is in effect at any relevant time that restricts any trades in the securities of the Corporation, that affects any person who engages in such trades or that has the effect of preventing or restricting the applicable transaction; and
 - (iii) such trade is not made by a person or company in a "special relationship" with the Corporation with knowledge of a "material fact" or "material change" which has not been generally disclosed (as each such term is defined under Applicable Securities Laws).

6. RELIANCE LIMITATION

6.1 This opinion is given solely for the benefit of the addressees hereof, relates exclusively to the transactions outlined above and may not be used, relied upon or distributed to any other person, other than the Investor, or used in connection with any other transaction without our express prior written consent. This opinion is given as of the date hereof and we disclaim any obligation or undertaking to advise you of a change in law or fact affecting or bearing upon the opinions rendered herein occurring after the date hereof which may come or be brought to our attention.

Yours truly,

SCHEDULE "A"
Officer's Certificate

Exhibit 3.8(e)**Form of Accession Deed**

Reference is made to the Shareholders' Agreement dated as of July 7, 2014, among 1006903 B.C. Ltd. (the "**Company**") and the Shareholders party thereto, as amended, supplemented or otherwise modified (the "**Shareholders' Agreement**").

This Accession Deed dated the ____ day of _____, _____ is being executed and delivered pursuant to Section 3.8 or 4.1, as applicable, of the secured convertible debenture of the Company dated December 12, 2014 in the principal amount of \$_____ and registered to _____. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Shareholders' Agreement.

The undersigned, a holder of Shares in the capital of the Company, hereby agrees to be bound by and benefit from the terms and conditions of, and to become a party to, the Shareholders' Agreement (a copy of which is attached hereto) as a Shareholder, as if the undersigned had been a party to such Agreement as of the date thereof and such terms and conditions will enure to the benefit of and be binding upon the undersigned, its successors and its permitted assigns. Notwithstanding the foregoing, the undersigned shall not be bound by Article IX (*Non-Competition*) of the Shareholders' Agreement.

The undersigned hereby acknowledges (a) receipt of a complete copy of the Shareholders' Agreement and (b) that the undersigned has read and understands the provisions of the Shareholders' Agreement.

The undersigned acknowledges and confirms that, prior to executing this Accession Deed, the Company requested the undersigned to obtain independent legal advice with respect to the undersigned's rights and obligations under the Shareholders' Agreement. The undersigned confirms and agrees that (a) the undersigned has executed this Accession Deed on the undersigned's own volition and without any duress whatsoever from the Company, the other Shareholders or any other Person and (b) if the undersigned did not obtain legal advice prior to executing this Accession Deed, the undersigned will not in any proceeding relating to the enforcement of rights or obligations under the Shareholders' Agreement raise that fact as a defence or otherwise.

The undersigned's contact particulars for the purposes of the records of the Company are as follows:

[Name]
[Address]
[Fax]
[E-mail]

IN WITNESS WHEREOF, the undersigned has executed this Accession Deed on the date first noted above.

[[If a corporation:]

[insert name of acceding shareholder]

Per: _____

Name:

Title:]

A-52

SCHEDULE A

Prepayment Notice

1006903 B.C. Ltd.

SECURED CONVERTIBLE DEBENTURES

PREPAYMENT NOTICE

To: Holders (the "**Holders**") of the Secured Convertible Debentures (the "**Debentures**") of 1006903 B.C. Ltd. (the "**Issuer**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the debenture purchase agreement dated December 12, 2014 among the Issuer and Deans Knight Capital Management Ltd. unless otherwise indicated. All references to \$ shall be to lawful money of Canada, unless otherwise indicated.

Notice is hereby given pursuant to Section 3.4 of each of the Debentures that the aggregate principal amount of the Debentures outstanding will be prepaid on _____ (the "**Prepayment Date**"), upon payment of the Principal Sum and all accrued and unpaid Interest thereon to but excluding the Prepayment Date (collectively, the "**Total Prepayment Price**").

Attached hereto is an Officers' Certificate certifying that the Current Market Price as at the Trading Day ending three (3) Trading Days before the date of this Prepayment Notice was not less than one hundred and seventy-five percent (175%) of the Conversion Price.

The Total Prepayment Price will be payable upon presentation and surrender of the Debentures to be prepaid at _____.

The Interest upon the Principal Sum shall cease to be payable from and after the Prepayment Date, unless payment of the Total Prepayment Price shall not be made on presentation for surrender of such Debentures at the above office on or after the Prepayment Date.

Pursuant to Section 3.4 of each of the Debenture, the Issuer hereby irrevocably elects to satisfy its obligation to pay the Principal Sum by issuing and delivering to the Holders that number of Common Shares obtained by dividing the Principal Sum by the Conversion Price in effect at the close of business on the Business Day immediately preceding the Prepayment Date, together with payment in cash of accrued and unpaid Interest, if any, up to the Prepayment Date.

Upon presentation and surrender of the Debentures for payment on the Prepayment Date, the Issuer shall, on the Prepayment Date, make the delivery to the Arranger, for delivery to and on account of each of the Holders, of certificates representing the Common Shares to which each of the Holders is entitled.

DATED: _____

1006903 B.C. Ltd.

By _____
its:

This is **EXHIBIT "B-3"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.

A handwritten signature in black ink, appearing to be 'W.D.', is written over a horizontal line.

A Commissioner for taking
Affidavits within British Columbia

"Unless permitted under securities legislation, the holder of this security must not trade the security before the date that is 4 months and a day after the later of (i) December 12, 2014, and (ii) the date the Issuer became a reporting issuer in any province or territory.

The obligations of Gerler under this Debenture are subordinated and postponed to the obligations of Gerler to the holder of the Bank Debt pursuant to a Subordination, Postponement and Standstill Agreement to be entered into between the Arranger, on behalf of the Holder, the holder of the Bank Debt and Gerler."

1006903 B.C. LTD.
(a British Columbia company)

Secured Convertible Debenture

1006903 B.C. LTD. (the "Issuer") for value received hereby promises to pay to ROYTOR & CO ITF 120028850013 or such other Person or Persons who may at the time be the registered holder hereof (the "Holder") on June 30, 2017 (the "Maturity Date"), or such earlier date as the Principal Sum may become due subject to and in accordance with the terms, conditions and provisions of Schedule "A" hereto, on presentation and surrender of this Debenture, the Principal Sum of five million and seven hundred and fifty thousand Dollars (Cdn. \$5,750,000) in lawful money of Canada, and in the meantime to pay interest on the Principal Sum outstanding hereunder in like currency at the Applicable Interest Rate as and from the Issue Date until full and final payment and discharge hereof. Interest accruing due hereunder shall be calculated daily on the basis of a 365 or 366 day year (as the case may be) and shall be due and payable monthly in arrears on the last Business Day of each calendar month, the first such payment to fall due on the last Business Day of the month in which the Issue Date occurs. Any amount of interest not paid when due (including overdue and unpaid interest), and all interest calculated after maturity, default, demand and judgment, shall bear interest at the aforesaid rate, be calculated daily and compounded on the last Business Day of each calendar month (by adding such accrued and unpaid interest to the Principal Sum, the total of which shall then bear interest at the aforesaid rate), and shall be paid without the necessity for any demand being made. The theory of deemed reinvestment shall not apply to the calculation of interest or the payment of other amounts hereunder.

This Debenture is issued upon the terms and conditions as are set out in Schedule "A" hereto, which terms, conditions and provisions are attached hereto and are incorporated herein and form a part hereof. Unless the context otherwise requires capitalized expressions herein shall have the meanings provided for in Schedule "A" hereto.


Payment of the Obligations under this Debenture are unconditionally guaranteed by the Guarantors as set forth in Schedule "A" hereto.

IN WITNESS WHEREOF the Issuer and the Guarantors have executed this Debenture on December 12, 2014 (the "Issue Date").

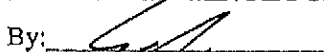
By the Issuer:

By the Guarantors:

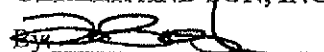
1006903 B.C. LTD.

By: 
its: CFO


SHOEME TECHNOLOGIES LIMITED

By: 
its: President and CEO

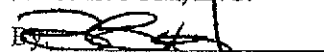
GERLER AND SON, INC.

By: 
its: CFO

A12345 HOLDINGS, INC.

By: 
its: CFO

SHOES.COM, INC.

By: 
its: CFO

SCHEDULE "A"
TO SECURED CONVERTIBLE DEBENTURE OF 1006903 B.C. LTD.

The following terms and conditions are applicable to the secured convertible note of 1006903 B.C. Ltd.

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Debenture, unless there is something in the subject matter or context inconsistent:

"90% Redemption Right" has the meaning provided for in Section 3.1(e);

"A12345" means A12345 Holdings, Inc., a Washington, USA corporation;

"Accession Deed" has the meaning provided for in Section 3.8(e);

"Acquisition Agreement" means the stock purchase agreement dated the Issue Date among the Seller, as seller, A12345, as purchaser, and the Issuer in respect of the purchase and sale of all of the issued and outstanding shares of capital stock of Shoes.com;

"Adjustment Period" means the period during which this Debenture is Outstanding;

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified;

"Aggregate Market Capitalization" means, at any date, the amount equal to the product of the Current Market Price as of the trading day immediately preceding such date and the number of Common Shares outstanding on such date;

"Applicable Interest Rate" at any time means the Interest Rate at such time;

"Applicable Laws" means, with respect to any Person, property, transaction or event, any present or future: (a) domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, convention, rule, regulation, restriction or by-law (zoning or otherwise); (b) judgment, order, writ, injunction, decision, direction, determination, ruling, decree or award; (c) regulatory policy, practice, ruling, interpretation, guideline or directive; or (d) any order, permit, approval, grant, license, consent, right, franchise, privilege, certificate exemption, waiver, registration or other authorization, binding on or affecting the Person, property, transaction or event referred to in the context in which the term is used in each case whether or not having the force of law;

"Applicable Securities Laws" means all Applicable Laws of any Governmental Authority relating to the distribution, issue, transfer, trading or purchase and sale in or of securities, including the rules and regulations of any stock exchange on which any of the securities of the Issuer are listed for trading or to which the Issuer has made an application (which has not been withdrawn) for the listing of any of its securities);

"Arranger" means Deans Knight Capital Management Ltd., a corporation governed by the Canada Business Corporations Act;

"Bank Debt" means Financial Indebtedness of Gerler at any time (a) in the aggregate principal amount of up to five million US Dollars (US\$5,000,000) under the Amended and Restated Credit Agreement dated as of April 1, 2014 between U.S. Bank National Association and Gerler; or (b) in the aggregate principal amount of up to seven million and five hundred thousand US Dollars (US\$7,500,000) under a credit agreement to be entered into by Wells Fargo Bank, National Association and Gerler;

"Bank Intercreditor Agreement" means as the context requires, the U.S. Bank Intercreditor Agreements or the Wells Fargo Intercreditor Agreement;

"BDC Loan" means Financial Indebtedness of SHOEMe in the aggregate principal amount of one hundred twenty-five thousand Dollars (\$125,000) to the Business Development Bank of Canada under a letter of offer dated October 5, 2012;

"Board" has the meaning provided for in the definition of "Change of Control";

"Board Observer Agreement" means the Board Observer Agreement in the form of Exhibit 6.4 of the Debenture Purchase Agreement;

"Brown Shoe Intercreditor Agreement" means the Subordination, Postponement and Standstill Agreement among the Arranger, the Seller, the Issuer and each of the Subsidiaries (except for Gerler) dated the Issue Date, in the form of Exhibit 2.2(a)(ii)(B) of the Debenture Purchase Agreement;

"Business" means the business of the Issuer being the sale and distribution of footwear to retail customers through the facilities of the Internet;

"Business Day" means a day (other than a Saturday, Sunday or statutory holiday) on which banks are generally open for business in the City of Vancouver, British Columbia;

"Canadian GAAP" means generally accepted accounting principles as may be described in the Canadian Institute of Chartered Accountants Handbook, including the Canadian Accounting Standards for Private Enterprises to the extent applicable, and other principal sources recognized from time to time by the Canadian Institute of Chartered Accountants;

"Change of Control" of the Issuer or any of its Subsidiaries, as applicable, means the occurrence of any of the following events, other than (i) with the approval of the Arranger on behalf of the Holder, (ii) in connection with, and at the time of completion of, an Initial Public Offering, or (iii) in connection with the Acquisition Agreement and the transactions contemplated thereby:

- (a) any Person or group of Persons acting in concert acquires Voting Shares of the Issuer or any Subsidiary of the Issuer or securities convertible into or exchangeable for Voting Shares of the Issuer or any Subsidiary of the Issuer or the right to acquire Voting Shares of the Issuer or any Subsidiary of the Issuer representing, after such acquisition and after giving effect to such conversion or exchange or exercise of such right, more than fifty percent (50%) of the Voting Shares of the Issuer or any Subsidiary of the Issuer;
- (b) (i) all or substantially all of the assets of the Issuer or any Subsidiary of the Issuer are sold or otherwise transferred to any Person other than a wholly-owned Subsidiary of the Issuer or (ii) the Issuer completes a Merger Transaction, in either case under this clause (b), in one transaction or a series of related transactions which results in the occurrence of the circumstances referred to in clause (a) above;

- (c) the Issuer shall adopt a plan of liquidation or dissolution or any such plan shall be approved by the shareholders of the Issuer; or
- (d) in any period of twelve (12) consecutive months, the individuals who are members of the board of directors (the "**Board**") of the Issuer or any Subsidiary of the Issuer at the beginning of such twelve (12) month period cease for any reason to constitute at least a majority of the Board unless the appointment or election of such individuals was approved by members of the Board of the Issuer or such Subsidiary who were members of the Board of the Issuer or such Subsidiary at the beginning of such period and any successor to any such director who was recommended or elected or appointed to succeed any such director by the affirmative vote of the directors when that affirmative vote includes the affirmative vote of at least a two-thirds (2/3) majority of the directors then on the Board of the Issuer or such Subsidiary;

"Change of Control Notice" has the meaning provided for in Section 3.1(a);

"Change of Control Offer" has the meaning provided for in Section 3.1(a);

"Collateral" has the meaning given thereto in the Security Agreements;

"Collateral Agency Agreement" means the Collateral Agency Agreement in the form of Exhibit 2.2(a)(ii)(A) of the Debenture Purchase Agreement;

"Common Shares" or **"Shares"** means, subject to Section 4.10(d), the shares of common stock in the capital of the Issuer;

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise and **"Controlling"** and **"Controlled"** have meanings correlative thereto;

"Conversion Date" in respect of the exercise by the Holder or the Issuer of a Conversion Right, means the date on which the Holder gives notice of the conversion of the whole or part of the Principal Sum pursuant to Section 4.1(c) or the date on which the Issuer gives notice to the Holder of the conversion of the whole or any part of the Principal Sum pursuant to Section 4.1(d);

"Conversion Period" means the period during which the Holder or the Issuer may exercise the Conversion Right pursuant to Section 4.1(a);

"Conversion Price" means, at any time, the price per Common Share at which the Principal Sum shall at such time be convertible into Common Shares as adjusted in accordance with the provisions of Article 4 which shall initially be the Initial Conversion Price;

"Conversion Right" means the right of the Holder to convert or of the Issuer to force conversion, as the case may be, of the whole or any portion of the Principal Sum into Shares at the Conversion Price pursuant to Section 4.1(a);

"Corporate Reorganization" has the meaning provided in Section 4.10(d);

"Counsel" means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Issuer and acceptable to the Arranger on behalf of the Holder, acting reasonably;

"Current Market Price" means at any date of determination, the Weighted Average Price per Share for the twenty (20) consecutive Trading Days (sixty (60) Trading Days in the case of the exercise of the Issuer's Conversion Right) ending on the third (3rd) Trading Day preceding the date of determination on the Toronto Stock Exchange or, if on such date the Common Shares are not listed on the Toronto Stock Exchange, on such stock exchange upon which the Common Shares are listed and as selected by the Directors;

"DBRS" means DBRS Limited;

"Debenture" means this Debenture and **"Debentures"** means secured convertible debentures of the Issuer in the form of this Debenture in the aggregate principal amount of ten million Dollars (\$10,000,000);

"Debenture Guarantee" means the guarantee of each Debenture by the Guarantors pursuant to Article 10;

"Debenture Purchase Agreement" means the agreement dated the Issue Date between the Issuer and the Arranger;

"Default" means any event or circumstance, which with the giving of notice or lapse of time, would constitute an Event of Default;

"deliver" or any derivative thereof means, actual delivery to the other party or its professional advisors;

"Demand Note" means the demand promissory note dated as of the date hereof issued by A12345 to the Issuer in the aggregate principal amount of four million US Dollars (US\$4,000,000);

"Director" means a director of the Issuer and, unless otherwise specified herein, reference to action "by the directors" means action by the directors of the Issuer as a board or, whenever duly empowered, action by any committee of such board;

"Disposition" or **"Dispose"** means the sale, assignment, lease, conveyance, transfer or other disposition of property of the Issuer, or any agreement to do any of the foregoing, other than a Permitted Disposition or in respect of a Permitted Disposition;

"Distribution" means any of the following:

- (a) the declaration or payment of any dividend or any other distribution on Equity Interests of the Issuer or any payment made to the direct or indirect holders (in their capacities as such) of Equity Interests of the Issuer, including any payment in connection with any Merger Transaction;
- (b) the redemption of any Equity Interests of the Issuer or any Subsidiary of the Issuer, including, any payment in connection with any Merger Transaction;
- (c) any Investment other than a Permitted Investment;
- (d) any payment of principal of or redemption prior to the scheduled maturity or prior to any scheduled repayment of principal or sinking fund payment, as the case may be, in respect of any Financial Indebtedness of the Issuer except Permitted Financial Indebtedness;
- (e) any payment on account of, or for the purpose of setting apart, any property for a sinking or other analogous fund for: (i) the purchase, redemption, retirement or other acquisition of Equity Interest in the Issuer; (ii) any principal of or interest or premium on or of any amount in respect of a sinking

or analogous fund or defeasance fund for any Indebtedness of the Issuer ranking in right of payment subordinate to any liability of the Issuer under this Debenture; or

- (f) any management, consulting or similar fee or any bonus payment or comparable payment, or by way of gift or other gratuity, to any Affiliate of the Issuer or to any director or officer thereof other than as compensation for services rendered to the Issuer or any of its Subsidiaries in the ordinary course;

"Dollars" and the symbol **"\$"** each means lawful money of Canada;

"Encumbrance" includes any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale leaseback arrangement, any right of set-off and any guarantees or indemnities;

"Environment" means soil, surface waters, groundwater, land, stream sediments, surface or subsurface strata and ambient air;

"Environmental Claims" has the meaning provided in Section 7.2(b);

"Environmental Laws" means all Applicable Laws that address, are related to, or are otherwise concerned with, the protection of the Environment, health or safety issues (including occupational safety and health);

"Environmental Liabilities" means any and all indebtedness, liabilities and obligations for any Release, any environmental damage, any contamination or any other environmental problem caused or alleged to have been caused to any Person, property or the environment as a result of any Release or the condition of any property or asset, whether or not caused by a breach of Applicable Laws, including all indebtedness, liabilities and obligations arising from or related to: (i) any surface, underground, air, groundwater, or surface water contamination; (ii) the abandonment or plugging of any well; (iii) restorations and reclamations; (iv) the removal of or failure to remove any foundations, structures or equipment; (v) the cleaning up or reclamation of storage sites; (vi) any Release; (vii) violation of pollution standards; and (viii) personal injury (including sickness, disease or death) and property damage arising from the foregoing;

"Equity Interests" of any Person means (i) any and all shares or other equity interests (including common shares, preferred shares, partnership interests, trust interests, limited liability company interests and limited liability partnership interests) in such Person; and (ii) all rights to purchase, warrants or options, including securities convertible into or exchangeable for, participations or other equivalents of or interests in (however designated) such shares or other interests in such Person (whether or not currently exercisable, exchangeable or convertible);

"Event of Default" means any event or circumstance specified in Section 6.1, which has not been waived or cured or remedied;

"Excess Bid Consideration" has the meaning provided for in Section 4.10(f);

"Excess Distribution" has the meaning provided for in Section 4.10(e);

"Expiration Time" has the meaning provided for in Section 4.10(f);

"Financial Indebtedness" of any Person at any date means, without duplication, all Indebtedness of such Person: (i) for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof); (ii) evidenced by bonds, debentures, Debentures or other similar instruments; (iii) in respect of financial letters of credit or other similar instruments (or reimbursement obligations with respect thereto); (iv) to pay the deferred and unpaid purchase price of property or services; (v) in respect of leases of such Person that are required to be shown as a liability on the financial statements of such Person prepared in accordance with GAAP; (vi) secured by an Encumbrance on any property of such Person, whether or not such Indebtedness is assumed by such Person or the recourse of the holder of such Indebtedness is limited to such property; (vii) under conditional sale or other title retention agreements relating to assets purchased by such Person; (viii) in respect of redemption obligations with respect to any shares of any other Person which are (I) redeemable, retractable, payable or required to be purchased or otherwise retired or extinguished, or convertible into debt of such Person (A) at a fixed or determinable date, (B) at the option of any holder thereof, or (C) upon the occurrence of a condition not solely within the control and discretion of such Person; or (II) convertible into any other shares described in (I) above; (ix) to the extent not otherwise included in this definition, Hedging Obligations of such Person; and (x) all Guarantees of Indebtedness of the type referred to in any of the foregoing sub-clauses (i) to (ix) of another Person. Notwithstanding the foregoing, the following shall not be considered Financial Indebtedness: (i) earn-outs or similar profit sharing arrangements provided for in acquisition agreements which are determined on the basis of future operating earnings or other similar performance criteria (which are not determinable at the time of acquisition) of the acquired assets or entities; and (ii) accrued expenses, trade payables, customer deposits or deferred income taxes arising in the ordinary course of business of such Person. Any Indebtedness which is incurred at a discount to the principal amount at maturity thereof shall be deemed to have been incurred at the full principal amount at maturity thereof. For all purposes hereof, the Financial Indebtedness of any Person shall include the Financial Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly non-recourse to such Person;

"GAAP" means Canadian GAAP and/or US GAAP, as the context requires;

"Gerler" means Gerler and Son, Inc., a Washington, USA corporation;

"Governmental Authority" means any (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government or any governmental or public department, (ii) court, tribunal, arbitral body, statutory body, commission, board, bureau or agency, (iii) self-regulatory organization or authority, including any stock exchange on which any securities of the Issuer are listed, (iv) subdivision, agent, commission, board or authority of any of the foregoing, or (v) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing and includes a Securities Regulatory Authority;

"Guarantee" means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the **"primary obligor"**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part). The amount of any Guarantee shall be deemed to be an amount equal to the stated or

determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning;

"Guarantor" means each of SHOEme, A12345, Gerler and Shoes.com;

"Hazardous Substances" means any pollutant, contaminant, waste of any nature, hazardous substance, hazardous material, toxic substance, dangerous substance, dangerous good or other substance that is prohibited, listed, defined, designated or classified as dangerous, hazardous, radioactive, explosive or toxic or a pollutant or a contaminant under or pursuant to any applicable Environmental Laws, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefore and asbestos or asbestos-containing materials or any substance which is deemed under Environmental Laws to be deleterious to natural resources or worker or public health and safety;

"Hedging Obligations" of any Person means the obligations of such Person pursuant to (i) any interest rate swap agreement, interest rate collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in interest rates, (ii) agreements or arrangements designed to protect such Person against fluctuations in foreign currency exchange rates in the conduct of its operations, or (iii) any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in commodity prices, in each case entered into in the ordinary course of business for bona fide hedging purposes and not for the purpose of speculation;

"Holder" has the meaning provided for on the first page of this Debenture and its successors and permitted assigns or the Person or Persons from time to time registered as the holder or holders of this Debenture pursuant to Section 8.1;

"including" means including, without limitation, and shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it, and "includes" shall be construed in a like manner;

"incur" means, with respect to any Indebtedness, incur, create, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to such Indebtedness, and "incurrence" has a corresponding meaning;

"Indebtedness" means all present and future obligations, indebtedness, liabilities, covenants, agreements and undertakings of a Person howsoever arising, whether direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred, including all future advances and re-advances, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether such Person be bound alone or with others and whether as principal or surety, including all interest, fees, expenses, indemnities and costs;

"Initial Conversion Price" means a price per Common Share that is the lesser of: (i) ten Dollars (\$10) or, if, by January 31, 2015, the Issuer has completed an issuance of Equity Interests for gross proceeds of at least five million Dollars (\$5,000,000), fourteen Dollars (\$14); and (ii) the price that is at a thirty percent (30%) discount to the price per Common Share paid to the Issuer in the first issuance of Common Shares by the Issuer next following the Issue Date to a Person whose relationship with the Issuer is not non-arm's length ("**non-arm's length**" for this purpose having the same meaning as such term has under the Tax Act); provided that the amounts set forth in this definition are subject to adjustment *mutatis mutandis* in the same manner as the Conversion Price is adjusted pursuant to Section 4.10;

“Initial Public Offering” means the issue of Common Shares in connection with the Issuer becoming a “reporting issuer” under Applicable Securities Laws and the listing of the Common Shares on a stock exchange or a Merger Transaction where the resulting entity is a “reporting issuer” under Applicable Securities Laws;

“Intercompany Notes” means Financial Indebtedness of A12345 (i) in the aggregate principal amount of ten million US Dollars (US\$10,000,000) under a secured promissory note dated July 7, 2014 issued by A12345 to the Issuer, as subsequently assigned to and assumed by SHOEme, as payee, pursuant to an Assignment and Assumption Agreement dated November 26, 2014 among the Issuer, SHOEme and A12345; (ii) in the aggregate principal amount of two million US Dollars (US\$2,000,000) under a promissory note dated the date hereof issued by A12345 to the Issuer; and (iii) under the Demand Note, each as subordinated pursuant to the Brown Shoe Intercreditor Agreement;

“Interest” means interest at the Applicable Interest Rate calculated and payable pursuant to Article 2 on the Principal Sum and any other amounts owing by the Issuer to the Holder under this Debenture;

“Interest Payment Date” means the last day of each month for so long as this Debenture is outstanding, and the Maturity Date, provided that in the event that all or any part of the Principal Sum is partially or totally prepaid at any time other than on an Interest Payment Date, then the date upon which such partial or total prepayment is made shall be an Interest Payment Date in respect of the amount of such Principal Sum so prepaid;

“Interest Period” means:

- (a) the period beginning on (and including) the Issue Date and ending on (and including) the last day of the month in which the Issue Date occurs; and
- (b) thereafter, successive periods beginning on (but excluding) each successive Interest Payment Date and ending on (and including) the earlier of the next Interest Payment Date and the Maturity Date;

“Interest Rate” means: (i) a rate of ten per cent (10%) per annum; and (ii) while an Event of Default exists, fifteen per cent (15%) per annum;

“Investment” of any Person means: (i) all direct or indirect investments by such Person in any other Person in the form of loans, advances or capital contributions or other credit extensions constituting Indebtedness of such other Person, and any guarantee of Indebtedness of any other Person; (ii) all purchases (or other acquisitions for consideration) by such Person of Indebtedness, Equity Interests or other securities of any other Person; and (iii) all other items that would be classified as investments on a balance sheet of such Person prepared in accordance with GAAP;

“Issue Date” has the meaning set forth on the first page of this Debenture;

“Issuer” has the meaning set forth on the first page of this Debenture;

“Judgment Conversion Rate” has the meaning provided for in Section 7.4;

“Losses” has the meaning provided for in Section 7.2(a);

“Material Adverse Change” means any event, occurrence, development after the date hereof or state of occurrence or state of circumstances or facts that exists at any time on or after the date hereof that has or had or would reasonably be expected to have a Material Adverse Effect;

"Material Adverse Effect" means any event, occurrence, development or state of occurrence or state of circumstances or facts that has or had or would reasonably be expected to have an effect that, individually or when taken together with all other events, occurrences, developments or states of occurrence or states of circumstances or fact is reasonably or would reasonably be expected to be: (i) material and adverse to the business, condition (financial or otherwise), results of operations or assets or liabilities (actual or contingent) of the Issuer and its Subsidiaries considered as a whole; (ii) a material impairment of the ability of the Issuer or any of its Subsidiaries to perform its obligations under any Transaction Document to which it is a party; (iii) a material adverse effect upon the legality, validity, binding effect or enforceability against the Issuer or any of its Subsidiaries of any Transaction Document to which it is a party; (iv) a material adverse effect on the rights or remedies of the Holder in respect of this Debenture or of the Arranger under the Debenture Purchase Agreement or in respect of the Security Agreements; or (v) a material adverse effect on the value of the Collateral or the ability of the Arranger to exercise its remedies at the times and in the manner contemplated by the Security Agreements; provided, however, that the term Material Adverse Effect shall exclude any effect described in sub-clause (i) above resulting from or arising in connection with: (A) any change in GAAP; (B) any change in the global, national or regional conditions (including the outbreak of war or acts of terrorism) or in the national or global financial or capital markets, (C) any change in the business in which the Issuer and its Subsidiaries operate, provided that for the purposes of (B) and (C) such effect does not primarily relate to (or have the effect primarily relating to) the Issuer and its Subsidiaries or disproportionately adversely affects the Issuer and its Subsidiaries compared to other entities operating in the business in which the Issuer operates, or (D) the Board Observer Agreement;

"Maturity Date" has the meaning provided for on the first page of this Debenture;

"Merger Transaction" means any transaction of merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's or any Subsidiary of the Issuer's undertaking, property or assets would become the property of any other Person, other than by or between wholly-owned Subsidiaries of the Issuer or the Issuer and such Subsidiaries, other than in connection with, but not after the completion of, an Initial Public Offering;

"Net Proceeds" means proceeds in cash, cheques or other cash equivalent financial instruments, as and when received by the Person making a Disposition, net of: (i) the direct costs relating to such Disposition excluding amounts payable to the Issuer or any Affiliate of the Issuer, (ii) sale, use or other transaction taxes paid or payable as a result thereof including income taxes, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Financial Indebtedness secured by an Encumbrance on the property which is the subject of such Disposition;

"Next Trading Day" has the meaning provided in Section 4.10(f);

"Obligations" means any and all Indebtedness of the Issuer to the Holder under this Debenture;

"Obligor" means each of the Issuer and each Guarantor;

"Offer Price" has the meaning provided in Section 3.1(a);

"Officers' Certificate" means a certificate signed by any one of the following officers of the Issuer: President and Chief Executive Officer, Chief Financial Officer, any Vice-President, Secretary or Treasurer;

"ordinary course of business" or **"ordinary course"** when used in relation to the taking of any action by any Person means that the action is consistent in its nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the day to day operations of the business of such Person;

"Outstanding" when used in relation to this Debenture has the meaning provided for in Section 1.6;

"Payment Account" means such account as the Holder may from time to time advise the Issuer in writing;

"Permitted Dispositions" means:

- (a) Dispositions of inventory, or worn-out, obsolete or other surplus equipment, all in the ordinary course of business;
- (b) Dispositions, non-renewals and exchange properties in the ordinary course of business;
- (c) Dispositions which are made for fair market value and the mandatory repayment in the amount of the Net Proceeds of such Disposition is made as required by Section 3.2;
- (d) Dispositions between wholly-owned Subsidiaries of the Issuer or between the Issuer and such Subsidiaries, and for greater certainty, includes the transfer by A12345 to the Issuer of the Shoes.com Domain Names, subject to the Security Interests in the Security Agreements; or
- (e) Dispositions with the consent of the Arranger on behalf of the Holder;

"Permitted Encumbrances" means:

- (a) Security Interests, upon or in any property acquired by the Issuer after the date hereof in the ordinary course of business, created at the time of such purchase or within sixty (60) calendar days thereafter to secure the purchase price of such property or to secure Financial Indebtedness incurred solely for the purpose of financing the acquisition of such property and Security Interests existing on such property at the time of its acquisition (other than any such Security Interest created in contemplation of such acquisition), provided that no such Security Interest shall extend to any property of the Issuer other than the property so acquired;
- (b) Encumbrances of the type referred to in Exhibit A attached hereto;
- (c) Encumbrances existing as of the date of the Debenture Purchase Agreement and securing each of the Bank Debt with U.S. Bank National Association, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt; and
- (d) Encumbrances securing the Bank Debt with Wells Fargo Bank, National Association;

"Permitted Financial Indebtedness" means any of the following:

- (a) Financial Indebtedness incurred under each of the Bank Debt, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt;
- (b) Financial Indebtedness represented by the Debentures; and
- (c) trade payables and accrued liabilities of the Issuer and its Subsidiaries incurred in the ordinary course of business of the Issuer and its Subsidiaries;

"Permitted Investment" of any Person means: (a) loans and advances to directors, employees and officers of the Issuer for bona fide business purposes and to purchase Equity Interests of the Issuer not in excess of one million Dollars (\$1,000,000) at any one time outstanding; (b) cash and cash equivalents; (c) receivables owing to such Person if created or acquired in the ordinary course of business and payable or dischargeable

in accordance with customary trade terms; provided, however, that such trade terms may include such concessionary trade terms as such Person deems reasonable under the circumstances; (d) Investments in securities of trade creditors or customers received pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers; (e) share, obligations or securities received in settlement of debts created in the ordinary course of business and owing to such Person or in satisfaction of judgments; and (f) book based securities, negotiable instruments, Investments or securities which evidence (i) short term redeemable Investments (having a term to maturity of not more than one year) issued or fully guaranteed by the Government of Canada or any Province of Canada with a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (ii) demand deposits, term deposits or certificates of deposit of banks listed in Schedule I of the *Bank Act* (Canada), which have a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (iii) commercial paper directly issued by Schedule I Banks having, at the time of the investment therein, a short term debt rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P, (iv) call loans to and notes or bankers' acceptances issued or accepted by any depository institution described in (ii) above and (v) term deposits with an entity, the commercial paper of which has a rating of "R-1 (mid)" or better by DBRS or "A 1+" by S&P;

"Person" means any individual, firm, partnership, company, corporation or other body corporate, government, governmental body, agency, instrumentality, unincorporated body or association and the heirs, executors, administrators or other legal representatives of an individual;

"Prepayment Date" has the meaning provided in Section 3.4;

"Prepayment Notice" has the meaning provided in Section 3.4;

"Principal Sum" in respect of this Debenture means the amount set forth as the principal sum on the first page of this Debenture or such lesser principal sum as is owing under this Debenture from time to time, and in respect of all Debentures means the aggregate of such amounts in respect of all Debentures;

"Release" has the meaning prescribed in any Environmental Law and includes any sudden, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, migration, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of a Hazardous Substance, whether accidental or intentional, into the environment;

"S&P" means Standard & Poor's Financial Services LLC;

"securities" has the meaning ascribed thereto in the *Securities Act* (British Columbia);

"Securities Regulatory Authorities" means the securities commissions or similar regulatory authorities in each of the provinces and territories of Canada and any other applicable jurisdiction;

"Security Agreements" means the: (i) General Security Agreement of the Issuer; (ii) General Security Agreement of SHOEme; (iii) Security Agreement of A12345; (iv) Security Agreement of Gerler; (v) Intellectual Property Security Agreement of Gerler; (vi) Trademark Security Agreement of Gerler; (vii) Security Agreement of Shoes.com; (viii) Intellectual Property Security Agreement of Shoes.com; and (ix) Control Agreement of Shoes.com, each in substantially the respective forms set out in Exhibit 2.2(b)(ii) of the Debenture Purchase Agreement;

"Security Interest" means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement

whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale-leaseback arrangement, any right of set-off and any guarantees or indemnities;

"Seller" means Brown Shoe Investment Company, Inc.;

"Shareholders' Agreement" means the Shareholders' Agreement dated July 7, 2014 entered into among the Issuer, Roger Hardy Capital Corporation Inc., Pelecanus Investments Ltd. and such other persons as shall from time to time become bound pursuant to the provisions of Section 2.4 thereof, as amended, supplemented or otherwise modified;

"SHOEme" means SHOEme Technologies Limited, a corporation governed by the Canada Business Corporations Act;

"Shoes.com" means Shoes.com, Inc., a Delaware, USA corporation;

"Shoes.com Domain Names" means all right, title and interest in, to and under any domain name registration or uniform resource locator or URL owned on the date hereof by Shoes.com, including without limitation, Shhhoes.com, Shoes.com and Sssshoes.com, any trademarks and associated goodwill related to any such domain name, social media accounts (i.e. Facebook, Twitter, Pinterest, Instagram, Google+ and YouTube), and any accounts receivable, Accounts, Instruments, General Intangibles and Payment Intangibles and contract rights arising from or related to use of such domain name or uniform resource locator or URL;

"Subordinated Debt" means Financial Indebtedness of A12345 in the aggregate principal amount of seven million and five hundred thousand US Dollars (US\$7,500,000) to the Seller under the convertible subordinated note dated the Issue Date bearing interest in accordance with the terms thereof and due on December 12, 2019, or such earlier date pursuant to the terms of such convertible subordinated note, and convertible into Common Shares at a conversion price of \$21.50 per Common Share, subject to adjustment as provided for in such convertible subordinated note, secured by the security interests provided in a guarantee and security agreement dated the Issue Date among the Seller, the Issuer and each of the Subsidiaries, which Financial Indebtedness is or will be subordinated to the Bank Debt and the Debentures pursuant to the Bank Intercreditor Agreement and the Brown Shoe Intercreditor Agreement;

"Subsidiary" or "subsidiary" means: (i) any corporation or company of which at least a majority of the outstanding securities having by the terms thereof ordinary voting power to elect a majority of the board of such corporation or company is at the time directly, indirectly or beneficially owned or under the Control of the Issuer; (ii) any partnership of which, at the time, the Issuer directly, indirectly or beneficially owns or controls at least a majority of the voting interests (however designated) thereof, or otherwise controls such partnership; and (iii) any other Person of which at least a majority of the voting interests (however designated) are at the time directly, indirectly or beneficially owned or controlled by the Issuer, and for greater certainty, includes Shoes.com;

"Successor Issuer" has the meaning provided in Section 9.1;

"Tax" or "Taxes" means any federal, provincial, state, county, local, or foreign tax, charge, fee, levy, impost, duty, or other assessment, including income, gross receipts, excise, employment, sales, use, consumption, asset, transfer, recording, license, payroll, franchise, severance, documentary, stamp, occupation, windfall profits, environmental, highway use, commercial rent, customs duty, capital stock, paid-up capital, profits, withholding, waste water discharge, social security, social security contribution quotas, housing fund contribution quotas, retirement fund contribution quotas, single business,

unemployment, disability, real property, personal property, registration, ad valorem, value added, alternative or add-on minimum, workplace safety insurance board premiums, employment insurance premiums and deductions, pension plan deductions and contributions, employer health, goods and services, estimated, or other tax or governmental fee of any kind whatsoever, imposed or required to be withheld by any Governmental Authority, including any estimated payments relating thereto;

"Total Offer Price" has the meaning provided in Section 3.1(a);

"Trading Day" means, with respect to a stock exchange, a day on which such exchange is open for the transaction of business;

"Transaction Documents" means the Debentures, the Debenture Purchase Agreement, the Collateral Agency Agreement, the Brown Shoe Intercreditor Agreement, the Security Agreements, the Board Observer Agreement and, only after execution thereof, the Wells Fargo Intercreditor Agreement and the U.S. Bank Intercreditor Agreements;

"U.S. Bank Intercreditor Agreements" means (a) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger and Gerler (as borrower); and (b) the Subordination, Postponement and Standstill Agreement among U.S. Bank National Association, the Arranger, the Seller and Gerler (as borrower), each to be entered into after the Closing Date, in a form mutually agreeable by the parties, each acting reasonably;

"US GAAP" means United States generally accepted accounting principles as established under the standards of the Financial Accounting Standards Board;

"Vendor Take Back Loan" means Financial Indebtedness of the A12345 in the aggregate principal amount of three million US Dollars (US\$3,000,000) to Daniel Gerler under a secured convertible subordinated promissory note dated July 8, 2014;

"Voting Shares" with respect to any Person, means securities of any class of shares of such Person entitling the holders thereof (whether at all times or only so long as no senior class of share or other relevant equity interest has voting power by reason of any contingency) to vote in the election of members of the board of directors of such Person;

"Weighted Average Price" means with respect to a share, the aggregate sale price of all shares of a particular class sold or traded on an exchange or market, as the case may be, divided by the total number of shares of that class so sold or traded, during a stated period of time;

"Wells Fargo Intercreditor Agreement" means the Subordination, Postponement, Standstill and Intercreditor Agreement to be entered into after the Closing Date among Wells Fargo Bank, National Association, the Arranger, the Seller and Gerler (as borrower), in a form mutually agreeable by the parties, each acting reasonably; and

"written consent of the Issuer" and **"certificate of the Issuer"** mean, respectively, a written consent and certificate signed in the name of the Issuer's President and Chief Executive Officer, Chief Financial Officer, any Vice-President, Secretary or Treasurer, and may consist of one or more instruments so executed.

1.2 Headings, Etc.

The division of this Debenture into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Debenture.

1.3 Monetary References

Unless otherwise provided, references to "Dollars" or "\$" in this Debenture refer to lawful currency of Canada and references to "US Dollars" and "US\$" in this Debenture refer to lawful currency of the United States of America.

1.4 Consents and Approvals

It shall be a condition hereof that any consent or approval of the Holder required hereby shall be obtained in writing prior to the event for which it is required and any such consent or approval may be given or withheld by the Holder in the Holder's sole and unfettered discretion.

1.5 Expanded Meanings

Unless the context requires otherwise, (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Transaction Document) in accordance with the terms hereof and thereof, (d) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (e) the words "herein", "hereof" and "hereunder", and words of similar import, when used in any Transaction Document, shall be construed to refer to such Transaction Document in its entirety and not to any particular provision thereof, (f) all references in a Transaction Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Debenture or the other Transaction Document in which such references appear, (g) any reference to any Applicable Laws shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Applicable Laws and any reference to any Applicable Laws shall, unless otherwise specified, refer to such Applicable Laws as amended, modified or supplemented from time to time, (h) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (i) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (j) the word "will" shall be construed to have the same meaning and effect as the word "shall", and (k) in the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.

1.6 Interpretation of "Outstanding"

This Debenture shall be deemed to be Outstanding until the later of the date on which:

- (a) moneys for the payment of the Principal Sum, interest and all other amounts owing to the Holder hereunder shall have been fully, finally and indefeasibly paid to the Holder; and
- (b) the Obligations shall have been duly performed as herein contemplated, or otherwise discharged to the satisfaction of the Holder.

1.7 Generally Accepted Accounting Principles

All financial statements required to be furnished by the Issuer to the Holder hereunder shall be prepared in accordance with GAAP. Each accounting term used in this Debenture, unless otherwise

defined herein, has the meaning assigned to it under GAAP. Reference to any balance sheet item, statement of income and retained earnings item or statement of cash flows or changes in cash position item means such item as computed from the applicable financial statement prepared in accordance with GAAP.

ARTICLE 2

INTEREST PAYMENTS AND PAYMENTS

2.1 Interest on Principal Sum

The Issuer shall pay interest to the Holder on the Principal Sum at a per annum rate of interest equal to the Interest Rate. Such Interest shall accrue as and from the Issue Date and shall be payable in arrears on each Interest Payment Date for the Interest Period which includes such Interest Payment Date, and shall be calculated on a daily basis and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as applicable.

2.2 Payment of Interest

The Issuer shall pay Interest, on each Interest Payment Date by causing to be deposited an amount equal to Interest accrued and unpaid to and including such Interest Payment Date in immediately available funds to the Payment Account.

2.3 Calculation and Payment of Overdue Interest

The Issuer shall pay Interest on all overdue payments in connection with this Debenture from the date any such payment becomes due or if no date for the payment of the same is expressly provided for herein, when payment of the same is demanded by the Holder and for so long as such amount remains overdue. Amounts of Interest not paid when due (including overdue and unpaid Interest), and all Interest calculated after maturity, default, demand or judgment, shall bear interest at the Applicable Interest Rate from time to time, to be calculated daily and compounded on the Interest Payment Date that such interest was to be paid (by adding such accrued and unpaid interest to the Principal Sum, the total of which shall then bear interest at the aforesaid rate), and shall be paid without the necessity for any demand being made.

2.4 Waiver

To the extent permitted by Applicable Laws, any provision of the *Court Order Interest Act* (British Columbia) and the *Interest Act* (Canada), which restricts the rate of interest on any judgment debt, shall be inapplicable to this Debenture and is hereby waived by the Issuer.

2.5 Interest Generally

The theory of deemed reinvestment shall not apply to the calculation of Interest or payment of fees or other amounts hereunder, notwithstanding anything contained in this Debenture, and all Interest and fees payable by the Issuer to the Holder shall accrue from day to day and be computed as described herein in accordance with the "nominal rate" method of interest calculation.

2.6 Limitation on Interest Payments

None of the terms and provisions hereof will be construed or interpreted to require the Issuer to pay, nor shall the Issuer be required to pay, for the use, forbearance or detention of money in excess of the maximum amount of Interest permitted to be contracted for, charged, or received by Applicable Laws from time to time in effect. The Issuer shall never be liable for or be required to pay any

amount for Interest in excess of the maximum amount that may be lawfully contracted for, charged, or received under Applicable Laws from time to time in effect, and the provisions of this Section 2.6 shall control over all other provisions hereof which may be in conflict or apparent conflict herewith. If (a) the maturity of any Obligation is accelerated for any reason, (b) any Obligation is prepaid and as a result any amounts held to constitute interest under Applicable Laws are determined to be in excess of the legal maximum, or (c) the Holder shall otherwise collect moneys which are determined to constitute interest which would otherwise increase the interest on any or all of the Obligations to an amount in excess of that permitted to be charged by Applicable Laws then in effect, then all sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding Principal Sum or, at the option of the Holder, promptly returned to the Issuer or the other payor thereof upon such determination. In determining whether or not the interest paid or payable, under any specific circumstance, exceeds the maximum amount permitted under Applicable Laws, the Holder shall to the greatest extent permitted under Applicable Laws (i) characterize any non-principal payment as an expense, fee or premium rather than as interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread the total amount of interest throughout the entire contemplated term of the instruments evidencing the Obligations in accordance with the amounts outstanding from time to time thereunder and the maximum legal rate of interest from time to time in effect under Applicable Laws in order to lawfully contract for, charge, or receive the maximum amount of interest permitted under Applicable Laws.

2.7 Time, Place and Currency of Payment

Payments of the Principal Sum and Interest and all other amounts payable by the Issuer pursuant to this Debenture shall be paid in Canadian Dollars for value at or before 2:00 p.m. (Vancouver, B.C. time) on the day such amount is due. If any such day is not a Business Day, such amount shall be deemed for all purposes of this Debenture to be due on the immediately preceding Business Day. All payments shall be made to the Payment Account.

2.8 Security for Obligations

The Issuer acknowledges that the Obligations are secured by the Security Agreements.

2.9 Payments Pro Rata

The Issuer shall not make any payment of the Principal Sum or Interest on this Debenture (including by the issuance of Common Shares pursuant to Section 3.7) or purchase this Debenture in whole or in part unless the Issuer pays an amount on, or issues Common Shares, or purchases, all other Debentures in the same proportion to the Principal Sum of each other Debenture as the payment made on or the number of Common Shares issued or, purchase price paid of, this Debenture bears to the Principal Sum, and any payment or issue of Common Shares to or received by the Holder in excess of the amount or number provided for in this Section 2.9 shall be received by and held by the Holder in trust for the Persons who are the holders of the other Debentures and shall be paid or delivered over to the Issuer or a Person representing the Issuer for payment or delivery to such Persons in proportion to the Principal Sums of the Debentures held by such Persons.

2.10 Repayment at the Maturity Date

The Issuer shall repay the Principal Sum in full, together with all accrued and unpaid Interest then outstanding hereunder, as well as any and all other Obligations, on the Maturity Date.

ARTICLE 3
PURCHASE AND REPAYMENT BY THE ISSUER

3.1 Offer to Purchase on Change of Control

Upon the occurrence of a Change of Control, and subject to the provisions and conditions of this Section 3.1, the Issuer shall be obligated to offer to purchase this Debenture and all other Debentures. The terms and conditions of such obligation are set forth below:

- (a) Within thirty (30) calendar days following the occurrence of a Change of Control, the Issuer shall deliver to the Holder at the address set forth in Section 11.4 a notice stating that there has been a Change of Control and specifying the circumstances surrounding such event (a **"Change of Control Notice"**) together with an offer in writing (the **"Change of Control Offer"**) to purchase this Debenture made in accordance with the requirements of Applicable Securities Laws (provided that, for greater certainty, the Issuer shall use the Issuer's commercially reasonable efforts to obtain all requisite regulatory consents and to comply with Applicable Securities Laws in connection with the receiving and completion of such Change of Control Offer) at a price equal to one hundred and one percent (101%) of the Principal Sum outstanding at the time of the Change of Control (the **"Offer Price"**) plus accrued and unpaid Interest on this Debenture up to, but excluding, the date of payment of the Offer Price to the Holder (collectively, the **"Total Offer Price"**), which Change of Control Offer must be open for not less than twenty (20) calendar days (or such lesser period as may be agreed to by the Arranger on behalf of the Holder).
- (b) If the Holder or the Arranger on behalf of the Holder has accepted the Change of Control Offer, this Debenture shall become due and payable at the Total Offer Price on the fifth (5th) Business Day following the date of expiry of the Change of Control Offer, in the same manner and with the same effect as if it were the Maturity Date specified in this Debenture, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Change of Control Offer, if the Issuer has paid or caused to be paid to the Holder the Total Offer Price on the fifth (5th) Business Day following the date of expiry of the Change of Control Offer, this Debenture shall be deemed purchased and cancelled and the Issuer shall have no further obligations in relation thereto.
- (c) If the Holder has accepted the Change of Control Offer, but the Holder shall fail on or before the date of expiry of the Change of Control Offer to surrender this Debenture or shall not within such time accept the full payment of the Total Offer Price, or give a receipt therefor, if any, money in an amount equal to the Total Offer Price may be set aside in trust in an account at a Canadian chartered bank listed in Schedule I to the *Bank Act* (Canada), and such setting aside shall for all purposes be deemed a payment to the Holder of the sum so set aside and the Holder shall have no other right except to receive payment of the moneys so paid and deposited, upon surrender and delivery up of this Debenture.
- (d) The Issuer's obligation to make a Change of Control Offer will be satisfied if a third party makes the Change of Control Offer in the manner and at the times and otherwise in compliance with the requirements applicable to a Change of Control Offer to be made by the Issuer and purchases the Debenture for the Total Offer Price under the Change of Control Offer.
- (e) If holders of ninety percent (90%) or more in aggregate Principal Sum of Debentures outstanding on the date the Issuer provides the Change of Control Notice and Change of Control Offer have accepted the Offer on the expiration thereof, the Issuer has the right and obligation upon written notice to the remaining Holders within ten (10) Business Days following the expiration of the

Change of Control Offer, to repay and shall repay the remaining outstanding Debentures on the expiration of the Offer at the Total Offer Price (the "**90% Redemption Right**").

- (f) The notice to each holder of Debentures that did not previously accept the Offer will state that:
- (i) the Issuer has exercised the 90% Redemption Right and is repaying the Principal Sum of all Debentures effective on the expiry of the Change of Control Offer at the Total Offer Price, and shall include a calculation of the amount and type of consideration payable to such holders as payment of the Total Offer Price;
 - (ii) each such holder must surrender their Debentures to the Issuer on the same terms as those holders that accepted the Change of Control Offer within ten (10) calendar days after the sending of such notice; and
 - (iii) the rights of such holder under the terms of this Debenture shall cease effective as of the date of expiry of the Change of Control Offer provided the Issuer pays the Total Offer Price to, or to the order of, the such holder and thereafter the Debentures shall not be considered to be Outstanding and such holder shall not have any right except to receive such holder's Total Offer Price upon surrender and delivery of this Debenture.
- (g) If the Holder accepts the Change of Control Offer or if the Issuer exercises the 90% Redemption Right, the Principal Sum and any unpaid Interest thereon becomes due and payable at the Total Offer Price on the date of expiry of the Change of Control Offer, in the same manner and with the same effect as if it were the Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Change of Control Offer, if the moneys to pay the Total Offer Price shall have been paid this Debenture shall not be considered as outstanding and interest upon the Principal Sum of this Debenture shall cease.
- (h) If this Debenture is purchased under this Section 3.1, it shall be cancelled and no debenture shall be issued in substitution therefor.

3.2 Dispositions

If the Issuer or any of its Subsidiaries at any time, or from time to time, makes or agrees to make a Disposition, then (a) the Issuer shall promptly notify the Holder by written notice to the address set forth in Section 11.4 of such proposed Disposition (including the amount of the estimated Net Proceeds to be received by the Issuer in respect thereof) and (b) promptly upon receipt by the Issuer of the Net Proceeds of such Disposition, the Issuer shall deliver, or cause to be delivered, such excess Net Proceeds to the Holder and the holders of the other Debentures (each in the proportion of the Net Proceeds as determined pursuant to Section 2.9); the whole be applied by the Holder in payment; (i) firstly towards Interest accrued and unpaid to the date of receipt of such funds by the Holder and then (ii) as a repayment of the Principal Sum of this Debenture.

3.3 Prepayment

The Principal Sum shall not be prepayable by the Issuer at any time before the Maturity Date, except in the event of the satisfaction of certain conditions after a Change of Control has occurred in accordance with Section 3.1 or to the extent permitted pursuant to this Section 3.3.

Subject to Sections 2.9 and 3.8, the Principal Sum may be repayable prior to the Maturity Date at any time, in whole but not in part, at the option of the Issuer, upon payment of the Principal Sum,

together with accrued and unpaid Interest thereon to but excluding the Prepayment Date, (a) in cash or (b) in Common Shares at the Conversion Price in effect at the close of business on the Business Day immediately preceding the Prepayment Date.

3.4 Prepayment Notice and Officers' Certificate

Notice of intention to prepay the Principal Sum (a "**Prepayment Notice**") prior to the Maturity Date shall be given by or on behalf of the Issuer to the Holder at the address set forth in Section 11.4 not more than ninety (90) calendar days and not less than sixty (60) calendar days prior to the date to be fixed for prepayment (a "**Prepayment Date**"), in the manner provided in this Section 3.4. The Prepayment Notice shall be substantially in the form set out in Schedule "A" hereto. Every Prepayment Notice shall specify: (a) the Prepayment Date; (b) whether the amount to be prepaid will be paid in cash or in Common Shares in accordance with Section 3.7; and (c) that all Interest on the Principal Sum shall cease as of and after such Prepayment Date and the right to convert the Principal Sum into Common Shares will terminate and expire at the close of business on the Business Day immediately prior to the Prepayment Date, unless the Issuer shall make default in the payment of Principal Sum and Interest accrued thereon on the Prepayment Date, and shall have attached thereto an Officers' Certificate certifying that the Current Market Price as at the Trading Day ending three (3) Trading Days before the date of the Prepayment Notice was not less than one hundred and seventy-five percent (175%) of the Conversion Price.

3.5 Principal Sum Due on Prepayment Dates

Upon the provision of a Prepayment Notice, the Principal Sum shall thereupon be and become due and payable on the Prepayment Date in the same manner and with the same effect as if it were the Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after the Prepayment Date, if the moneys necessary to prepay the Principal Sum have been paid, the Principal Sum shall not be considered as Outstanding hereunder and Interest upon the Principal Sum shall cease.

3.6 Surrender of Debentures for Cancellation

If the Principal Sum is to be repaid before the Maturity Date, the Holder must surrender this Debenture for cancellation and the Issuer shall pay or cause to be paid the Principal Sum and Interest accrued and unpaid thereon and upon such surrender and payment this Debenture shall be cancelled by the Issuer and no debenture shall be issued in substitution therefor.

3.7 Optional Conversion at Maturity

Subject to Sections 2.9 and 3.8, the Issuer, at its option, may elect to satisfy all of its obligations to pay the outstanding Principal Sum on the Maturity Date by issuing and delivering to the Holder on or prior to 8:30 a.m. (Vancouver, BC time) on the Maturity Date: (a) that number of fully paid, non-assessable Common Shares obtained by dividing the Principal Sum by eighty-five percent (85%) of the lesser of: (i) the Current Market Price of the Common Shares on the third (3rd) Trading Day immediately preceding the Maturity Date; and (ii) the closing price of the Common Shares on The Toronto Stock Exchange or such other stock exchange in the United States selected in good faith by the directors on such third (3rd) Trading Day preceding the Maturity Date and (b) with payment in cash of any accrued and unpaid Interest, *provided that* the Issuer has provided (x) written notice to Holder not more than sixty (60) calendar days and not less than forty (40) calendar days prior to the Maturity Date of its intention to repay the Principal Sum by issuing and delivering Common Shares in accordance with this Section 3.7 and (y) an Officers' Certificate attesting to such Current Market Price in the case of (i) above.

3.8 Conditions to Prepayment or Optional Conversion

The Issuer shall not repay the Principal Sum at any time (in cash or by means of issuing Common Shares) pursuant to Section 3.3 or convert the Principal Sum into Common Shares at Maturity pursuant to Section 3.7, unless:

- (a) no Default has occurred and is continuing and the Issuer has delivered an Officers' Certificate to such effect to the Holder;
- (b) the Common Shares are listed on either The Toronto Stock Exchange, any stock exchange in United States or any other stock exchange approved by the Arranger on behalf of the Holder;
- (c) all approvals under Applicable Securities Law in connection with the issuance of any such Common Shares have been obtained, if required, at the Issuer's expense that allow such Common Shares to be immediately traded free of hold periods or other re-sale restrictions under the Applicable Securities Laws where the Common Shares are distributed;
- (d) the Holder shall have received an opinion from Counsel in the form attached hereto as Exhibit 3.8(d), at the Issuer's expense, that the condition specified in Section 3.8(c) has been satisfied; and
- (e) if the Holder has been approved to enter into the Shareholders' Agreement with the prior written consent of the Issuer, which consent not to be unreasonably withheld, the Holder has entered into the Accession Deed to the Shareholders' Agreement (the "**Accession Deed**"), which shall be acknowledged and agreed to by the Issuer and the Shareholders (as defined in the Shareholders' Agreement), substantially in the form attached hereto as Exhibit 3.8(e) in connection with the proposed issuance and delivery of such Common Shares.

3.9 Issuer to pay Costs

All costs and expenses associated with the issuance and delivery of Common Shares pursuant to Sections 3.7 or 4.1(a)(ii) shall be borne exclusively by the Issuer.

3.10 No Other Prepayment of Debentures

The Issuer shall not, except as herein provided, prepay the Principal Sum or any part thereof.

3.11 Purchase by the Issuer

- (a) Subject to Section 2.9, the Issuer may, at any time and from time to time, at the Issuer's option, purchase this Debenture for cancellation by tender or by private contract, at any price agreed to by the Holder.
- (b) The Issuer may not purchase this Debenture by private contract if a Default has occurred and is continuing.

ARTICLE 4 CONVERSION OF DEBENTURE BY HOLDER

4.1 Conversion Right

- (a) Upon and subject to the terms and conditions of this Article 4:

- (i) the Holder shall have the right, at the Holder's option, at any time and from time to time prior to 4:30 p.m. (Vancouver, BC time) on the last Business Day prior to the Maturity Date, to convert the Principal Sum, in whole or in whole multiples of one thousand Dollars (\$1,000), into fully paid and non-assessable Common Shares at the Conversion Price in effect on the Conversion Date; and
 - (ii) subject to Section 3.8, provided the Current Market Price at the Prepayment Notice Date is at least one hundred and seventy-five percent (175%) of the Conversion Price then in effect, the Issuer shall have the right to require the conversion of the Principal Sum, in whole, into fully paid and non-assessable Common Shares at the Conversion Price in effect on the Business Day immediately preceding the Prepayment Date.
- (b) The Conversion Right shall entitle the Holder to receive (i) Common Shares; and (ii) payment of all accrued and unpaid Interest to and including the Conversion Date on the Principal Sum so converted and any other amount then payable by the Issuer to the Holder under this Debenture up to and including the Conversion Date.
- (c) The Holder may exercise the Conversion Right by surrendering to the Issuer during the Conversion Period this Debenture with:
 - (i) a duly completed and executed exercise notice, specifying the following:
 - (A) the Principal Sum in respect of which the Conversion Right is being exercised by the Holder;
 - (B) the address where the new Debenture, if any, representing the unconverted portion of this Debenture is to be sent; and
 - (C) the number of Common Shares of which the Holder and its Affiliates are currently the beneficial owner; and
 - (ii) if the Holder has been approved to enter into the Shareholders' Agreement with the prior written consent of the Issuer, which consent not to be unreasonably withheld, a duly completed and executed Accession Deed, provided that upon the Holder providing the Issuer with such Accession Deed, the Issuer and the Shareholders (as defined in the Shareholders' Agreement) will execute and deliver an executed counterpart of such Accession Deed to the Holder.
- (d) The Issuer may exercise the Conversion Right by delivering a notice to the Holder specifying the following:
 - (i) the Principal Sum in respect of which the Conversion Right is being exercised by the Issuer; and
 - (ii) the number of Common Shares which the Holder will acquire as a result of the exercise of the Conversion Right by the Issuer (being not more than those which the Holder is entitled to acquire).

4.2 Effect of Exercise of Conversion Right

- (a) Upon the exercise of the Conversion Right pursuant to Section 4.1, the Shares subscribed for shall be deemed to have been issued on the Conversion Date and the Holder shall be deemed to have become the Holder of record of such Shares on the Conversion Date unless the transfer registers of the Issuer shall be closed on such date (including by application of any Applicable Laws), in which case the Shares subscribed for shall be deemed to have been issued and the Holder deemed to have become the holder of record of such Shares, on the date on which such transfer registers are first reopened.
- (b) Within five (5) Business Days after the Conversion Date, the Issuer shall cause to be delivered to the Holder, a share certificate for the appropriate number of Shares to be issued by the Issuer upon the exercise of such Conversion Right together with payment of all accrued and unpaid Interest to and including the Conversion Date on the Principal Sum so converted and any other amount then payable by the Issuer to the Holder under this Debenture up to and including the Conversion Date; provided that the Holder simultaneously surrenders this Debenture for cancellation, in whole or in part, as applicable.

4.3 Partial Exercise of Conversion Right; Fractions

- (a) The Holder may elect to convert, and the Issuer may elect to require the conversion of, less than the whole Principal Sum (in whole multiples of one thousand Dollars (\$1,000)), in which case the Holder upon such exercise shall, in addition, be entitled to receive, without charge therefor, a new Debenture in respect of the balance of the Principal Sum which is not converted.
- (b) Notwithstanding anything herein contained including any adjustment provided for in Section 4.10, the Issuer shall not be required, upon the exercise of the Conversion Right, to issue fractions of Shares or to distribute certificates which evidence fractional Shares. In lieu of fractional Shares, the Issuer shall pay to the Holder within five (5) Business Days after the date upon which the fractional Shares would otherwise have been deemed to have been issued pursuant to Section 4.2, an amount in Canadian Dollars equal to the Current Market Price of the Shares on such date multiplied by an amount equal to the fractional interest of Shares the Holder would otherwise have been entitled to receive upon such exercise, provided that the Issuer shall not be required to make any payment, calculated as aforesaid, that is less than five Dollars (\$5.00).

4.4 Cancellation and Destruction of Debenture

Any portion of this Debenture converted under this Article 4 shall forthwith be cancelled by the Issuer and no debenture shall be issued in substitution for the portion so cancelled.

4.5 Expiration of Conversion Right

Immediately after the Maturity Date, the Conversion Right shall cease and terminate with respect to any amount of the Principal Sum which has not been converted except to the extent that the Holder has not received certificates representing the Shares issued upon exercise of the Conversion Right, in which instance the Holder's rights hereunder shall continue until the Holder has received such certificates.

4.6 Listing of Common Shares

Upon the Issuer making application to list or post the Common Shares for trading on any stock exchange, the Issuer will include in such application the listing of the Common Shares to be issued

upon the conversion of the whole of the Principal Sum into Common Shares, and will use reasonable commercial efforts to obtain the approval or acceptance of such application, and pay all fees payable to such stock exchange in respect of the listing or posting for trading of such Common Shares.

4.7 Securities Restrictions

Notwithstanding anything herein contained, Shares will only be issued pursuant to the Conversion Right in compliance with Applicable Securities Laws, and without limiting the generality of the foregoing, the certificates representing the Shares to be issued upon the exercise of the Conversion Right will bear such legend as may, in the opinion of Counsel to the Issuer, be required under Applicable Securities Laws, provided that if, at any time, such legends are no longer necessary in order to avoid a violation of any such laws, and the holder of any such legended certificates provides the Issuer with an opinion of counsel satisfactory in form and substance to the Issuer to the effect that such holder is entitled to sell or otherwise transfer such Shares in a transaction in which such legends are not required, such legended certificates may thereafter be surrendered to the Issuer in exchange for certificates which do not bear such legend.

4.8 Holder not a Shareholder

Nothing in this Debenture shall, in itself, confer or be construed as conferring upon the Holder any right or interest whatsoever as a shareholder of the Issuer, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Issuer, or the right to receive dividends and other distributions from the Issuer in respect of Shares.

4.9 Charges for Exchange or Transfer

The Issuer will from time to time promptly pay or make provision satisfactory to the Holder for the payment of any and all Taxes which may be imposed by Applicable Law with respect to the issuance or delivery of the Shares to the Holder, upon the exercise of the Conversion Right.

4.10 Adjustment of Conversion Price

The Conversion Price in effect at any date shall be subject to adjustment from time to time as follows:

- (a) if and whenever at any time during the Adjustment Period, the Issuer shall:
 - (i) subdivide, re-divide or change the Issuer's outstanding Common Shares into a greater number of shares;
 - (ii) reduce, combine or consolidate the Issuer's outstanding Common Shares into a smaller number of shares; or
 - (iii) distribute Common Shares by way of dividend, or issue Common Shares or securities exchangeable into or convertible for, or having rights to acquire, Common Shares at a price per Common Share less than the Conversion Price, to the holders of all or substantially all of the outstanding Common Shares;

the Conversion Price in effect on the effective date of such subdivision, re-division, change, reduction, combination, consolidation or distribution, as the case may be, shall in the case of the events referred to in (i) and (iii) above, be decreased in proportion to the number of outstanding

Common Shares resulting from such subdivision, re-division, change, distribution or issuance, or shall, in the case of the events referred to in (ii) above, be increased in proportion to the number of outstanding Common Shares resulting from such reduction, combination or consolidation in each such case by multiplying the Conversion Price in effect on such effective date by a fraction of which the numerator shall be the total number of Common Shares outstanding immediately prior to such date and the denominator shall be the total number of Common Shares outstanding immediately after such date. Such adjustment shall be made successively whenever any event referred to in this Section 4.10(a) shall occur;

- (b) if and whenever at any time during the Adjustment Period, the Issuer shall fix a record date for the issuance of rights, options or warrants to all or substantially all the holders of the Issuer's outstanding Common Shares entitling them, for a period expiring not more than 60 days after such record date, to subscribe for or purchase Common Shares (or securities convertible or exchangeable into, or rights to acquire, Common Shares) at a price per share (or having a conversion or exchange or exercise price per share) less than the Conversion Price on such record date, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the amount determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date plus that number of Common Shares equal to the number arrived at by dividing the aggregate price of the total number of additional Common Shares offered for subscription or purchase (or the aggregate conversion or exchange price or exercise price of the convertible or exchangeable securities or rights so offered) by the Conversion Price before giving effect to the adjustment to be made pursuant to this subsection (b), and of which the denominator shall be the total number of Common Shares outstanding on such record date plus the total number of additional Common Shares offered for subscription or purchase or into which the convertible or exchangeable securities or rights so offered are convertible or exchangeable or exercisable; any Common Shares owned by or held for the account of the Issuer or any Subsidiary of the Issuer shall be deemed not to be outstanding for the purpose of any such computation; such adjustment shall be made successively whenever such a record date is fixed; to the extent that any such rights, options or warrants are not exercised prior to the expiration thereof, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon the number of Common Shares (or securities convertible or exchangeable into or rights to acquire Common Shares) actually issued upon the exercise of such rights, options or warrants, as the case may be;
- (c) if and whenever at any time during the Adjustment Period, the Issuer shall fix a record date for the making of a distribution to all or substantially all the holders of the Issuer's outstanding Common Shares of (i) securities of any class, whether of the Issuer or any other corporation, including rights, options or warrants (excluding those referred to in Section 4.10(b) above) to subscribe for or purchase Common Shares or other securities convertible into or exchangeable for Common Shares, (ii) evidences of the Issuer's Indebtedness or (iii) assets (including cash) of the Issuer or any Subsidiary, then, in each such case, the Conversion Price shall be adjusted immediately after such record date so that it shall equal the price determined by multiplying the Conversion Price in effect on such record date by a fraction, of which the numerator shall be the total number of Common Shares outstanding on such record date multiplied by the Conversion Price before giving effect to the adjustment to be made pursuant to this subsection (c), less the fair market value (as determined by the Directors in good faith, which determination shall be conclusive) of such shares, rights, options, warrants, evidences of Indebtedness or assets so distributed, and of which the denominator shall be the total number of Common Shares outstanding on such record date multiplied by such Conversion Price; and Common Shares owned by or held for the account of the Issuer or any Subsidiary of the Issuer shall be deemed not to be outstanding for the purpose of any such

computation; such adjustment shall be made successively whenever such a record date is fixed; to the extent that such distribution is not so made, the Conversion Price shall be readjusted to the Conversion Price which would then be in effect if such record date had not been fixed or to the Conversion Price which would then be in effect based upon such shares or rights, options or warrants or evidences of Indebtedness or assets actually distributed, as the case may be;

- (d) if and whenever at any time during the Adjustment Period, there is a reclassification of the Common Shares or a capital reorganization of the Issuer other than as described in Section 4.10(a) or a merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's undertaking, property or assets would become the property of any other Person that is approved by the Holder or is not required to be approved by the Holder (any such reclassification or merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or reconstruction with any Person or any transaction by way of transfer, liquidation, sale, lease, disposition or otherwise whereby all or substantially all of the Issuer's undertaking, property or assets would become the property of any other Person is herein called a "**Corporate Reorganization**"), the Holder shall, upon the exercise of the Conversion Right, be entitled to receive and shall accept, in lieu of the number of Shares then sought to be acquired by the Holder, the number of Shares or other securities or property of the Issuer or of the Person resulting from such Corporate Reorganization, that the Holder would have been entitled to receive on such Corporate Reorganization if, on the record date or the effective date thereof, as the case may be, the Holder had been the registered holder of the number of Shares sought to be acquired by the Holder and to which the Holder was entitled to acquire upon the exercise of the Conversion Right. If appropriate, to give effect to or to evidence the provisions of this Section 4.10(d), the Issuer, the Issuer's successor, or such purchasing Person, as the case may be, shall, prior to or contemporaneously with any such Corporate Reorganization, enter into an agreement which shall provide for the application of the provisions set forth in this Debenture with respect to the rights and interests thereafter of the Holder including adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided in this Section 4.10 and which shall apply to successive Corporate Reorganization to the end that the provisions set forth in this Debenture shall thereafter correspondingly be made applicable with respect to any shares, other securities or property to which the Holder is entitled on the exercise of the Conversion Right;
- (e) if and whenever at any time during the Adjustment Period, the Issuer shall pay or make a dividend or other distribution on its Common Shares exclusively in cash and the aggregate of: (i) such dividend or other distribution paid exclusively in cash; and (ii) all other cash dividends or other distributions made by the Issuer to all holders of the Common Shares within the preceding 12 months which did not trigger an adjustment to the Conversion Price, exceeds 1% of the Issuer's Aggregate Market Capitalization (such excess hereinafter the "**Excess Distribution**") on the record date in respect of the last such cash dividend or other distribution, the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to such record date by a fraction, of which the denominator shall be the Aggregate Market Capitalization on such record date and of which the numerator shall be such Aggregate Market Capitalization minus the amount of the Excess Distribution. Such adjustment shall become effective immediately prior to the opening of business on the day following such record date. In the event the amount of the Excess Distribution is equal to or greater than the Aggregate Market Capitalization on the record date, in lieu of the foregoing adjustment, adequate provision shall be made so that the Holder shall have the right to receive upon conversion the amount of cash such holder would have received had such holder converted this Debenture to Common Shares immediately prior to the record date (less 1% of the Current Market Price multiplied by such number Common Shares). In the event that such dividend or distribution is not

so paid or made, the Conversion Price shall be readjusted to be the Conversion Price which would then be in effect if such dividend or other distribution had not been declared;

- (f) if and whenever at any time during the Adjustment Period, an issuer bid or a tender or exchange offer (other than an odd-lot offer) made by the Issuer or a Subsidiary of the Issuer for all or any portion of the Common Shares shall expire and such issuer bid or tender or exchange offer shall involve payment by the Issuer or a Subsidiary of the Issuer of cash or other consideration (based on the acceptance of all Common Shares validly tendered or exchanged and not withdrawn up to any maximum specified in the terms of the issuer bid or tender or exchange offer, such shares, up to such maximum) having a fair market value (as determined in good faith by the Directors, whose determination shall be described in a resolution of the Directors) at the time (the **"Expiration Time"**) tenders or exchanges may be made pursuant to such issuer bid or tender or exchange offer (as amended), together with: the total of (i) any cash and the fair market value of other consideration (as determined in good faith by the Directors described in a resolution of the Directors) payable in respect of an issuer bid or a tender or exchange offer by the Issuer or a Subsidiary of the Issuer for Common Shares concluded within the preceding twelve months which did not trigger an adjustment to the Conversion Price, and (ii) the aggregate amount of any all-cash dividends or other distributions made by the Issuer to all holders of Common Shares made within the twelve months preceding such issuer bid or tender or exchange offer which did not trigger an adjustment to the Conversion Price exceeds 5% of the Aggregate Market Capitalization (such excess hereinafter the **"Excess Bid Consideration"**) on the Trading Day next succeeding the Expiration Time (the **"Next Trading Day"**), the Conversion Price shall be adjusted so that the same shall equal the price determined by multiplying the Conversion Price in effect immediately prior to the opening of business on the Next Trading Day by a fraction, of which the denominator shall be the Aggregate Market Capitalization on the Next Trading Day and of which the numerator shall be Aggregate Market Capitalization on the Next Trading Day minus the amount of the Excess Bid Consideration. Such adjustment shall become effective immediately prior to the opening of business on the Next Trading Day. In the event that no shares are validly accepted in such issuer bid or tender or exchange offer, the Conversion Price shall be readjusted to be the Conversion Price which would then be in effect if such record date had not been fixed;
- (g) in any case in which it is required that an adjustment be made to the Conversion Price, no such adjustment shall be made if, subject to the prior approval of any stock exchange upon which the Common Shares are listed, if any, the Holder elects to receive the rights, options or warrants referred to in Section 4.10(b) or the shares, rights, options, warrants, evidences of Indebtedness or assets referred to in Section 4.10(c), as the case may be, in such kind and number as the Holder would have received if the Holder had been a holder of Shares on the applicable record date or effective date, as the case may be, by virtue of the Principal Sum having then been converted into Common Shares at the Conversion Price in effect on the applicable record or effective date, as the case may be;
- (h) the adjustments provided for in this Section 4.10 are cumulative, and shall be computed to the nearest whole cent and shall apply to successive subdivisions, re-divisions, reductions, combinations, consolidations, distributions, issues or other events resulting in any adjustment under the provisions of this Section 4.10;
- (i) in case the Issuer shall take any action affecting the Common Shares other than action described in this Section 4.10, which in the opinion of the directors of the Issuer would materially affect the rights of the Holder, the Conversion Price shall be adjusted in such manner and at such time, by action of the directors, subject to the prior written consent of any stock exchange upon which the Common Shares are listed, if required, as the directors in their sole discretion may determine to be

equitable in the circumstances and not inconsistent with the provisions of this Debenture. Failure of the directors to make such an adjustment shall be conclusive evidence that the directors have determined that it is equitable to make no adjustment in the circumstances.

4.11 Voluntary Decrease

The Issuer from time to time may decrease the Conversion Price (subject to Applicable Laws and the receipt of all regulatory approvals, including, after an Initial Public Offering the consent of the Toronto Stock Exchange and such other exchanges on which the Common Shares may be listed) by any amount and for any period of time if the Directors have determined in good faith (to be evidenced by a resolution of the Directors) that such decrease is in the Issuer's best interests. Whenever the Conversion Price is decreased, the Issuer shall deliver to the Holder a notice of the decrease and the Conversion Price for all purposes of this Debenture following the delivery of such notice is the Conversion Price set forth in such notice, but subject to adjustment thereafter in accordance with Section 4.10 and this Section 4.11. The Issuer shall deliver the notice at least fifteen (15) calendar days before the date the decreased Conversion Price becomes effective.

4.12 Entitlement to Shares on Exercise of Conversion Right

All shares of any class or other securities which the Holder is at the time in question entitled to receive on the exercise of the Conversion Right, whether or not as a result of adjustments made pursuant to Section 4.10 shall, for the purposes of the interpretation of this Debenture, be deemed to be shares which the Holder is entitled to acquire pursuant to the exercise of the Conversion Right.

4.13 No Adjustment for Stock Options

Notwithstanding anything in Section 4.10, no adjustment shall be made in the Conversion Price if the issuance of Shares is being made upon the exercise of the Conversion Right or pursuant to any stock option plan in force from time to time for directors, officers and employees of the Issuer entitling them to purchase, in the aggregate, not more than ten percent (10%) of the issued and outstanding Common Shares (determined on a fully diluted basis as if all rights to purchase Common Shares upon the exercise of all rights of conversion or exchange for Common Shares and all rights under options, rights or warrants (other than the foregoing stock options but including this Debenture) outstanding at such time other than had been exercised and the Common Shares issuable as a result thereof had been issued).

4.14 Determination by Issuer's Auditors

In the event of any question arising with respect to the adjustments provided for in Section 4.10, such question shall be conclusively determined by the Issuer's independent auditors, or such other firm of chartered accountants mutually acceptable to the Issuer and the Arranger on behalf of the Holder, who shall have access to all necessary records of the Issuer, and such determination shall be binding upon the Issuer, the Holder and all other Persons interested therein.

4.15 Proceedings Prior to any Action Requiring Adjustment

As a condition precedent to the taking of any action which would require an adjustment in any of the conversion rights pursuant hereto, including the number of Shares which are to be received upon the exercise thereof, the Issuer shall take any corporate action which may, in the opinion of Counsel to the Issuer, be necessary in order that the Issuer has unissued and reserved in the Issuer's authorized capital and may validly and legally issue as fully paid and non-assessable all the Shares which the Holder is entitled to receive on the full exercise of the Conversion Right in accordance with the provisions hereof.

4.16 Certificate of Adjustment

The Issuer shall from time to time immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 4.10, deliver a certificate of the Issuer to the Holder specifying the nature of the event requiring the same and the amount of the adjustment necessitated thereby and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

4.17 Notice of Special Matters

The Issuer covenants that the Issuer will give notice to the Holder of the Issuer's intention to fix a record date that is prior to the Maturity Date for the issuance of rights, options or warrants referred to in Section 4.10(b) or the distribution of the shares, rights, options, warrants, evidences of Indebtedness or assets referred to in Section 4.10(c) to all or substantially all the holders of the Issuer's outstanding Common Shares. Such notice shall specify the particulars of such event, the record date for such event and, if prepared or available as at the date that such notice is required to be given pursuant to this Section 4.17, such notice shall be accompanied by the material (i.e., proxy circulars, information booklets etc.) sent to the holders of Common Shares in respect of the event in question, provided that the Issuer shall only be required to specify in the notice such particulars of the event as shall have been fixed and determined on the date on which the notice is given. The notice shall be given in each case not less than fourteen (14) calendar days prior to such applicable record date.

4.18 No Action after Notice

The Issuer covenants that the Issuer will not close the Issuer's transfer books or take any other corporate action which might deprive the Holder of the opportunity to exercise the Issuer's right of conversion pursuant thereto during the period of fourteen (14) calendar days after the giving of the certificate or notices set forth in Sections 4.16 and 4.17.

4.19 Holder not a Shareholder

Nothing in this Debenture shall, in itself, confer or be construed as conferring upon the Holder any right or interest whatsoever as a shareholder of the Issuer, including, but not limited to, the right to vote at, to receive notice of, or to attend, meetings of shareholders or any other proceedings of the Issuer, or the right to receive dividends and other distributions from the Issuer in respect of Shares.

4.20 Charges for Exchange or Transfer

The Issuer will from time to time promptly pay or make provision satisfactory to the Holder for the payment of any and all Taxes which may be imposed by Applicable Laws with respect to the issuance or delivery of the Shares to the Holder, upon the exercise of the Conversion Right.

4.21 Securities Qualification Requirements

- (a) If, in the reasonable opinion of Counsel to the Holder, any instrument is required to be filed with, or any permission is required to be obtained from any Governmental Authority or any other Governmental Approval is required before any Shares which the Holder is entitled to receive on the exercise of the Conversion Right may properly and legally be delivered, issued or traded (subject to applicable hold periods and other than in respect of the status of the Holder as a "control person" within the meaning of Applicable Securities Laws) upon due exercise thereof and thereafter

traded, without further formality or restriction, the Issuer covenants that the Issuer will take such reasonably required action at the sole cost and expense of the Issuer.

- (b) The Issuer will give written notice of the issue of Shares pursuant to the exercise of the Conversion Right to each Securities Regulatory Authority and any stock exchange on which the Issuer's Shares may be listed for trading as may be necessary in such detail as may be required in order that the issue of Shares issuable upon the exercise of the Conversion Right and the subsequent disposition of the Shares so issued (subject to applicable hold periods) will not be subject to the prospectus qualification requirements of Applicable Securities Laws.
- (c) If the Issuer becomes a "reporting issuer" under any Securities Laws, the Issuer will prepare and file, in the form and manner and in the time required by Applicable Securities Laws, all documents, reports, and other information required to be prepared and filed by the Issuer under Applicable Securities Laws.

ARTICLE 5 COVENANTS

5.1 Positive Covenants

The Issuer covenants with the Holder that the Issuer shall:

- (a) Payment and Performance: duly and punctually pay all amounts due by the Issuer hereunder and shall perform all other obligations on the Issuer's part to be performed under the terms of this Debenture at the times and places and in the manner provided for herein;
- (b) Corporate Existence: maintain the Issuer's and each of its Subsidiaries' corporate existence in good standing under the laws of its jurisdiction of incorporation and register and qualify and remain registered and qualified as a corporation authorized to carry on business under the laws of each jurisdiction in which the nature of the Business or the character of any material properties and assets owned or leased by it requires such registration and qualification, except such as would not have a Material Adverse Effect;
- (c) Insurance: maintain in full force and effect such policies of insurance, including public liability and property damage insurance, in such amounts issued by insurers of recognized standing covering the Issuer's properties and operations, including business interruption insurance and replacement cost insurance, as are customarily maintained by Persons engaged in the same or similar business in the localities where the Issuer's properties and operations are located, and, if requested by the Arranger on behalf of the Holder, furnish the Arranger with certificates or other evidence confirming compliance with the foregoing insurance requirements;
- (d) Compliance With Applicable Laws:
 - (i) carry on and conduct and cause its Subsidiaries to carry on conduct the Business and keep, maintain and operate the its assets and properties in all respects in accordance with all Applicable Laws, including Environmental Laws and Applicable Securities Laws, and in a good and workmanlike manner and in accordance with sound businesslike and industry practice, except where such non-compliance is not and is not reasonably likely to result in a Material Adverse Effect; and

- (ii) observe and conform in all respects to all valid requirements of any Governmental Authority relative to any of the Issuer's and each of its Subsidiaries' assets and properties and all covenants, terms and conditions of all agreements upon or under which any of the its assets and properties are held, except where such non-compliance is not and is not reasonably likely to result in a Material Adverse Effect;
- (e) Payment of Taxes:
 - (i) file all income tax returns for the Issuer and for each of its Subsidiaries which are required to be filed; and
 - (ii) pay or make provision for payment (in accordance with Generally Accepted Accounting Principles) of all Taxes which are due and payable by the Issuer and each of its Subsidiaries, or to provide adequate reserves (in accordance with Generally Accepted Accounting Principles) for the payment of any Tax, the payment of which is being contested in good faith;
- (f) Payment of Other Obligations: pay or cause to be paid all rents, royalties, Taxes and other Indebtedness to pay money validly imposed upon the Issuer or any of its Subsidiaries, or upon the Issuer's or any of its Subsidiaries' properties or assets or any part thereof, and all Indebtedness of the Issuer and each of its Subsidiaries as and when the same became due and payable or shall provide adequate reserves (in accordance with GAAP) for the payment of any such obligation or Indebtedness, the payment of which is being contested in good faith;
- (g) Maintenance of Books and Records: keep or cause to be kept proper and adequate records and books of account in which true and complete entries will be made in a manner sufficient to enable the preparation of financial statements in accordance with Generally Accepted Accounting Principles;
- (h) Defend Title to Assets: maintain, protect and defend title to all property and assets held by the Issuer or any of its Subsidiaries, and take all such acts and steps as are necessary or advisable at any time and from time to time to maintain their respective property and assets in good standing, except where failure to protect and defend title to such property or assets held by the Issuer in its own capacity or on behalf of others does not or its not reasonably likely to result in a Material Adverse Effect;
- (i) Reporting Requirements: furnish to the Holder, unless the Issuer shall have timely made such financial statements available on Canada's System for Electronic Document Analysis and Retrieval or on the SEC's Electronic Data Gathering, Analysis and Retrieval system or any successor thereto or on the Issuer's home page on the worldwide web:
 - (i) as soon as available and in any event within ninety (90) calendar days after the end of each fiscal year of the Issuer, the audited consolidated financial statements of the Issuer including a balance sheet and related statements of income, retained earnings and changes in cash flow as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, in accordance with GAAP;
 - (ii) as soon as available and in any event within forty-five (45) calendar days after the end of each of the first three fiscal quarters of each fiscal year of the Issuer, unaudited consolidated financial statements of the Issuer including a balance sheet and related statements of income, retained earnings and changes in cash flow as of the end of and for such fiscal

quarter and the then elapsed portion of the fiscal year which includes such fiscal quarter, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal period, all certified by an officer of the Issuer as presenting fairly in all material respects the financial condition and results of operations of the Issuer in accordance with GAAP, subject to year-end adjustments;

- (iii) a copy of all information and materials furnished to the holders of Common Shares not included in the foregoing subsections 5.1(i)(i) and (iii); and
 - (iv) such other information as the Arranger on behalf of the Holder may reasonably request from time to time, provided that the Holder shall not use any such information other than for the purposes of its status as a creditor of the Issuer.
- (j) Notice of Event of Default: provide the Holder with prompt written notice of the occurrence of any Default or Event of Default upon obtaining knowledge thereof.
- (k) Share Capital:
- (i) reserve and keep available a sufficient number of Common Shares for the purpose of enabling the Issuer to satisfy the Issuer's obligations to issue Common Shares upon the exercise of the Conversion Right;
 - (ii) cause the Common Shares and the certificates representing the Common Shares from time to time acquired pursuant to the exercise of the Conversion Right to be duly issued and delivered in accordance with the terms hereof;
 - (iii) ensure that all Common Shares which shall be issued upon exercise of the Conversion Right shall be issued as fully paid and non-assessable; and
 - (iv) make all requisite filings under Applicable Securities Laws necessary to report the exercise of the right to acquire Shares pursuant to the Conversion Right;

5.2 Negative Covenants of the Issuer

The Issuer covenants with the Holder that the Issuer shall not and shall not permit any of its Subsidiaries to, without the consent of the Arranger on behalf of the Holder:

- (a) Financial Indebtedness: incur any Indebtedness other than Permitted Financial Indebtedness;
- (b) Negative Pledge: create, incur, assume or suffer to exist any Security Interest upon or with respect to any its property other than Permitted Encumbrances;
- (c) Distributions: declare, resolve to declare or make, or make any Distribution, except for any Distributions to the Issuer by a wholly-owned Subsidiary or by a wholly-owned Subsidiary to another wholly-owned Subsidiary, and for greater certainty, A12345 may satisfy its obligation to repay the principal under the Demand Note in consideration for the transfer to the Issuer of the Shoes.com Domain Names;
- (d) Disposition: directly or indirectly, make any Disposition unless the Net Proceeds are applied in accordance with Section 3.2;

- (e) Change of Business: change in any material respect the nature of the Business nor engage directly or indirectly, in any material business, activity or purchase or otherwise acquire any material property, in either case, not primarily related to the conduct of the Business;
- (f) Subsidiaries: acquire or create any Subsidiary unless such Subsidiary unconditionally guarantees payment and performance of the Obligations in form approved by the Arranger and grants a security interest to secure payment and performance of such guarantee over all of its present and after acquired property substantially in the form of the Security Agreements; or
- (g) Merger Transaction: enter into or become party to a Merger Transaction or take any corporate action in pursuance of a Merger Transaction other than transactions contemplated by the Acquisition Agreement.

5.3 Holder May Perform Covenants

If the Issuer shall fail to perform any covenant on its part herein contained, the Holder may in its discretion perform any of said covenants capable of being performed by it and, if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose, but shall be under no obligation so to do; and all sums so expended or advanced shall be repayable by the Issuer on demand together with Interest at the Applicable Interest Rate from the date such payment or expenditure is made to the date the amount thereof and interest thereon is paid to the Holder, but no such performance or payment shall be deemed to relieve the Issuer from any default hereunder.

ARTICLE 6 DEFAULT

6.1 Events of Default

An Event of Default shall occur upon the happening of any one or more of the following:

- (a) if the Issuer defaults in payment of the Principal Sum when the same becomes due and payable under this Debenture;
- (b) if the Issuer defaults in payment of Net Proceeds or the Total Offer Price when the same becomes due and payable under this Debenture;
- (c) if the Issuer fails to deliver Common Shares to the Holder when those Common Shares are required to be delivered following the conversion of this Debenture in accordance with the provisions hereof;
- (d) if the Issuer elects to satisfy the Principal Sum by issuing and delivering Common Shares to the Holder and the Issuer fails to deliver the number of Common Shares required by the terms hereof to be issued and delivered in satisfaction of the Principal Sum;
- (e) if the Issuer defaults in payment of any Interest or any other amount payable to the Holder under this Debenture and such default continues after the fifth (5th) day following the date when the same becomes due and payable under this Debenture;
- (f) if there shall be a breach by the Issuer or any of its Subsidiaries of any other covenant, condition or provision contained in this Debenture or a Security Agreement and the breach (if capable of

being cured) is not cured within fifteen (15) Business Days after written notice by the Arranger on behalf of the Holder to the Issuer, as the case may be, provided that if such breach is curable, does not give rise to a Material Adverse Effect, cannot be cured with reasonable diligence within such fifteen (15) Business Day period and the Issuer or such Subsidiary commences to cure such breach within such fifteen (15) Business Day period and thereafter is continuously and diligently taking steps to cure such breach, such fifteen (15) Business Day period will be extended for a period of time, not exceeding sixty (60) calendar days, until such breach is cured;

- (g) if any representation or warranty in favour of the Holder or the Arranger in any agreement or instrument in respect of this Debenture of which the Holder or the Arranger has the benefit, shall have been incorrect in any material respect, or any such representation or warranty that is qualified by materiality or Material Adverse Effect shall have been untrue in any respect, in each case when made and such representation or warranty (if capable of being corrected) continues to be incorrect for a period of fifteen (15) Business Days after the Arranger on behalf of the Holder gives written notice of such incorrect representation and warranty to the Issuer;
- (h) if the Issuer or any Subsidiary of the Issuer shall: (i) institute or commence proceedings to be adjudicated a bankrupt or insolvent or consent to the filing of a bankruptcy or insolvency proceeding against the Issuer; (ii) file, institute or commence or otherwise take any proceeding relating to reorganization, adjustment, arrangement, composition, compromise, stay of proceedings or relief similar to any of the foregoing under any Applicable Law regarding bankruptcy, insolvency, reorganization or relief of debtors; (iii) consent to the filing of any such proceeding; (iv) consent to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or similar official or to the liquidation, dissolution or winding-up of its or of all or a substantial part of its property and assets; (v) make an assignment for the benefit of creditors; (vi) admit in writing its inability to pay their respective debts generally as they become due; (vii) generally not pay its debts as they come due or otherwise be insolvent; or (viii) take any corporate or other action authorizing or in furtherance of any of the foregoing;
- (i) if any proceeding is filed, instituted or commenced by any Person seeking: (i) to adjudicate the Issuer a bankrupt or insolvent or the liquidation, reorganization, winding-up, adjustment, arrangement, compromise, composition, stay of proceedings or similar relief of or for the Issuer or any of its Subsidiaries under any Applicable Law regarding bankruptcy, insolvency, reorganization or relief of debtors; or (ii) to appoint a receiver, liquidator, trustee or assignee in bankruptcy or similar official of the Issuer or any of its Subsidiaries or of all or a material part of its property and assets, if such proceeding shall continue undismissed or unstayed for a period of sixty (60) calendar days;
- (j) the occurrence of an event of default under any Financial Indebtedness of the Issuer or any of its Subsidiaries exceeding five hundred thousand Dollars (\$500,000), provided that if an event of default under any Financial Indebtedness is cured or waived, the Event of Default hereunder relating thereto shall be deemed to have been cured or waived to the same extent for all purposes;
- (k) if a writ, execution, attachment or similar process is issued or levied against all or a portion of the property of the Issuer in connection with any judgment or judgments against the Issuer or any of its Subsidiaries aggregating in excess of two hundred fifty thousand Dollars (\$250,000) and is not released, satisfied, discharged, vacated or stayed within thirty (30) calendar days after its entry, commencement or levy;
- (l) if final judgments for the payment of money aggregating in excess of two hundred fifty thousand Dollars (\$250,000) shall be rendered against the Issuer or any of its Subsidiaries, by a court of last

resort and the same shall remain undischarged for a period of thirty (30) calendar days during which time such judgments shall not be on appeal or execution thereof shall not be effectively stayed;

- (m) in the reasonable opinion of the Arranger a Material Adverse Effect exists or a Material Adverse Change has occurred; or
- (n) the holder of any Bank Debt requires, as a condition to any advance of such Bank Debt, that the Arranger (for and on behalf of the Holder) enter into an agreement with such holder that has the effect of limiting or restricting the payment of interest on the Principal Sum before a period of 180 days, and after the occurrence of an event or circumstance that is a default or event of default under the terms of such Bank Debt and the holder of such Bank Debt does not take proceedings (other than giving of notice of default or acceleration) to collect to realize upon the security for such Bank Debt within such 180 day period.

6.2 Acceleration

Upon the occurrence of an Event of Default which is continuing, the Arranger on behalf of the Holder may by notice in writing to the Issuer declare the Principal Sum and all accrued interest thereon and all other Obligations to be immediately due and payable and the same shall become immediately due and payable to the Holder and the Issuer shall forthwith pay the same to the Holder failing which all rights and remedies of the Holder hereunder and under the Security Agreements or under Applicable Laws in respect of such non-payment shall become enforceable; provided that upon the occurrence of an Event of Default specified in Section 6.1(h) or 6.1(i), the Principal Sum and all accrued interest thereon and all other Obligations shall automatically become due and payable without any requirement that notice be given by the Holder.

6.3 Remedies - General

Upon and following the occurrence of an Event of Default and acceleration of the Principal Sum in accordance with Section 6.2, the Arranger may, in its sole and absolute discretion exercise all such rights and remedies that may be exercised under the Security Agreements and all other rights and remedies recognized under Applicable Laws against the Issuer or in respect of the Collateral or any part thereof for the enforcement of full payment and performance of all the Obligations.

6.4 Remedies Not Exclusive

No right, power or remedy herein conferred upon or reserved to the Holder or any person acting for or on behalf of the Holder is intended to be exclusive of any other right, power or remedy or remedies, and each and every right, power and remedy shall, to the extent permitted by Applicable Laws, be cumulative and shall be in addition to every other right, power or remedy given hereunder or now or hereafter existing at law, in equity or by statute. The Holder shall have the power to waive any default, provided no such waiver shall be effective unless made in writing by the Holder and shall not constitute a waiver of any other or subsequent default. No delay or omission of the Holder in the exercise of any right, power or remedy accruing upon any default shall impair any such right, power or remedy or shall be construed to be a waiver of any such default or an acquiescence therein. Every right, power and remedy given to the Holder by this Debenture or under Applicable Laws may be exercised from time to time and as often as may be deemed expedient by the Holder. In case the Holder shall have proceeded to enforce any right under this Debenture or any Security Agreement and the proceedings for the enforcement thereof shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Holder, then and in every such case the Issuer and the Holder shall, without any further action hereunder, to the full extent permitted by Applicable Laws, subject to any determination in such proceedings, severally

and respectively, be restored to their former positions and rights hereunder and thereafter all rights, remedies and powers of the Holder shall continue as though no such proceeding had been taken.

6.5 Application of Monies

Subject to Applicable Laws, all monies collected or received by the Holder pursuant to or in exercise of any right or remedy shall be applied on account of the amounts outstanding hereunder in such manner as the Holder deems best or, at the option of the Holder, may be held unappropriated in a collateral account or released to the Issuer, all without prejudice to the liability of the Issuer or the rights of the Holder hereunder, and any surplus shall be accounted for as required by Applicable Laws.

ARTICLE 7 INDEMNITY AND EXPENSES

7.1 No Set-off and Taxes

The Issuer and each Guarantor shall make all payments to the Holder hereunder without any set-off or counterclaim whatsoever and free and clear of, and without deduction for or on account of, any Tax. If any Tax is deducted or withheld from any payments, the Issuer or Guarantor shall promptly remit to the Holder the equivalent of the amounts so deducted or withheld together with such additional amounts as may be necessary so that after making all required deductions or withholdings, including deductions or withholdings applicable to additional amounts paid under this Section 7.1, the Holder shall receive an amount equal to the amount the Holder would have received if no deduction or withholding had been made.

In the event the Issuer or a Guarantor has made a payment pursuant to this Section 7.1 and the Holder determines thereafter that the Holder has been granted or received a credit, refund or remission in respect of the Tax for which the deduction was made, then the Holder shall promptly refund to the Issuer or such Guarantor such amount (if any) as the Holder determines in good faith will leave the Holder in no worse position than would have been the case if there had been no obligation to make such deduction or withholding in the first place. The Holder shall not be obligated to provide to the Issuer or such Guarantor copies of all or any part of the Holder's tax returns, financial statements or other corporate financial data by reason of any such matter.

7.2 Indemnity

- (a) The Issuer hereby covenants with the Holder that the Issuer shall at all times hereafter keep the Holder indemnified and held harmless from and against all suits (whether founded or unfounded), actions, proceedings, judgments, demands or claims asserted, instituted or made against the Holder, and all costs, losses, liabilities, damages and expenses (including all legal fees on a solicitor and his own client, full indemnity, basis) ("Losses") incurred by the Holder in any way relating to, arising out of, or incidental to any of the transactions contemplated by this Debenture, except to the extent such Losses arise out of the intentional or gross fault, gross negligence, willful misconduct or fraud of the Holder or the Arranger. If and for so long as no Default or Event of Default has occurred and is continuing, the Issuer, at the Issuer's option, shall be entitled to conduct the defence of such suit, action or proceeding with the participation of and taking into account the best interests of the Holder. If the Holder shall determine in good faith that a conflict of interest exists or the defence of any such suit, action or proceeding is not being conducted in the best interests of the Holder, the Holder shall on notice to the Issuer (and for the account of the Issuer) be entitled to take over the sole conduct of the defence of such suit, action or proceeding. This indemnity shall extend to the officers, directors, employees and assignees of the Holder.

- (b) The Issuer hereby jointly and severally agrees to indemnify, defend and hold harmless the Holder from and against any and all Environmental Liabilities, losses, costs, expenses, damages, claims, judgments, suits, awards, fines, sanctions and liabilities whatsoever (including any costs or expenses of preparing any necessary environmental assessment report or other similar reports) (collectively, "**Environmental Claims**") incurred by the Holder as a result of:
- (i) any breach of applicable Environmental Laws which relates to the property or operations of the Issuer;
 - (ii) any Release, presence, use, creation, transportation, storage or disposal of Hazardous Substances which relate to the property or operations of the Issuer; or
 - (iii) any claim or order for any clean-up, restoration, detoxification, reclamation, repair or other securing or remedial action which relates to the property or operations of the Issuer;

provided, however, that this indemnity shall not apply in respect of any such Environmental Claims which are caused by the negligence or wilful misconduct of the Holder by reason of any act of, or any act or omission taken at the direction of, the Holder or any of the officers, directors, employees or assignees thereof. This indemnity shall extend to the officers, directors, employees, agents and assignees of the Holder as well as to the Holder itself, and the Holder will hold the benefit of this indemnity in trust for such other indemnified persons to the extent necessary to give effect thereto.

7.3 Expenses

- (a) The Issuer shall supply all statements, reports, certificates, opinions and other documents or information required to be furnished to the Holder by the Issuer under this Debenture without cost to the Holder.
- (b) If the Issuer fails to pay any amounts required to be paid by the Issuer under this Debenture or if the Issuer fails to observe or perform any of the covenants and obligations set forth in this Debenture to be observed or performed by the Issuer, the Holder may, but shall be under no obligation to, pay such amounts or do such act or things as may be required to ensure such observance and performance, without waiving any of the Holder's rights under this Debenture. No such payment, act or thing by the Holder or any receiver shall relieve the Issuer from any Default under this Debenture or the consequences of such Default. The reasonable expenses (including the cost of any insurance and payment of Taxes or other charges and legal fees and expenses on a solicitor and his own client, full indemnity, basis) paid by the Holder shall be deemed advanced to the Issuer by the Holder, shall become part of the Obligations, and shall, from the time they are paid by the Holder or such receiver until repaid by the Issuer, bear interest at the Applicable Interest Rate.
- (c) The Issuer shall pay all reasonable expenses (including legal fees and expenses on a solicitor and his own client basis) incurred by the Holder in connection with the preparation, perfection, execution, protection, enforcement of and advice with respect to this Debenture (including the realization, disposition, retention, protection or collection of the Collateral or any part thereof and the protection and enforcement of the rights of the Holder hereunder and under the Security Agreement and including any expenses incurred in connection with any insolvency, bankruptcy or similar proceedings in respect of or affecting the Issuer or any Guarantor) and such expenses shall become part of the Obligations, and shall, from the time they are paid by the Holder until repaid by the Issuer, bear interest at the Applicable Interest Rate.

7.4 Currency

Unless otherwise provided, all dollar amounts referred to in this Debenture are to Canadian dollars. If, in connection with any action or proceeding brought in connection with this Debenture or any resulting judgment or order, it becomes necessary to convert any amount due hereunder in one currency (the "**first currency**") into another currency (the "**second currency**"), then, except to the extent otherwise required by Applicable Laws, the conversion shall be made at the Judgment Conversion Rate on the first Business Day prior to the day on which payment is received. If the conversion is not able to be made in the manner contemplated by the preceding paragraph in the jurisdiction in which the action or proceeding is brought, then the conversion shall, except to the extent otherwise required by Applicable Laws, be made at the Judgment Conversion Rate on the day on which the judgment is given. If the Judgment Conversion Rate on the date of payment is different from the Judgment Conversion Rate on such first Business Day or on the date of judgment, as the case may be, the party shall pay such additional amount (if any) in the second currency as may be necessary to ensure that the amount paid on such payment date is the aggregate amount in the second currency which, when converted at the Judgment Conversion Rate on the date of payment, is the amount due in the first currency, together with all costs, charges and expenses of conversion. Any additional amount owing pursuant to the provisions of this section shall be due as a separate debt and shall give rise to a separate cause of action and shall not be affected by or merged into any judgment obtained for any other amounts due under or in respect of this Debenture.

The term "**Judgment Conversion Rate**" used in this section means the noon rate of exchange for Canadian interbank transactions in Canadian dollars in the other currency published by the Bank of Canada for the date in question.

ARTICLE 8 TRANSFER OF DEBENTURE

8.1 Register of the Debenture

The Issuer shall keep or cause to be kept a register in which the Holder of this Debenture shall be registered. The name and address of each holder of this Debenture and particulars of this Debenture held shall be entered in the register. For the purposes of this Debenture, the Issuer may treat the Person registered as the Holder as the beneficial owner thereof for all purposes.

8.2 Transfer of Debenture

Except as otherwise expressly provided in this Debenture and subject to the other Transaction Documents and Applicable Laws, the provisions hereof shall enure to the benefit of, and be binding upon, the Parties and their respective successors, permitted assigns, permitted transferees, heirs, executors, administrators and personal representatives. The Holder shall not, without the prior written consent of the Issuer, which consent shall not be unreasonably withheld, assign, transfer or otherwise convey its rights under this Debenture to any Person, provided that the Holder may assign, transfer or otherwise convey its rights under this Debenture to any Person whose investment account in which the Debenture is held is to be managed by the Arranger. Any transfer or assignment shall be subject to Applicable Securities Laws and the transferee agreeing to be bound by the provisions of the Collateral Agency Agreement as successor and assignee of the transferring Holder. Any purported assignment of rights or delegation of obligations in violation of this Section 8.2 shall be null and void, and of no effect.

8.3 Exchange of Debenture

Any one or more Debentures may, upon compliance with the reasonable requirements of the Issuer (including compliance with Applicable Securities Laws), be exchanged for one or more other Debentures representing the same aggregate Principal Sum as represented by this Debenture so exchanged. Any Debenture tendered for exchange shall be cancelled and surrendered by the Holder to the Issuer.

8.4 Replacement Debenture

If this Debenture becomes mutilated or is lost, destroyed or stolen, the Issuer, subject to Applicable Laws, shall issue and deliver, a new debenture of like tenor as the one mutilated, lost, destroyed or stolen in exchange for and in place of and upon cancellation of this Debenture. The Holder shall bear the cost of the issue of a replacement Debenture and in case of loss, destruction or theft shall, as a condition precedent to the issuance thereof, furnish to the Issuer such evidence of ownership and of the loss, destruction or theft of this Debenture as shall be satisfactory to the Issuer, in the Issuer's sole discretion, and the Holder may also be required to furnish an indemnity or security in amount and form satisfactory to the Issuer, in the Issuer's sole discretion, and shall pay the reasonable charges of the Issuer in connection therewith.

ARTICLE 9 SUCCESSOR ISSUER

9.1 Restriction on and in each case etc.

The Issuer shall not carry out a Merger Transaction or enter into any Merger Transaction whereby all or substantially all of the Issuer's undertaking, property and assets would become the property of:

- (a) any other Person; or
- (b) in the case of an amalgamation or merger, of the continuing corporation resulting therefrom;

(in this Section 9.1, such other Person or continuing corporation, as the case may be, is hereinafter referred to as a "Successor Issuer"), unless the Issuer has obtained the consent of the Arranger on behalf of the Holder under Section 5.2, if required, and the Successor Issuer shall execute, prior to or contemporaneously with the consummation of the Merger Transaction, such instruments, if any, as are in the opinion of counsel to the Holder necessary or advisable to evidence:

- (c) the assumption by the Successor Issuer of liability for the due and punctual payment and performance of the Obligations;
- (d) the agreement of the Successor Issuer to observe and perform all the other covenants and obligations of the Issuer under this Debenture and the Security Agreement;
- (e) the grant of Security Interests in the property of such Successor on the terms of the Security Agreement subject to no Encumbrance other than Permitted Encumbrances; and
- (f) the enforceability of this Debenture against the Successor Issuer; and
- (g) the delivery to the Holder of an opinion of independent legal counsel to the Issuer to the effect that terms thereof are substantially to preserve and not impair the Security Interests or any of the powers

or rights of the Holder or of the Arranger under the Security Agreement in respect of the Obligations.

ARTICLE 10 GUARANTEES

10.1 Debenture Guarantees

Each of the Guarantors hereby, jointly and severally, unconditionally guarantees to the Holder and its successors and assigns, irrespective of the validity and enforceability of other provisions of this Debenture:

- (a) the prompt payment in full when due of the Principal Sum of, and Interest on, this Debenture, whether on the Maturity Date, by acceleration, redemption or otherwise, and interest on the overdue Principal Sum of and Interest on this Debenture, if any;
- (b) the prompt payment and performance by the Issuer of all other Obligations of the Issuer to the Holder under this Debenture, all in accordance with the terms of this Debenture; and
- (c) in case of any extension of time of payment or renewal of any Obligation, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay and perform the same immediately.

Each of the Guarantors acknowledges and agrees that it will benefit, directly or indirectly, from the funding being made to the Issuer pursuant to this Debenture and the Debenture Purchase Agreement.

Each of the Guarantors hereby agree that its obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of other provisions of this Debenture, the absence of any action to enforce the same, any waiver or consent by the Holder or any other holder of the Debentures or the Arranger on behalf of the Holder with respect to any provisions of this Debenture, the recovery of any judgment against the Issuer, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor.

Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer any right to require a proceeding first against the Issuer, protest, notice (other than notices required pursuant to this Debenture) and all demands whatsoever and covenant that this Debenture Guarantee will not be discharged except by payment and performance in full of the obligations contained in this Debenture as provided herein.

If the Holder is required by any court or otherwise to return to any Obligor or any custodian, trustee, liquidator or other similar official acting in relation to any Obligor, any amount paid to the Holder under this Debenture or this Debenture Guarantee, such amount, to the extent theretofore discharged, will be reinstated in full force and effect.

Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holder in respect of any Obligations guaranteed hereby until payment and performance in full of all

Obligations guaranteed hereby as provided herein. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holder on the other hand, (i) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Section 6.2 for the purposes of this Debenture Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Obligations as provided in Section 6.2, such Obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Debenture Guarantee. In accordance with the provisions of Section 10.8, the Guarantors will have the right to seek contribution from any non-paying Guarantor or from the Issuer so long as the exercise of such right does not impair the rights of the Holder under this Debenture Guarantee.

10.2 Acknowledgements of the Guarantors

Each Guarantor acknowledges and agrees that the Holder may, subject to the terms and conditions of this Debenture:

- (a) renew or extend all or any portion of the Obligations;
- (b) make changes in the dates specified for payments or performance of any Obligation;
- (c) otherwise modify the terms of this Debenture;
- (d) take and hold the Security for the performance of the Obligations and exchange, enforce, waive and release any such Security;
- (e) enforce the Security and direct the order or manner of sale thereof as the Arranger on behalf of the Holder in its sole discretion may determine if permitted under the Security Agreements or any of them; and
- (f) release, substitute or add any one or more guarantors of the Obligations,

all of the foregoing without prejudice to or in any way releasing, discharging, terminating, limiting, reducing, lessening, impairing or in any way affecting the obligations of any Guarantor under this Debenture Guarantee.

10.3 Waiver of Defences

Each Guarantor hereby waives as against the Holder to the fullest extent permitted by Applicable Laws, any defence relating to:

- (a) any defence based upon any incapacity, disability or lack or limitation of status or power of such Guarantor, any other Obligor or any other person or of the directors, officers, employees, partners or agents thereof, or that any Obligor or any other person may not be a legal entity;
- (b) any change in the existence, structure, constitution, name, control or ownership of such Guarantor, any other Obligor or any other person;
- (c) any limitation, postponement, prohibition, subordination or other restriction on the rights of the Holder to payment of all or any part of the Obligations or to take any steps in respect thereof;

- (d) any defence arising by reason of any failure of the Holder to proceed against any other Obligor or any other person, to proceed against, apply or exhaust any of the Security, or to proceed against or to pursue any other remedy in the power of the Holder whatsoever;
- (e) the benefit of any law which provides that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the Principal Sum obligation or which reduces a guarantor's obligation in proportion to the Principal Sum obligations;
- (f) any defence arising by reason of any failure by the Holder to obtain, perfect or maintain a perfected (or any) Security Interest in or lien or encumbrance upon any Collateral or by reason of any interest of the Holder in any property, whether as owner thereof or the holder of a Security Interest therein or lien or encumbrance thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment by the Holder of any right to recourse or collateral;
- (g) any defence arising by reason of the failure of the Holder to marshal any assets or to apply such principle to any sums of money which it shall be entitled to receive or to other assets upon which it may possess rights;
- (h) any dealing whatsoever with such Guarantor, any other Obligor or other Person or any security, or any failure to do so; and
- (i) any other circumstances which might otherwise constitute a defence available to, or a discharge of such Guarantor, any other act or omission to act or delay of any kind by any other Obligor, such Guarantor or any other person or any other circumstance whatsoever, whether similar or dissimilar to the foregoing, which might, but for the provisions of this Section 10.3, constitute a legal or equitable discharge, limitation or reduction of the obligations of such Guarantor hereunder (other than the payment or satisfaction in full of all of the Obligations).

10.4 Execution and Delivery of Debenture Guarantee

In the event that the Issuer or any of its Subsidiaries creates or acquires any Subsidiary after the date of this Debenture, the Issuer will cause such Subsidiary, as applicable, to comply with the provisions of this Article 10.

10.5 Release of Debenture Guarantees

The Debenture Guarantee contemplated hereby constitutes a continuing guarantee and remains in full force and effect until payment and performance in full and discharge of all Obligations as provided herein.

10.6 Additional Security

This Debenture Guarantee is in addition to and not in substitution for any other security or guarantee given by anyone whomsoever and shall not prejudice any and all security furnished to the Holder or to the Arranger on behalf of the Holder by anyone whomsoever, and held by it or them at any time whatsoever.

10.7 Renunciation to the Benefits of Division and Discussion and Subrogation

The Holder shall not be obliged to exercise any of its rights, remedies or recourses against the Issuer or against others, or to discuss any of the Security or any other security which it may hold from time to time, before being entitled to the full payment and performance by any of the Guarantors of the obligations guaranteed hereunder as provided herein and it shall not be bound to offer or to deliver its Security, if any, before being paid in full. Each Guarantor renounces to the benefits of discussion and division. No Guarantor shall be entitled to any rights of subrogation as against the Holder or the Issuer or any other Obligor or any of their property until the full payment and performance of the Obligations as provided herein.

10.8 Contribution

The Issuer and Guarantors shall, subject to the conditions of Section 10.1, be entitled to contribution from the other of the Issuer and Guarantors, as applicable, the intent of the Issuer and Guarantors being that they shall share in the Obligations in the same proportion as they have benefited from the funding provided directly or indirectly pursuant to this Debenture.

10.9 No Fraudulent Conveyance

Notwithstanding any provision of this Debenture Guarantee to the contrary, it is intended that this Debenture Guarantee, and any interests, liens and Security Interests granted by the Guarantors as security for this Debenture Guarantee, not constitute a "Fraudulent Conveyance" (as defined below) in the event that this Debenture Guarantee or such interest is subject to the U.S. Bankruptcy Code or any applicable fraudulent conveyance or fraudulent transfer law or similar law of any state. Consequently, the Guarantors and the Holder agree that if this Debenture Guarantee, or any such interests, liens or Security Interests securing this Debenture Guarantee, would, but for the application of this sentence, constitute a Fraudulent Conveyance, this Debenture Guarantee and each such lien and Security Interest shall be valid and enforceable only to the maximum extent that would not cause this Debenture Guarantee or such interest, lien or Security Interest to constitute a Fraudulent Conveyance with respect to the relevant Guarantor, and this Debenture Guarantee shall automatically be deemed to have been amended accordingly at all relevant times. For purposes hereof, "Fraudulent Conveyance" means a fraudulent conveyance under Section 548 of the U.S. Bankruptcy Code or a fraudulent conveyance or fraudulent transfer under the provisions of any applicable fraudulent conveyance or fraudulent transfer law or similar law of any state, as in effect from time to time. Furthermore, the amount guaranteed hereunder and the payments to be made under this Debenture Guarantee shall be limited to an amount and payments that will not result in prohibited dividend or distribution under applicable state law.

The foregoing limitation on the liability of the Guarantors is not a restriction on the amount of the guaranteed Obligations of the Issuer or any other guarantor to the Holder, whether in the aggregate or at any one time. If the Holder now holds one or more Guarantees, or hereafter receives additional Guarantees from any Guarantor or any other guarantor of the guaranteed Obligations, the rights of the Holder under all such Guarantees shall be cumulative unless otherwise specified therein. In any such event, this Debenture Guarantee shall not, unless specifically provided otherwise to the contrary, affect or invalidate any of such other Guarantees. The liability of each Guarantor will be the aggregate liability of such Guarantor under the terms of this Debenture Guarantee and any such other Guarantees.

**ARTICLE 11
MISCELLANEOUS**

11.1 Severability

If any one or more of the provisions or parts thereof contained in this Debenture should be judicially determined to be invalid, illegal or unenforceable, the remaining provisions or parts thereof contained herein shall be and shall be conclusively deemed to be, as to such jurisdiction, severable therefrom and:

- (a) the validity, legality or enforceability of such remaining provisions or parts thereof shall not in any way be affected or impaired by the severance of the provisions or parts thereof severed;
- (b) the invalidity, illegality or unenforceability of any provision or any part thereof contained in this Debenture shall not affect or impair such provision or part thereof or any other provisions of this Debenture; and
- (c) to the extent permitted by Applicable Laws, each of the parties hereto hereby waives any provision of law that renders any provision hereof unenforceable in any respect.

11.2 Laws of British Columbia

This Debenture shall be deemed to have been made and shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, without regard to the conflict of laws provisions thereof, and shall be treated in all respects as a British Columbia contract. The Issuer hereby irrevocably submits to the jurisdiction of the courts of the Province of British Columbia for any action, suit or any other proceeding arising out of or relating to this Debenture and any other agreement or instrument mentioned therein or any of the transactions contemplated thereby.

11.3 Submission to Jurisdiction; Waivers

Each Guarantor that is not incorporated under the laws of a Canada or a Province thereof hereby irrevocably and unconditionally:

- (a) submits, for itself and its property, in any action, suit or proceeding relating to this Debenture, or for recognition and enforcement of any judgment in respect thereof, to the sole and exclusive jurisdiction of the Courts of the Province of British Columbia, Canada, sitting in Vancouver, and appellate courts from any decision thereof;
- (b) consents that any such action, suit or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action, suit or proceeding in any such court or that such action, suit or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;
- (c) appoints the Issuer as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any action, suit or proceeding of the nature referred to above; said designation and appointment shall, to the fullest extent permitted by Applicable Laws, be irrevocable until this Debenture is terminated; if any such agent shall cease to act, the Guarantor shall without delay appoint another such agent with an address in Vancouver, British Columbia and shall promptly deliver to the Arranger on behalf of the Holder evidence in writing of such other agent's acceptance of such appointment;

- (d) consents, to the fullest extent it may effectively do so under Applicable Laws, to process being served in any action, suit or proceeding of the nature referred to above by mailing a copy thereof by registered or certified air mail, postage prepaid, return receipt requested, to the address of the party to whom it is addressed specified in or designated pursuant to Section 11.4(a) or by serving a copy thereof upon the relevant agent for service of process referred to above at the address set forth in respect of such agent in subsection (c) above (whether or not the appointment of such agent shall for any reason prove to be ineffective or such agent shall accept or acknowledge such service);
- (e) waives, to the fullest extent it may effectively do so under Applicable Laws, all claim of error by reason of any such service and agrees, to the fullest extent it may effectively do so under Applicable Laws, that such service (i) shall be deemed in every respect effective service of process upon a party hereto in any such action, suit or proceeding and (ii) shall be taken and held to be valid personal service upon and personal delivery to such party; and
- (f) agrees that nothing contained herein shall affect the right of any party hereto to serve process in any other manner permitted by Applicable Laws.

11.4 Notices

All notices, reports or other communication required or permitted by this Debenture must be in writing and shall be delivered by (a) personal delivery, (b) certified or registered mail (first class postage pre-paid), (c) guaranteed overnight delivery by recognized national courier, or (d) facsimile transmission or email transmission, addressed to the party to which the notice is to be given at its address, facsimile number or email address for service herein (or to such other address which such party may subsequently designate by ten (10) calendar days' advance written notice to the other party). Any notice, consent, waiver, direction or other communication made or given by personal delivery, courier or facsimile transmission to the party to whom it was addressed as aforesaid shall be deemed to have been given and received on the date on which it was so delivered at such address (if a Business Day, and if not, or received after 4:00 p.m. local time, the next succeeding Business Day) or if sent by prepaid registered mail be deemed to have been given and received on the fourth Business Day following the date of its mailing or if sent by email transmission be deemed to have been given and received at the time of receipt unless actually received after 4:00 p.m. local time or on a date that does not fall on a Business Day at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address, facsimile or email address for service of each of the parties shall be as follows or at such other address as a party may designate by ten (10) calendar days' advance written notice to the other party:

- (a) if to the Issuer or any Guarantor:

1006903 B.C. Ltd.
Suite 2390 - 1055 West Hastings Street
Vancouver, B.C. V6E 2E9
Canada

Attention: Nicholas Bozikis
email: nick@hardycapital.com

with a copy to (which shall not constitute notice):

A-45

Michael, Evrensel & Pawar LLP
Suite 650, 669 Howe Street
Vancouver, British Columbia V6C 0B4

Attention: Ryan Patryluk
Telecopier No.: 604-669-1953
email: rpatryluk@meplaw.ca

(b) if to the Holder:

Deans Knight Capital Management Ltd.
1500-999 West Hastings Street
Vancouver, British Columbia V6C 2W2
Canada

Attention: Dillon Cameron
Telecopier No.: 604-669-0238
email: dcameron@deansknight.com

with a copy to (which shall not constitute notice):

Farris, Vaughan, Wills & Murphy LLP
25th Floor – 700 W. Georgia St.
Vancouver, British Columbia V7Y 1B3
Canada

Attention: Mitchell Gropper, Q.C.
Telecopier No.: 604-661-9349
email: mgropper@farris.com

or the last address or telecopier number of the party concerned, notice of which was given in accordance with this Section 11.4.

11.5 No Amendment or Waiver

Notwithstanding any other provisions of this Debenture, no amendment or waiver of any provisions of this Debenture, nor consent to any departure by the Issuer therefrom, shall in any event be effective unless the same shall be in writing and signed by an officer of the Holder, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given and shall not extend to or be taken in any manner whatsoever to affect any subsequent breach or default or to affect the rights of the Holder resulting therefrom.

11.6 Further Assurances

The parties hereto shall at all times promptly do, make, execute, acknowledge, deliver, or cause to be done, made, executed, acknowledged or delivered, all such further acts, deeds, agreements and other instruments as may reasonably be required or desirable to give full force and effect to the terms of this Debenture and shall take such steps as may be reasonably within its power to implement the full extent of this Debenture.

11.7 Oral Agreements not Enforceable under Washington Law

ORAL AGREEMENTS OR ORAL COMMUNICATIONS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

[Remainder of page intentionally left blank]

Exhibit A**Permitted Encumbrances**

"Permitted Encumbrances" means the following types of Encumbrances:

- (a) statutory Encumbrances of landlords and Encumbrances of carriers, warehousemen, mechanics, suppliers, material men, repairmen and other Encumbrances imposed by law incurred in the ordinary course of business and Encumbrances for taxes, assessments or governmental charges or claims, in either case, for sums not yet overdue or being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof;
- (b) Encumbrances incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, trade contracts, leases, government contracts, surety and appeal bonds, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);
- (c) Encumbrances upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (d) Encumbrances encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Issuer, including rights of offset and setoff;
- (e) bankers' liens, rights of setoff and other similar Encumbrances existing solely with respect to cash on deposit in one or more accounts maintained by the Issuer, in each case granted in the ordinary course of business in favour of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; provided, however, that in no case shall any such Encumbrances secure (either directly or indirectly) the repayment of any Indebtedness (as such term is defined in the Debentures);
- (f) leases or subleases (or any Encumbrances related thereto) granted to others that do not materially interfere with the ordinary course of business of the Issuer;
- (g) any action, claim, lis pendens, certificate of pending litigation, attachment or judgment Encumbrances which are being contested in good faith by appropriate proceedings;
- (h) easements, rights-of-way, restrictions and other similar charges or encumbrances not materially interfering with the ordinary course of business of the Issuer;
- (i) zoning restrictions, building bylaws, ordinances, regulations, licenses, and other restrictions on the use of real property or minor irregularities in title thereto, which do not materially impair the use of such real property in the ordinary course of business of the Issuer and its Subsidiaries or the value of such real property for the purpose of such business;
- (j) any right of expropriation, access and use and all other similar rights conferred upon or vested in any Governmental Authority or agency imposed by law not materially interfering with the ordinary course of business of the Issuer;

A-48

- (k) any right reserved to or vested in any Governmental Authority or agency by law or by the terms of any lease, grant or permit to terminate any such lease, grant or permit not materially interfering with the ordinary course of business of the Issuer;
- (l) any right of first refusal, right of first offer, option, contract or other agreement to sell an asset existing on the date hereof and set forth in Schedule 4 to the Debenture Purchase Agreement; and
- (m) encumbrances securing Hedging Obligations entered into for bona fide hedging purposes of the Issuer not for the purpose of speculation.

A-49

Exhibit 3.8(d)**Form of Opinion of Issuer's Counsel**

[DATE]

Deans Knight Capital Management Ltd., in its capacity as Arranger
Suite 1500, 999 West Hastings Street
Vancouver, BC V6C 2W2

Dear Mesdames and Sirs:

RE: 1006903 B.C. Ltd.

1. SCOPE OF REVIEW

We have acted as counsel to 1006903 B.C Ltd. (the "**Corporation**") in connection with the negotiation, execution and delivery of a debenture purchase agreement (the "**Debenture Purchase Agreement**") dated •, 2014 between the Corporation and Deans Knight Capital Management Ltd., in its capacity as arranger (the "**Arranger**"), pursuant to which the Arranger, in its capacity as portfolio manager for the Investors (as such term is defined in the Debenture Purchase Agreement) (the "**Investors**"), purchased secured convertible debentures of the Corporation in the aggregate principal amount of ten million Dollars (\$10,000,000), guaranteed, jointly and severally, by Shoeme Technologies Limited, A12345 Holdings, Inc., Gerler and Son, Inc. and Shoes.com, Inc.

1.1 This opinion is being provided pursuant to section 3.8(d) of the Debenture (as defined below). Capitalized terms used but otherwise not defined in this opinion have the same meaning herein as are ascribed thereto in the Debenture Purchase Agreement.

1.2 For the purposes of giving this opinion we have examined and reviewed executed copies of the following documents:

- (a) the Debenture in the aggregate principal amount of • Dollars (\$•) (the "**Debenture**") issued by the Corporation in favour of • (the "**Investor**"); and
- (b) the notice of conversion dated [] issued by the Investor to the Corporation pursuant to Section 4.1(c)(i) of the Debenture (the "**Conversion Notice**" and together with the Debenture, the "**Reviewed Documents**").

2. LEGAL SYSTEM

2.1 The scope of our review is restricted to and this opinion is rendered solely with respect to the laws of the Province of British Columbia (the "**Jurisdiction**"), and the federal laws of Canada having application therein as of the date hereof (collectively, "**Applicable Laws**"). The expression "**BC Courts**" means the courts of the Province of British Columbia and the federal courts constituted in Canada, the jurisdiction of which extends to disputes arising in the Jurisdiction.

3. RELIANCE AND ASSUMPTIONS

3.1 In the examination and consideration of the documents (including the Reviewed Documents) required to deliver this opinion, we have assumed the genuineness of all signatures thereto, other than the signatures on behalf of the Corporation, the legal capacity of all individuals, the authenticity of all documents submitted to us as originals, the conformity to authentic original documents of all documents submitted to us as photostatted, telecopied, conformed or certified copies and the truth, accuracy, currency and completeness of any information provided to us by public officials or otherwise

conveyed to us by public officials, including, without limitation, the reliability of all search results obtained by electronic transmission, of the indices and filing systems maintained by the public offices and registries where we have searched, or enquired, or have caused searches or enquiries to be made.

3.2 We have assumed that each party to the Reviewed Documents (other than the Corporation) (a) is a valid and subsisting corporation under its jurisdiction of incorporation, (b) has the necessary capacity, power and authority to execute, deliver and perform its obligations under the Reviewed Documents, (c) has taken all necessary corporate, statutory, regulatory and other action necessary to authorize the execution, delivery and performance by it of the Reviewed Documents and (d) has duly executed and delivered the Reviewed Documents and that such delivery has been properly made under all applicable laws.

3.3 We have assumed that the Reviewed Documents have not been delivered subject to any condition or escrow which has not been satisfied.

3.4 We have assumed the Reviewed Documents are the legal, valid and binding obligations of the parties thereto (other than the Corporation), enforceable against such parties in accordance with their respective terms.

3.5 We have assumed the identity and authority of any person acting or purporting to act in a representative capacity (other than representatives of the Corporation) or as a public official.

3.6 For the purposes of this opinion, we have also examined such other records, certificates and documents and have considered such questions of law and made such investigations and inquiries as we have considered necessary or advisable for the purposes of this opinion, including the following:

- (a) a Certificate of Good Standing for the Corporation dated • and issued by the Registrar of Companies for British Columbia (the “**Certificate of Good Standing**”);
- (b) an officer's certificate (the “**Officer's Certificate**”) of the Corporation attached hereto as Schedule “A” attaching thereto a copy of the resolutions of the Board of the Corporation;
- (c) the form of certificates for the Common Shares issuable upon conversion of the Debenture;
- (d) as to the Corporation's status as a reporting issuer in the Province of British Columbia the Corporation's profile as of • on the System for Electronic Document Analysis and Retrieval (SEDAR) maintained by the Canadian Securities Regulators and the list of reporting issuers in default maintained by the British Columbia Securities Commission as of • (the “**Reporting Issuer Documents**”); [NTD: include any other jurisdictions where the Common Shares are listed]
- (e) a certificate of • dated • in respect of the issued and outstanding share capital of the Corporation (the “**Transfer Agent Certificate**”); and
- (f) [a letter providing conditional approval from the [Exchange] (the “[**Exchange**]”) dated •, pursuant to which the [Exchange] has approved the listing of the Common Shares on the satisfaction of certain conditions (the “**Listing Conditions**”) specified in that letter.]

3.7 We have assumed that any person involved in any of the trades referred to below that is in the business of trading in securities or advising as to the investing in or buying or selling of securities, holds themselves out as being in the business of so trading or so advising or acts as an underwriter or agent, is duly registered as required under all Applicable Laws of any Governmental Authority relating to the

distribution, issue, transfer, trading or purchase and sale in or of securities (collectively, "**Applicable Securities Laws**"), and has complied with such laws or terms of registration.

3.8 In expressing the opinion in paragraph 4.1, we have relied exclusively upon the Certificate of Good Standing.

3.9 In expressing the opinion in paragraph 4.2, we have relied exclusively upon the Transfer Agent Certificate.

3.10 In expressing the opinions in paragraphs 4.6 and 4.7, we have assumed that the representations and warranties of the Arranger in the Debenture Purchase Agreement are true and correct as of the date hereof.

3.11 Whenever our opinion herein with respect to the existence or absence of any agreement or other instrument or any judgment, writ, injunction, decree, order, award or ruling is qualified by the expression "to our knowledge" or "of which we are aware" or words to like effect, it is based solely on the actual knowledge of our current partners and associate lawyers directly involved in, and obtained during the course of, representing the Corporation in connection with the matters contemplated by the Reviewed Documents, without having made any special inquiries in this regard.

4. **OPINION**

Based upon and subject to the foregoing and subject to the qualifications hereinafter set forth, we are of the opinion that:

4.1 The Corporation validly exists as a company under the *Business Corporations Act* (British Columbia) (the "**Act**"), and is, with respect to the filing of annual reports, in good standing with the Office of the Registrar of Companies for the Jurisdiction.

4.2 Based on the Transfer Agent Certificate, the authorized capital of the Corporation consists of an unlimited number of Common Shares of which • (•) Common Shares are issued and outstanding.

4.3 The Common Shares have been duly and validly created, authorized, reserved and allotted for issuance and are validly issued as fully paid and non-assessable shares of the Corporation.

4.4 The Company is a "reporting issuer" under Applicable Securities Laws, and is not noted in default by the British Columbia Securities Commission [**NTD: include any other jurisdictions where the Common Shares are listed**].

4.5 [As of the date hereof, the [Exchange] has approved the listing on the Exchange of the Common Shares, subject to satisfaction of the Listing Conditions.]

4.6 The issuance of the Common Shares by the Corporation to the Investor is exempt today from the prospectus requirements of the Jurisdiction, and no other document is required to be filed, no proceeding is required to be taken, and no approval, permit, consent, order or authorization of any regulatory authority of the Jurisdiction is required to be obtained under Applicable Securities Laws to permit the issuance of the Common Shares by the Corporation.

4.7 The first trade of the Common Shares in the Jurisdiction will not be deemed to be a distribution and will not be subject to the prospectus requirements under Applicable Securities Laws provided that:

- (a) the Corporation is and has been a reporting issuer in a jurisdiction in Canada for at least the four months immediately preceding the first trade;
- (b) at least four months have elapsed from the "distribution date", as that term is defined in National Instrument 45-102 – *Resale of Securities* ("NI 45-102"), of the Debenture;
- (c) the certificate representing the Common Shares carries the legend, or an ownership statement issued under a direct registration system or other electronic book-entry system acceptable to the regulator, bearing a legend restriction notation, prescribed by section 2.5(2)(3)(i) of NI 45-102; and
- (d) at the time of such first trade:
 - (i) such first trade is not a "control distribution" as that term is defined in section 1.1 of NI 45-102;
 - (ii) no unusual effort is made to prepare the market or to create a demand for the Common Shares,
 - (iii) no extraordinary commission or consideration is paid to a person or company in respect of such trade, and
 - (iv) if the Investor is an insider of the Corporation, the Investor has no reasonable grounds to believe that the Corporation is in default of "securities legislation" (as that term is defined in National Instrument 14-101 – *Definitions*).

5. QUALIFICATIONS AND LIMITATIONS

5.1 The opinions expressed herein are subject to the following qualifications:

- (a) the effects of any applicable bankruptcy, winding up, liquidation, insolvency, fraudulent preference, reorganization, moratorium or any other laws or judicial decisions of whatsoever nature or kind affecting the enforcement of creditors' rights and remedies generally, including, without limitation, the applicable provisions of the *Bankruptcy and Insolvency Act* (Canada), *Winding-Up and Restructuring Act* (Canada), *Companies' Creditors Arrangement Act* (Canada) and *Canada Business Corporations Act*;
- (b) general principles of equity which may apply to any proceeding, whether in equity or at law, including, without limitation:
 - (i) the powers of a court to stay proceedings before it and to stay the execution of judgments and to relieve from the consequences of default;
 - (ii) the concepts of materiality, good faith and fair dealing;
 - (iii) equitable remedies, such as specific performance and injunctive relief, may only be available in the discretion of a court and accordingly may not be available as a remedy in any particular circumstance; and
 - (iv) principles limiting the availability of a remedy under a circumstance where the Investor has elected another remedy;

- (c) the ability to recover certain costs, fees and expenses in connection with litigation brought before the BC Courts to enforce provisions of the Reviewed Documents is in the discretion of the BC Courts and counsel fees are subject to taxation;
- (d) claims becoming barred under laws regarding limitation of actions;
- (e) determinations, calculations, demands, requests, instructions and acts made by the Investor in the exercise of a discretion given to it, may not be enforceable if made or performed unreasonably or arbitrarily, and may not be treated as conclusive notwithstanding contrary provisions in any Reviewed Document;
- (f) limitations upon the right of the Investor to enforce an obligation on the basis of a default of a minor or non-substantive nature or having insubstantial consequences to the Investor;
- (g) although we are unaware of any facts which would lead us to believe that a vitiating factor such as mistake, misrepresentation, duress or undue influence has occurred, the effect of such a vitiating factor; and
- (h) in expressing the opinion in paragraph 4.7 with respect to the first trade of securities, such opinion is subject to the qualifications that:
 - (i) such trade is not a trade constituting a transaction or part of a series of transactions involving a purchase and sale or repurchase and resale in the course of or incidental to a distribution, as defined in the Applicable Securities Laws;
 - (ii) at the time of such trade, no orders, ruling or decision of any court, regulatory or administrative body is in effect at any relevant time that restricts any trades in the securities of the Corporation, that affects any person who engages in such trades or that has the effect of preventing or restricting the applicable transaction; and
 - (iii) such trade is not made by a person or company in a "special relationship" with the Corporation with knowledge of a "material fact" or "material change" which has not been generally disclosed (as each such term is defined under Applicable Securities Laws).

6. RELIANCE LIMITATION

6.1 This opinion is given solely for the benefit of the addressees hereof, relates exclusively to the transactions outlined above and may not be used, relied upon or distributed to any other person, other than the Investor, or used in connection with any other transaction without our express prior written consent. This opinion is given as of the date hereof and we disclaim any obligation or undertaking to advise you of a change in law or fact affecting or bearing upon the opinions rendered herein occurring after the date hereof which may come or be brought to our attention.

Yours truly,

SCHEDULE "A"
Officer's Certificate

A-50

Exhibit 3.8(e)**Form of Accession Deed**

Reference is made to the Shareholders' Agreement dated as of July 7, 2014, among 1006903 B.C. Ltd. (the "Company") and the Shareholders party thereto, as amended, supplemented or otherwise modified (the "Shareholders' Agreement").

This Accession Deed dated the ____ day of _____, _____ is being executed and delivered pursuant to Section 3.8 or 4.1, as applicable, of the secured convertible debenture of the Company dated December 12, 2014 in the principal amount of \$_____ and registered to _____. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Shareholders' Agreement.

The undersigned, a holder of Shares in the capital of the Company, hereby agrees to be bound by and benefit from the terms and conditions of, and to become a party to, the Shareholders' Agreement (a copy of which is attached hereto) as a Shareholder, as if the undersigned had been a party to such Agreement as of the date thereof and such terms and conditions will enure to the benefit of and be binding upon the undersigned, its successors and its permitted assigns. Notwithstanding the foregoing, the undersigned shall not be bound by Article IX (*Non-Competition*) of the Shareholders' Agreement.

The undersigned hereby acknowledges (a) receipt of a complete copy of the Shareholders' Agreement and (b) that the undersigned has read and understands the provisions of the Shareholders' Agreement.

The undersigned acknowledges and confirms that, prior to executing this Accession Deed, the Company requested the undersigned to obtain independent legal advice with respect to the undersigned's rights and obligations under the Shareholders' Agreement. The undersigned confirms and agrees that (a) the undersigned has executed this Accession Deed on the undersigned's own volition and without any duress whatsoever from the Company, the other Shareholders or any other Person and (b) if the undersigned did not obtain legal advice prior to executing this Accession Deed, the undersigned will not in any proceeding relating to the enforcement of rights or obligations under the Shareholders' Agreement raise that fact as a defence or otherwise.

The undersigned's contact particulars for the purposes of the records of the Company are as follows:

[Name]
[Address]
[Fax]
[E-mail]

IN WITNESS WHEREOF, the undersigned has executed this Accession Deed on the date first noted above.

[[If a corporation:]]

[insert name of acceding shareholder]

Per: _____

Name:

Title:]

A-51

[[If an individual:])
Signed, Sealed and Delivered in the presence)
of:) _____
) [insert name of acceding shareholder]
_____))
Witness))
))
Name:)
Address:])

Acknowledged and Agreed:

1006903 B.C. LTD.

By: _____
Name:
Title:

ROGER HARDY CAPITAL CORPORATION INC.

By: _____
Name:
Title:

Date:

PELECANUS INVESTMENTS LTD.

By: _____
Name:
Title:

[Such other person as is a party to the Shareholders Agreement at the date of this Accession Deed

By: _____
Name:
Title:]

A-52

SCHEDULE A**Prepayment Notice**

1006903 B.C. Ltd.

SECURED CONVERTIBLE DEBENTURES**PREPAYMENT NOTICE**

To: Holders (the "**Holders**") of the Secured Convertible Debentures (the "**Debentures**") of 1006903 B.C. Ltd. (the "**Issuer**")

Note: All capitalized terms used herein have the meaning ascribed thereto in the debenture purchase agreement dated December 12, 2014 among the Issuer and Deans Knight Capital Management Ltd. unless otherwise indicated. All references to \$ shall be to lawful money of Canada, unless otherwise indicated.

Notice is hereby given pursuant to Section 3.4 of each of the Debentures that the aggregate principal amount of the Debentures outstanding will be prepaid on _____ (the "**Prepayment Date**"), upon payment of the Principal Sum and all accrued and unpaid Interest thereon to but excluding the Prepayment Date (collectively, the "**Total Prepayment Price**").

Attached hereto is an Officers' Certificate certifying that the Current Market Price as at the Trading Day ending three (3) Trading Days before the date of this Prepayment Notice was not less than one hundred and seventy-five percent (175%) of the Conversion Price.

The Total Prepayment Price will be payable upon presentation and surrender of the Debentures to be prepaid at _____.

The Interest upon the Principal Sum shall cease to be payable from and after the Prepayment Date, unless payment of the Total Prepayment Price shall not be made on presentation for surrender of such Debentures at the above office on or after the Prepayment Date.

Pursuant to Section 3.4 of each of the Debenture, the Issuer hereby irrevocably elects to satisfy its obligation to pay the Principal Sum by issuing and delivering to the Holders that number of Common Shares obtained by dividing the Principal Sum by the Conversion Price in effect at the close of business on the Business Day immediately preceding the Prepayment Date, together with payment in cash of accrued and unpaid Interest, if any, up to the Prepayment Date.


Upon presentation and surrender of the Debentures for payment on the Prepayment Date, the Issuer shall, on the Prepayment Date, make the delivery to the Arranger, for delivery to and on account of each of the Holders, of certificates representing the Common Shares to which each of the Holders is entitled.

DATED: _____

1006903 B.C. Ltd.

By _____
its:

This is **EXHIBIT "C"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.


A Commissioner for taking
Affidavits within British Columbia

GENERAL SECURITY AGREEMENT

THIS SECURITY AGREEMENT is made as of the 12th of December, 2014.

BETWEEN:

SHOEME TECHNOLOGIES LIMITED, a company governed by the *Canada Business Corporations Act*, 4th Floor - 1500 West Georgia Street, Vancouver, British Columbia, V6G 2Z6

(the "Debtor")

AND:

DEANS KNIGHT CAPITAL MANAGEMENT LTD., a corporation governed by the *Canada Business Corporations Act*, 1500 - 999 West Hastings Street, Vancouver, British Columbia, V6C 2W2, in its capacity as Collateral Agent (as defined below)

RECITALS:

- A. Pursuant to a Debenture Purchase Agreement dated the date hereof (the "**Debenture Purchase Agreement**") between 1006903 B.C. Ltd. (the "**Parent**") and Deans Knight Capital Management Ltd. ("**Deans Knight**"), acting as portfolio manager on behalf of certain investors (the "**Holders**"), Deans Knight has committed to purchase secured convertible debentures of the Parent (each a "**Debenture**" and collectively, the "**Debentures**") in the aggregate principal amount of ten million Canadian dollars (Cdn\$10,000,000) on the security of, *inter alia*, a general security agreement charging all of the Debtor's present and after acquired personal property, assets and undertaking.
- B. Pursuant to a collateral agency agreement dated the date hereof among the Parent, Deans Knight and the Holders, Deans Knight has been appointed as collateral agent for and on behalf of the Holders (in such capacity, the "**Collateral Agent**").
- C. The Debtor wishes to enter into this general security agreement (this "**Security Agreement**") to provide for the terms upon which the Debtor is prepared to grant to the Collateral Agent (as collateral agent for the benefit of the Holders), as general and continuing collateral security, a security interest in all of the personal property, assets and undertaking of the Debtor to secure payment and performance of the Obligations (as defined below).

1. Security Interest

1.1 For good and valuable consideration and as general and continuing security for the payment and performance of all indebtedness, liability and obligations of the Debtor under or in connection with the Debentures of the Parent issued to the Holders, including all indebtedness, liability and obligations of the Parent to the Holders under or in connection with the Debentures, whether present or future, and any ultimate balance thereof (all of which indebtedness, liability, and obligations are herein collectively called the "**Obligations**"), the Debtor, subject to the exceptions set out in Section 2 hereof, hereby mortgages, charges, pledges and assigns to the Collateral Agent, and grants to the Collateral Agent a security interest in, all the Debtor's right, title and interest in and to all presently owned or held and after

- 2 -

acquired or held personal property, assets and undertaking of the Debtor, of whatever nature or kind and wheresoever situate and all proceeds derived directly or indirectly thereof and therefrom, and all substitutions therefor and accretions thereto including, without limiting the generality of the foregoing:

- (a) Equipment - all equipment, including, without limiting the generality of the foregoing, all machinery, tools, fixtures, furniture, furnishings, chattels, motor vehicles, vessels and other tangible personal property that is not Inventory, and all parts, components, attachments, accessories, accessions, replacements, substitutions, additions and improvements to any of the foregoing (all of which is herein collectively called the "Equipment");
- (b) Inventory - all inventory, including without limiting the generality of the foregoing, goods acquired or held for sale or lease or furnished or to be furnished under contracts of rental or service, all raw materials, work in process, finished goods, returned goods, repossessed goods, and all packaging materials, supplies and containers relating to or used or consumed in connection with any of the foregoing (all of which is herein collectively called the "Inventory");
- (c) Accounts - all debts, accounts, claims, monies and choses in action which now are, or which may at any time hereafter be, due or owing to or owned by the Debtor and all books, records, documents, papers and electronically recorded data recording, evidencing or relating to the said debts, accounts, claims, monies and choses in action or any part thereof (all of which is herein collectively called the "Accounts");
- (d) Other Personal Property - all documents of title, chattel paper, instruments, securities and money, and all other goods of the Debtor that are not Equipment, Inventory or Accounts;
- (e) Shares of Subsidiaries - all right, title and interest of the Debtor in and to the shares of any Subsidiary (the "Shares") and any and all accretions, additions, accessions, substitutions and replacements thereto or therefor (the Shares and such accretions, additions, accessions, substitutions and replacements herein collectively called the "Securities"), together with all money, income, proceeds and benefits, of every nature and kind whatsoever, now or at any time hereafter due, owing, payable or accruing on, under or in respect of the Securities or otherwise attributable or accruing thereto, including, without limitation, all distributions of earnings or capital (including, without limitation, all dividends in cash and dividends in kind, liquidating dividends, stock dividends, new security or other properties or benefits to which the Debtor is or may hereafter become entitled to receive on account of the Securities and all payments by way of reduction of capital);
- (f) Intangibles - all contractual rights, licenses, goodwill, patents, trademarks, trade names, copyrights and other intellectual property of the Debtor, all other choses in action of the Debtor of every kind which now are, or which may at any time hereafter be, due or owing to or owned by the Debtor, and all other intangible property of the Debtor that is not Accounts, chattel paper, instruments, documents of title, securities or money; and
- (g) Proceeds - all proceeds derived directly or indirectly from any use or dealing with the collateral referred to in subsections (a) through (f) hereof including, without limiting the generality of the foregoing, proceeds of sale, lease or other dispositions of any such collateral, proceeds of a kind similar to the above described items, and money, cheques

- 3 -

or deposit accounts in deposit taking institutions (herein collectively referred to as "Proceeds").

and for the same consideration, the Debtor hereby mortgages, charges, pledges and assigns, as and by way of a floating charge, all of the Debtor's other properties, assets and undertaking for the time being and from time to time, real and personal, moveable and immoveable, both present and future, now owned or hereafter acquired of whatsoever nature and kind and wheresoever situate.

(All of the foregoing mentioned property is herein collectively referred to as the "Collateral").

2. Exceptions

2.1 The charges and Security Interests granted hereunder shall not extend to the last day of the term created by any lease or agreement therefor but the Debtor shall stand possessed of the reversion thereby remaining upon trust to assign and dispose thereof to any third party as the Collateral Agent shall direct in the course of any enforcement of the Security Interests hereby created or any realization on all or any portion of the Collateral.

2.2 There shall be excluded from the Security Interests hereby created any consumer goods of the Debtor.

3. Continuing Secured

3.1 This Security Agreement and the Security Interests hereby created are in addition to and not in substitution for any other Security Interest now or hereafter held by the Collateral Agent from the Debtor or from any other Person whomsoever.

4. Unlimited Liability Shares

4.1 Notwithstanding any other provision in this Security Agreement, to the extent that any shares (the "Unlimited Liability Shares") in an unlimited liability company formed under the laws of the Province of British Columbia (an "Unlimited Company") constitute Collateral, unless the Collateral Agent otherwise approves, the Collateral Agent shall not become or be deemed to become a member or shareholder, or obtain or have the right to obtain any other indicia of ownership of any Unlimited Company, and no provision in this Security Agreement (except this Section 4) or actions taken by any Collateral Agent pursuant to this Security Agreement which might provide or be deemed to provide otherwise, in whole or in part, shall, without the express written consent of such Collateral Agent, apply in respect of Unlimited Liability Shares. For the avoidance of doubt, and except as otherwise provided in the last sentence of this Section 4.1 and except with the approval of the Collateral Agent, no provision of this Security Agreement or actions taken by such Collateral Agent pursuant to this Security Agreement shall apply or be deemed to apply so as to cause the Collateral Agent to be, and the Collateral Agent shall not be or be deemed to be, or entitled to:

- (a) be registered as a shareholder or member, or apply to be registered as a shareholder or member, of any Unlimited Company;
- (b) request or assent to a notation being entered in the Collateral Agent's favour in the share register in respect of Unlimited Liability Shares;
- (c) hold itself out as a shareholder or member of any Unlimited Company; or

- 4 -

- (d) act or purport to act as a member of any Unlimited Company, or obtain, exercise or attempt to exercise any rights of a shareholder or member, including the right to attend a meeting of, or to vote any Unlimited Liability Shares or to be entitled to receive any distribution in respect of Unlimited Liability Shares.

4.2 The foregoing limitation shall not restrict the Collateral Agent from exercising the rights which the Collateral Agent is entitled to exercise hereunder in respect of any Unlimited Liability Shares constituting Collateral at any time that the Collateral Agent shall be entitled to realize on all or any portion of the Collateral.

5. Investment Property and Securities

5.1 If the Collateral at anytime includes investment property which is or is to be credited to a securities account established by the Debtor with a securities intermediary, the Debtor shall notify the Collateral Agent and, at the written request of the Collateral Agent, shall procure that the relevant securities intermediary shall enter into an agreement with the Collateral Agent which includes such terms as may be required by the Collateral Agent to ensure that the Collateral Agent has exclusive control over all investment property held in the relevant securities account following the occurrence of an Event of Default that is continuing including, but not limited to, an agreement of the securities intermediary that it will comply with entitlement orders that are originated by the Collateral Agent without the further consent of the Debtor. If the Collateral at any time includes securities for which a certificate (including, without limitation, any certificate representing a stock dividend or a distribution in connection with any reclassification, increase or reduction of capital) is or may be issued to the Debtor, at the written request of the Collateral Agent, the Debtor will deliver the certificates representing the same to the Collateral Agent together with stock powers of attorney in form sufficient for such securities to be transferred on the books of the issuer thereof. Upon the enforcement of the Security Interests granted hereunder, the Debtor authorizes the Collateral Agent to transfer the same or any part thereof into its own name or that of its nominee(s) so that the Collateral Agent or its nominee(s) may appear on record as the sole owner thereof.

5.2 So long as no Event of Default has occurred and is continuing, the Debtor will be entitled to vote or refrain from voting the Securities at any meeting, whether special or general, at which the holder of the Securities is entitled to vote and will be entitled to take part in or consent to or refrain from taking part in or consenting to any corporate or members' action which the holder of the Securities is entitled to take part in or consent to; provided that:

- (a) the Debtor has given the Collateral Agent not less than five (5) Business Days' prior notice of the manner in which the Debtor intends to exercise, or the reasons for refraining from exercising, any such right to vote or to take part in or consent to any such corporate action;
- (b) the exercise of such right to vote or to take part in or consent to any such corporate action would not result in a contravention of any covenant or agreement of the Debtor to the Collateral Agent, or under any other agreement evidencing or securing any of the Obligations; and
- (c) the exercise of such right to vote or to take part in or consent to any such corporate action would not, in the opinion of the Collateral Agent, have a Material Adverse Effect on the value of the Collateral or any part thereof.

5.3 Upon the occurrence and during the continuance of any Event of Default, all rights of the Debtor pursuant to Section 5.2 will cease and the Collateral Agent will be entitled (whether or not the

- 5 -

Securities are registered in the name of the Collateral Agent or its nominee) to vote or refrain from voting or direct the Debtor or any other person as the Collateral Agent may appoint to vote or refrain from voting the Securities at any meeting, whether special or general, at which the holder of the Securities is entitled to vote and will be entitled to take part in or consent to or refrain from taking part in or consenting to or direct the Debtor or any other person as the Collateral Agent may appoint to take part in or consent to or refrain from taking part in or consenting to any corporate action which the holder of the Securities is entitled to take part in or consent to and the Debtor hereby irrevocably constitutes and appoints the Collateral Agent and any other person appointed by the Collateral Agent as its true and lawful attorney in fact and agent for, in the name of and on behalf of the Debtor, to vote upon the Securities or to take part in or consent to any such corporate action, and when so acting or refraining from acting, neither the Collateral Agent nor any person appointed by the Collateral Agent will incur any liability or responsibility of any kind whatsoever to the Debtor.

5.4 Subject to Section 15.2, if any money, income, proceed or other benefit, of any nature or kind whatsoever, is received by the Debtor in respect of any of the Securities, the Debtor will receive such money, income, proceeds or other benefit in trust for the Collateral Agent, will segregate such money, income, proceeds or other benefit from the Debtor's other property or funds and will forthwith upon receipt thereof assign, transfer, set over and deliver the same to the Collateral Agent to be held by the Collateral Agent hereunder as general and continuing security to secure payment and performance of the Obligations.

6. Contractual Rights

6.1 In the event the validity and effectiveness of the charge over any of the Collateral requires the consent, approval or waiver of a third Person in order to be effective as against such third Person, the charge with respect to any such Collateral shall be effective as against the Debtor and all Persons other than such third Person and shall be effective as against such third Person when the applicable consent, approval or waiver is obtained, retroactively, to the fullest extent legally possible, to the later of the date hereof or the date such consent, approval or waiver is obtained or becomes effective, as applicable, and until such consent, approval or waiver is obtained, the Debtor shall (subject to the other terms hereof) stand possessed of such Collateral upon trust to assign and dispose thereof as the Holder shall for such purposes direct.

7. Composite Mortgage

7.1 This Security Agreement is a composite mortgage and security agreement covering the Collateral of the Debtor located in various jurisdictions and, as to portions of the Collateral located in such separate jurisdictions, this Security Agreement shall be a separate mortgage and security agreement enforceable against the Debtor without regard to the application of this Security Agreement to portions of the Collateral located in other jurisdictions. All provisions hereof shall be applicable separately to the portions of the Collateral located in each separate jurisdiction with the same effect as if a separate mortgage and security agreement with respect thereto had been executed and delivered by the Debtor to the Collateral Agent. Upon the reasonable request of the Collateral Agent, the Debtor shall prepare, execute and deliver, at the Debtor's expense, a separate mortgage and security agreement covering the portion of the Collateral located in any such jurisdiction or jurisdictions, such separate mortgage and security agreement to be substantially in the form hereof except for such modifications as shall be required by the fact that such mortgage and security agreement relates only to the property of the Debtor located in such jurisdiction or jurisdictions or as may be required by the Collateral Agent in connection therewith.

- 6 -

8. **British Columbia Floating Charges**

8.1 For greater certainty, it is hereby confirmed that if and to the extent the Debtor has any interest in any real property in the Province of British Columbia, the floating charge created hereby is a floating charge within the meaning of Section 203 of the *Land Title Act* (British Columbia) and does not become a fixed charge on specific land until the occurrence of an Event of Default or until the Collateral Agent has made demand for payment of the Obligations and becomes a fixed charge on the interest of the Debtor in lands immediately upon the occurrence of such Event of Default or such demand is made.

9. **Registration**

9.1 The Debtor will assist the Collateral Agent to ensure that this Security Agreement and all such supplementary and corrective instruments and all additional mortgage and security documents executed and delivered by the Debtor to the Collateral Agent, and all documents, caveats, security notices and financing statements in respect thereof, are promptly filed and re-filed, registered and re-registered and deposited and re-deposited, in such manner, in such offices and places, and at such times and as often as may be required by Applicable Laws or as may be necessary or desirable to perfect and preserve the charge over the Collateral and the rights conferred or intended to be conferred upon the Collateral Agent by the charge over the Collateral and will promptly provide the Collateral Agent with evidence (satisfactory to the Collateral Agent) of such filing, registration and deposit.

10. **Prohibitions**

10.1 Without the prior written consent of the Collateral Agent, the Debtor shall not and shall not have power to create or permit to exist any Security Interest against any of its property, assets, or undertakings which ranks or could in any event rank in priority to or *pari passu* with any Security Interest created by this Security Agreement; other than Permitted Encumbrances.

11. **Attachment**

11.1 The Debtor acknowledges that the Security Interests hereby created attach upon the execution of this Security Agreement (or in the case of any after acquired property, upon the date of acquisition thereof), that value has been given, and that the Debtor has, or in the case of after acquired property will have, rights in the Collateral.

12. **Representations and Warranties**

12.1 The Debtor represents and warrants that this Security Agreement is granted in accordance with resolutions of the directors (and of the shareholders as applicable) of the Debtor and all other matters and things have been done and performed so as to authorize and make the execution and delivery of this Security Agreement, and the performance of the Debtor's obligations hereunder, legal, valid and binding.

12.2 The Debtor represents and warrants that unless otherwise disclosed to the Collateral Agent, the Debtor lawfully owns and possesses all presently held Collateral, free from all Security Interests save only Permitted Encumbrances, and the Debtor has good right and lawful authority to grant a Security Interest in the Collateral as provided by this Security Agreement.

13. **Covenants of the Debtor**

13.1 The Debtor covenants that at all times while this Security Agreement remains in effect, the Debtor will:

- 7 -

- (a) defend the title to the Collateral for the benefit of the Collateral Agent against the claims and demands of all Persons, subject only to Permitted Encumbrances;
- (b) fully and effectually maintain and keep maintained the Security Interest hereby created valid and effective;
- (c) maintain insurance on the Collateral with an insurer, of kinds, for amounts and payable to such Person or Persons, all as the Collateral Agent may reasonably require and is customary in the industry and provide such proof of insurance as the Collateral Agent may reasonably require;
- (d) maintain the Collateral in good order and repair;
- (e) forthwith pay:
 - (i) all taxes, assessments, rates, duties, levies, government fees, claims and dues lawfully levied, assessed or imposed upon it or the Collateral when due, unless the Debtor shall in good faith contest its obligations so to pay and shall furnish such security as the Collateral Agent may require; and
 - (ii) all Security Interests which rank or could in any event rank in priority to or pari passu to any Security Interest created by this Security Agreement, other than Permitted Encumbrances;
- (f) subject to Section 20.1, forthwith pay all reasonable costs, charges, expenses and legal fees and disbursements (on a solicitor and his own client basis) which may be incurred by the Collateral Agent in:
 - (i) inspecting the Collateral;
 - (ii) negotiating, preparing, perfecting and registering this Security Agreement and other documents, whether or not relating to this Security Agreement;
 - (iii) investigating title to the Collateral;
 - (iv) taking, recovering, keeping possession of and insuring the Collateral (but only to the extent the Debtor fails to insure the Collateral as provided herein); and
 - (v) all other actions and proceedings taken in connection with the preservation of the Collateral and the enforcement of this Security Agreement and of any other Security Interest held by the Collateral Agent as security for the Obligations;
- (g) at the Collateral Agent's request at any time and from time to time execute and deliver such further and other documents and instruments and do all acts and things as the Collateral Agent, acting reasonably, may require in order to confirm and perfect, and maintain perfection of, the Security Interests and charges hereby created in favour of the Collateral Agent upon any of the Collateral;
- (h) notify the Collateral Agent promptly of:

- 8 -

- (i) any change in the information contained herein relating to the Debtor, its address, its business or the Collateral;
 - (ii) the details of any material sale or other disposition of any of the Collateral;
 - (iii) any material loss of or damage to the Collateral;
 - (iv) any material default by any account debtor in payment or other performance of his obligations to the Debtor with respect to any Accounts; and
 - (v) the return to or repossession by the Debtor of the Collateral where such return or repossession of the Collateral is material in relation to the business of the Debtor;
- (i) prevent the Collateral, other than Inventory sold, leased, or otherwise disposed of as permitted hereby, from being or becoming a fixture not covered by this Security Agreement;
 - (j) permit the Collateral Agent and its representatives, at reasonable times during regular business hours after reasonable notice not exceeding two (2) Business Days, access to all its property, assets and undertakings and to all its books of account and records for the purpose of inspection and render all assistance necessary for such inspection; and
 - (k) deliver to the Collateral Agent from time to time promptly upon written request:
 - (i) any documents of title, instruments, securities and chattel paper constituting, representing or relating to Collateral;
 - (ii) all books of account and all records, ledgers, reports, correspondence, schedules, documents, statements, lists and other writings relating to the Collateral for the purpose of inspecting, auditing or copying the same;
 - (iii) all financial statements prepared by or for the Debtor regarding the Debtor's business;
 - (iv) all policies and certificates of insurance relating to the Collateral; and
 - (v) such information concerning the Collateral, the Debtor and the Debtor's business and affairs as the Collateral Agent may require.

14. Performance of Obligations

14.1 If the Debtor fails to perform its obligations hereunder, the Collateral Agent may, but shall not be obliged to, perform any or all of such obligations without prejudice to any other rights and remedies of the Collateral Agent hereunder, and any payments made and any costs, charges, expenses and legal fees and disbursements (on a solicitor and his own client basis) incurred in connection therewith shall be payable by the Debtor to the Collateral Agent forthwith on written demand with interest until paid at the highest rate borne by any of the Obligations and such amounts shall be a charge upon and Security Interest in the Collateral in favour of the Collateral Agent prior to all claims subsequent to this Security Agreement.

- 9 -

15. Restrictions on Sale or Disposal of Collateral

15.1 Except as herein provided, without the prior written consent of the Collateral Agent, the Debtor will not:

- (a) sell, lease or otherwise dispose of the Collateral;
- (b) release, surrender or abandon possession of the Collateral other than worn out or obsolete Equipment; or
- (c) move or transfer the Collateral from its present location.

15.2 Provided that the Debtor is not in default under this Security Agreement, at any time without the consent of the Collateral Agent, the Debtor may make Permitted Dispositions of items in the Collateral.

16. Default

16.1 The Debtor shall be in default under this Security Agreement upon the occurrence of an Event of Default, unless waived in writing by the Collateral Agent.

17. Enforcement

17.1 The Collateral Agent may demand payment at any time of any or all of the Obligations that are payable on demand (whether or not the Debtor is in default under this Security Agreement) and upon an Event of Default, the Collateral Agent may declare any or all of the Obligations not payable on demand to become immediately due and payable and upon said demand or declaration being made the security hereby constituted will immediately become enforceable. To enforce and realize on the security constituted by this Security Agreement, the Collateral Agent may take any action permitted by law or in equity, as it may deem expedient, and in particular without limiting the generality of the foregoing, the Collateral Agent may do any of the following:

- (a) appoint by instrument a receiver, receiver and manager or receiver-manager (the person so appointed is herein called the "Receiver") of the Collateral, with or without bond as the Collateral Agent may determine, and from time to time in its absolute discretion remove such Receiver and appoint another in its stead;
- (b) enter upon any premises of the Debtor and take possession of the Collateral with power to exclude the Debtor, its agents and its servants therefrom, without becoming liable as a mortgagee in possession;
- (c) preserve, protect and maintain the Collateral and make such replacements thereof and repairs and additions thereto as the Collateral Agent may deem advisable;
- (d) sell, lease or otherwise dispose of all or any part of the Collateral, whether by public or private sale or lease or otherwise, in such manner, at such price as can be reasonably obtained therefore and on such terms as to credit and with such conditions of sale and stipulations as to title or conveyance or evidence of title or otherwise as the Collateral Agent may deem reasonable, provided that if any sale is on credit the Debtor will not be entitled to be credited with the proceeds of any such sale, lease or other disposition until the monies therefore are actually received;

- 10 -

- (e) transfer at any time to itself or its nominee the Securities or any part thereof and to have the Securities or any part thereof registered in its name or in the name of its nominee;
- (f) exercise any option or right which the holder of any of the Collateral may at any time have; and
- (g) exercise all of the rights and remedies of a secured party under the Act.

17.2 A Receiver appointed pursuant to this Security Agreement shall be the agent of the Debtor and not of the Collateral Agent and, to the extent permitted by Applicable Laws or to such lesser extent permitted by its appointment, shall have all the powers of the Collateral Agent hereunder, and in addition shall have power to carry on the business of the Debtor and for such purpose from time to time to borrow money either secured or unsecured, and if secured by a Security Interest on any of the Collateral; such Security Interest may rank before or pari passu with or behind any Security Interest created by this Security Agreement, and if it does not so specify such Security Interest shall rank before the Security Interests created by this Security Agreement.

17.3 Subject to the claims, if any, of the creditors of the Debtor ranking in priority to this Security Agreement, all amounts realized from the disposition of Collateral pursuant to this Security Agreement will be applied as the Collateral Agent, in its absolute discretion, may direct as follows:

- (a) in payment of all costs, charges and expenses (including legal fees and disbursements on a solicitor and his own client basis) incurred by the Collateral Agent in connection with or incidental to:
 - (i) the exercise by the Collateral Agent of all or any of the powers granted to it pursuant to this Security Agreement; and
 - (ii) the appointment of the Receiver and the exercise by the Receiver of all or any of the powers granted to it pursuant to this Security Agreement, including the Receiver's reasonable remuneration and all outgoings properly payable by the Receiver;
- (b) in or toward payment to the Collateral Agent of all principal and other monies (except interest) due in respect of the Obligations; and
- (c) in or toward payment to the Collateral Agent of all interest remaining unpaid in respect of the Obligations.

Subject to Applicable Laws and the claims, if any, of other creditors of the Debtor, any surplus will be paid to the Debtor.

17.4 The Debtor hereby agrees to cooperate fully with the Collateral Agent in order to permit the Collateral Agent to sell, transfer or otherwise realize on the Collateral in accordance with the terms hereof. Without limiting the generality of the foregoing, the Debtor agrees to fully comply with Applicable Securities Laws and to take such action as may be necessary to permit the Collateral Agent to sell, transfer or otherwise realize on the Securities in compliance with such laws.

- 11 -

18. Deficiency

18.1 If the amounts realized from the disposition of the Collateral are not sufficient to pay the Obligations in full, the Debtor will immediately pay to the Collateral Agent the amount of such deficiency.

19. Rights Cumulative

19.1 All rights and remedies of the Collateral Agent set out in this Security Agreement are cumulative and no right or remedy contained herein is intended to be exclusive but each will be in addition to every other right or remedy contained herein or in any existing or future security agreement or now or hereafter existing at law, in equity or by statute, or pursuant to any other agreement between the Debtor and the Collateral Agent that may be in effect from time to time.

20. Liability of Collateral Agent

20.1 The Collateral Agent shall not be responsible or liable for any debts contracted by it, for damages to Persons or property or for salaries or non-fulfilment of contracts during any period when the Collateral Agent shall manage the Collateral upon entry, as herein provided, nor shall the Collateral Agent be liable to account as mortgagee in possession or for anything except actual receipts or be liable for any loss on realization or for any default or omission for which a mortgagee in possession may be liable. The Collateral Agent shall not be bound to do, observe or perform or to see to the observance or performance by the Debtor of any obligations or covenants imposed upon the Debtor nor shall the Collateral Agent, in the case of securities, instruments or chattel paper, be obliged to preserve rights against other persons, nor shall the Collateral Agent be obliged to keep any of the Collateral identifiable. The Debtor hereby waives any applicable provision of law permitted to be waived by it which imposes higher or greater obligations upon the Collateral Agent than aforesaid. The responsibility of the Collateral Agent in regard to the Securities will be limited to exercising the same degree of care which it gives to its own valuable property.

21. Appointment of Attorney

21.1 The Debtor hereby irrevocably appoints the Collateral Agent or the Receiver, as the case may be, with full power of substitution, to be the attorney of the Debtor for and in the name of the Debtor to sign, endorse or execute under seal or otherwise any deeds, documents, transfers, cheques, instruments, demands, assignments, assurances or consents that the Debtor is obliged to sign, endorse or execute and generally to use the name of the Debtor and to do all things as may be necessary or incidental to the exercise of all or any of the powers conferred on the Collateral Agent or the Receiver, as the case may be, pursuant to this Security Agreement, provided that the Collateral Agent shall not be entitled to perform any act under such appointment before the occurrence of an Event of Default. The foregoing appointment and power of attorney is coupled with an interest and will not be revoked by the bankruptcy or insolvency of the Debtor and the Debtor hereby ratifies and confirms and agrees to ratify and confirm all that the Collateral Agent or any person appointed by the Collateral Agent, as attorney in fact and agent for, in the name of and on behalf of the Debtor, may lawfully do or cause to be done by virtue of this appointment.

22. Accounts

22.1 Notwithstanding any other provision of this Security Agreement, the Collateral Agent may collect, realize, sell or otherwise deal with the Accounts or any part thereof in such manner, upon such terms and conditions and at such time or times, after an Event of Default, as may seem to it advisable, and without notice to the Debtor, except in the case of disposition after an Event of Default and

- 12 -

then subject to the provisions of *Part 5 – Rights and Remedies on Default* of the Act. All monies or other forms of payment received by the Debtor in payment of any Account will be received and held by the Debtor in trust for the Collateral Agent.

23. Appropriation of Payments

23.1 Any and all payments made in respect of the Obligations from time to time and monies realized from any Security Interests held therefor (including monies collected in accordance with or realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Collateral Agent may see fit, and the Collateral Agent may at all times and from time to time change any appropriation as the Collateral Agent may see fit.

24. Liability to Advance

24.1 None of the preparation, execution, perfection and registration of this Security Agreement or the advance of any monies shall bind the Collateral Agent to make any advance or loan or further advance or loan, or renew any Security Agreement or extend any time for payment of any indebtedness or liability of the Debtor to the Collateral Agent.

25. Waiver

25.1 The Collateral Agent may from time to time and at any time waive in whole or in part any right, benefit or default under any clause of this Security Agreement but any such waiver of any right, benefit or default on any occasion shall be deemed not to be a waiver of any such right, benefit or default thereafter, or of any other right, benefit or default, as the case may be. No delay or omission by the Collateral Agent in exercising any right or remedy herein or with respect to the Obligations shall operate as a waiver thereof.

26. Notice

26.1 Any notice, consent, waiver, direction or other communication required or permitted to be given under this Security Agreement by any party hereto to the other party shall be in writing and shall be delivered by (a) personal delivery, (b) certified or registered mail (first class postage pre-paid), (c) guaranteed overnight delivery by recognized national courier, or (d) facsimile transmission or email transmission, addressed to the party to which the notice is to be given at its address, facsimile number or email address for service herein (or to such other address which such party may subsequently designate by ten (10) calendar days' advance written notice to the other party). Any notice, consent, waiver, direction or other communication made or given by personal delivery, courier or facsimile transmission to the party to whom it was addressed as aforesaid shall be deemed to have been given and received on the date on which it was so delivered at such address (if a Business Day, and if not, or received after 4:00 p.m. local time, the next succeeding Business Day) or if sent by prepaid registered mail be deemed to have been given and received on the fourth (4th) Business Day following the date of its mailing or if sent by email transmission be deemed to have been given and received at the time of receipt unless actually received after 4:00 p.m. local time or on a date that does not fall on a Business Day at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address, facsimile or email address for service of each of the parties hereto shall be as follows or at such other address as a party may designate by ten (10) calendar days' advance written notice to the other party:

- 13 -

If to the Debtor:

ShoeMe Technologies Limited
4th Floor - 1500 West Georgia Street,
Vancouver, British Columbia, V6G 2Z6
Canada

Attention: Sean Clark
email: sean@shoeme.ca

with a copy to (which shall not constitute notice):

Sarah Sidhu
300-128 West Hastings Street
Vancouver, British Columbia V6B 1G8
Canada

Attention: Sarah Sidhu
email: sarahsidhu@shaw.ca

If to the Collateral Agent:

Deans Knight Capital Management Ltd.
1500-999 West Hastings Street
Vancouver, British Columbia, V6C 2W2
Canada

Attention: Dillon Cameron
Telecopier No.: 604-669-0238
email: dcameron@deansknight.com

with a copy to (which shall not constitute notice):

Farris, Vaughan, Wills & Murphy LLP
25th Floor – 700 W. Georgia St.
Vancouver, British Columbia, V7Y 1B3
Canada

Attention: Mitchell Gropper, Q.C.
Telecopier No.: 604-661-9349
email: mgropper@farris.com

27. Extensions

27.1 The Collateral Agent may grant extensions of time and other indulgences, take and give up security, accept compositions, compound, compromise, settle, grant releases and discharges, refrain from perfecting or maintaining perfection of Security Interests, and otherwise deal with the Debtor, account debtors of the Debtor, sureties and others and with respect to exercising its rights and remedies hereunder as the Collateral Agent may see fit without prejudice to the liability of the Debtor or the Collateral Agent's right to hold and realize on the security constituted by this Security Agreement.

- 14 -

28. No Merger

28.1 This Security Agreement shall not operate so as to create any merger or discharge of any of the Obligations, or any assignment, transfer, guarantee, lien, contract, promissory Security Agreement, bill of exchange or Security Interest of any form held or which may hereafter be held by the Collateral Agent from the Debtor or from any other Person whomsoever. The taking of a judgment with respect to any of the Obligations will not operate as a merger of any of the covenants contained in this Security Agreement.

29. Assignment

29.1 The Collateral Agent may, without further notice to the Debtor, at any time assign, transfer or grant a Security Interest in this Security Agreement and the Security Interests granted hereby to any Person who is agent for all of the Holders of the Debentures. The Debtor expressly agrees that the assignee, transferee or secured party, as the case may be, shall have all of the Collateral Agent's rights and remedies under this Security Agreement and the Debtor will not assert any defense, counterclaim, right of set-off or otherwise any claim which it now has or hereafter acquires against the Collateral Agent in any action commenced by such assignee, transferee or secured party, as the case may be, and will pay the Obligations to the assignee, transferee or secured party, as the case may be, as the Obligations become due.

30. Satisfaction and Discharge

30.1 Any partial payment or satisfaction of the Obligations, or any ceasing by the Debtor to be indebted to the Collateral Agent, shall be deemed not to be a redemption or discharge of this Security Agreement. The Debtor shall be entitled to a release and discharge of this Security Agreement only upon full payment and satisfaction of all Obligations and upon written request by the Debtor and payment to the Collateral Agent of all costs, charges, expenses and legal fees and disbursements (on a solicitor and his client basis) incurred by the Collateral Agent in connection with the Obligations and such release and discharge.

31. Term

31.1 This Security Agreement shall be a continuing agreement in every respect for the payment of the Obligations and it shall remain in full force and effect until all of the Obligations shall be paid and satisfied in full.

32. Set-Off

32.1 Without limiting any other right of the Collateral Agent, whenever the Obligations are immediately due and payable or the Collateral Agent has the right to declare the Obligations to be immediately due and payable (whether or not it has so declared), the Collateral Agent may, in its sole discretion, set off against the Obligations any and all monies then owed to the Debtor by the Collateral Agent in any capacity, whether or not due including, without in any way limiting this right of set-off, amounts due by the Collateral Agent to the Debtor, and the Collateral Agent shall be deemed to have exercised such right to set off immediately at the time of making its decision to do so even though any charge therefor is made or entered on the Collateral Agent's records subsequent thereto.

- 15 -

33. Amendment

33.1 Unless otherwise provided, any amendment, addition, deletion or other modification to this Security Agreement may be made upon the written consent of the Debtor and the Collateral Agent. Any provision of this Security Agreement may only be waived by the Party in whose favour such provision is intended to benefit, such waiver to be evidenced by a notice in writing by the waiving Party to the other Party.

34. Enurement

34.1 This Security Agreement and all its provisions shall enure to the benefit of, and be binding upon, each of the Collateral Agent and the Debtor and their respective successors, permitted assigns, permitted transferees, heirs, executors, administrators and personal representatives.

35. Validity

35.1 If any provision of this Security Agreement shall be judicially determined to be invalid, illegal, unenforceable, or void by any court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions thereof shall not in any way be affected or impaired thereby. To the extent permitted by Applicable Laws, each Party hereby waives any provision of law that renders any provision hereof unenforceable in any respect.

36. Currency

36.1 Unless otherwise provided, references to "Dollars" or "\$" in this Security Agreement refer to lawful currency of Canada and references to "US Dollars" and "US\$" in this Security Agreement refer to lawful currency of the United States of America.

37. Further Assurances

37.1 The Parties shall at all times promptly do, make, execute, acknowledge, deliver, or cause to be done, made, executed, acknowledged or delivered, all such further acts, deeds, agreements and other instruments as may reasonably be required or desirable to give full force and effect to the terms of this Security Agreement and shall take such steps as may be reasonably within its power to implement the full extent of this Security Agreement.

38. Governing Law

38.1 This Security Agreement and all actions arising out of or in connection with this Security Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to the conflict of laws provisions thereof.

39. Exclusive Jurisdiction

39.1 Each Party irrevocably attorns to the courts of the Province of British Columbia, which jurisdiction shall be the sole and exclusive jurisdiction for all actions arising out of or in connection with this Security Agreement.

- 16 -

40. Headings and Numbering of Articles

40.1 The headings of the articles, sections, subsections and clauses of this Security Agreement have been inserted for convenience and reference only and do not define, limit, alter or enlarge the meaning of any provision of this Security Agreement.

41. Interpretation

41.1 Definitions

- (a) "Accounts" has the meaning set out in Section 1.1(c) of this Security Agreement;
- (b) "the Act" means the *Personal Property Security Act* (British Columbia) and all regulations thereunder as amended from time to time;
- (c) "Applicable Laws" means, with respect to any Person, property, transaction or event, any present or future: (i) domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, convention, rule, regulation, restriction or by-law (zoning or otherwise); (ii) judgment, order, writ, injunction, decision, direction, determination, ruling, decree or award; (iii) regulatory policy, practice, ruling, interpretation, guideline or directive; or (iv) any order, permit, approval, grant, license, consent, right, franchise, privilege, certificate exemption, waiver, registration or other authorization, binding on or affecting the Person, property, transaction or event referred to in the context in which the term is used in each case whether or not having the force of law;
- (d) "Applicable Securities Laws" means all Applicable Laws of any Governmental Authority relating to the distribution, issue, transfer, trading or purchase and sale in or of securities, including the rules and regulations of any stock exchange on which the Securities may be listed for trading an application for listing of the Securities has been made (which has not been withdrawn) for the listing of any of the Securities;
- (e) "Bank Debt" means Financial Indebtedness of Gerler and Son, Inc. at any time (i) in the aggregate principal amount of up to five million US Dollars (US\$5,000,000) under the Amended and Restated Credit Agreement dated as of April 1, 2014 between U.S. Bank National Association and Gerler and Son, Inc.; or (ii) in the aggregate principal amount of up to seven million and five hundred thousand US Dollars (US\$7,500,000) under a credit agreement to be entered into by Wells Fargo Bank, National Association and Gerler and Son, Inc.;
- (f) "BDC Loan" means Financial Indebtedness of the Debtor in the aggregate principal amount of one hundred twenty-five thousand Dollars (\$125,000) to the Business Development Bank of Canada under a letter of offer dated October 5, 2012;
- (g) "Brown Shoe Intercreditor Agreement" has the meaning set forth in the Debenture Purchase Agreement;
- (h) "Business Day" means a day (other than a Saturday, Sunday or statutory holiday) on which banks are generally open for business in the City of Vancouver, British Columbia;

- 17 -

- (i) **"Canadian GAAP"** means generally accepted accounting principles as may be described in the Canadian Institute of Chartered Accountants Handbook, including the Canadian Accounting Standards for Private Enterprises to the extent applicable, and other principal sources recognized from time to time by the Canadian Institute of Chartered Accountants;
- (j) **"Collateral"** has the meaning set out in Section 1.1 of this Security Agreement and any reference to Collateral shall, unless the context otherwise requires, be deemed a reference to Collateral as a whole or any part thereof;
- (k) **"Collateral Agent"** has the meaning set out in the recitals of this Security Agreement;
- (l) **"Control"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise and "Controlling" and "Controlled" have meanings correlative thereto;
- (m) **"Debenture Purchase Agreement"** has the meaning set out in the recitals of this Security Agreement;
- (n) **"Debentures"** has the meaning set out in the recitals of this Security Agreement;
- (o) **"Deans Knight"** has the meaning set out in the recitals of this Security Agreement;
- (p) **"Debtor"** and the personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used depending upon whether the Debtor is one or more individuals, corporations or partnerships and, if more than one, shall apply and be binding upon each of them jointly and severally;
- (q) **"Demand Note"** has the meaning set forth in the Debenture Purchase Agreement;
- (r) **"Encumbrance"** includes any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale leaseback arrangement, any right of set-off and any guarantees or indemnities;
- (s) **"Equipment"** has the meaning set out in Section 1.1(a) of this Security Agreement;
- (t) **"Event of Default"** has the meaning provided for in each Debenture;
- (u) **"Financial Indebtedness"** of any Person at any date means, without duplication, all Indebtedness of such Person: (i) for borrowed money (whether or not the recourse of the lender is to the whole of the assets of such Person or only to a portion thereof); (ii) evidenced by bonds, debentures, Debentures or other similar instruments; (iii) in respect of letters of credit or other similar instruments (or reimbursement obligations with respect thereto); (iv) to pay the deferred and unpaid purchase price of property or services; (v) in respect of leases of such Person that are required to be shown as a

- 18 -

liability on the financial statements of such Person prepared in accordance with GAAP; (vi) secured by an Encumbrance on any property of such Person, whether or not such Indebtedness is assumed by such Person or the recourse of the holder of such Indebtedness is limited to such property; (vii) under conditional sale or other title retention agreements relating to assets purchased by such Person; (viii) in respect of redemption obligations with respect to any shares of any other Person which are (I) redeemable, retractable, payable or required to be purchased or otherwise retired or extinguished, or convertible into debt of such Person (A) at a fixed or determinable date, (B) at the option of any holder thereof, or (C) upon the occurrence of a condition not solely within the control and discretion of such Person; or (II) convertible into any other securities that are convertible described in (I) above; (ix) to the extent not otherwise included in the definition, Hedging Obligations of such Person; and (x) all Guarantees of Indebtedness of the type referred to in any of the foregoing sub-clauses (i) to (ix) of another Person. Notwithstanding the foregoing, the following shall not be considered Financial Indebtedness: (i) earn-outs or similar profit sharing arrangements provided for in acquisition agreements which are determined on the basis of future operating earnings or other similar performance criteria (which are not determinable at the time of acquisition) of the acquired assets or entities; and (ii) accrued expenses, trade payables, customer deposits or deferred income taxes arising in the ordinary course of business of such Person. Any Indebtedness which is incurred at a discount to the principal amount at maturity thereof shall be deemed to have been incurred at the full principal amount at maturity thereof. For all purposes hereof, the Financial Indebtedness of any Person shall include the Financial Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly non-recourse to such Person;

- (v) **"GAAP"** means Canadian GAAP and/or US GAAP, as the context requires;
- (w) **"Governmental Authority"** means any: (i) multinational, federal, provincial, territorial, state, regional, municipal, local or other government or any governmental or public department; (ii) court, tribunal, arbitral body, statutory body, commission, board, bureau or agency; (iii) self-regulatory organization or authority including any stock exchange on which any securities of the Issuer are listed; (iv) subdivision, agent, commission, board or authority of any of the foregoing; or (v) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing and includes a Securities Regulatory Authority;
- (x) **"Guarantee"** means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness payable or performable by another Person (the **"primary obligor"**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness of the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness of the payment or performance thereof or to protect such obligee

- 19 -

against loss in respect thereof (in whole or in part). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning;

- (y) **"Hedging Obligations"** of any Person means the obligations of such Person pursuant to (i) any interest rate swap agreement, interest rate collar agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in interest rates; (ii) agreements or arrangements designed to protect such Person against fluctuations in foreign currency exchange rates in the conduct of its operations; or (iii) any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person against fluctuations in commodity prices, in each case entered into in the ordinary course of business for bona fide hedging purposes and not for the purpose of speculation;
- (z) **"Holder"** has the meaning set out in the recitals of this Security Agreement;
- (aa) **"Indebtedness"** means all present and future obligations, indebtedness, liabilities, covenants, agreements and undertakings of a Person howsoever arising, whether direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred, including all future advances and re-advances, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether such Person be bound alone or with others and whether as principal or surety, including all interest, fees, expenses, indemnities and costs;
- (bb) **"Intercompany Notes"** means Financial Indebtedness of A12345 Holdings, Inc. (i) in the aggregate principal amount of ten million US Dollars (US\$10,000,000) under a secured promissory note dated July 7, 2014 issued by A12345 Holdings, Inc. to the Parent, as subsequently assigned to and assumed by the Debtor, as payee, pursuant to an Assignment and Assumption Agreement dated November 26, 2014 among the Parent, the Debtor and A12345 Holdings, Inc.; (ii) in the aggregate principal amount of two million US Dollars (US\$2,000,000) under a promissory note dated the date hereof issued by A12345 Holdings, Inc. to the Parent; and (iii) under the Demand Note, each as subordinated pursuant to the Brown Shoe Intercreditor Agreement;
- (cc) **"Inventory"** has the meaning set out in Section 1.1(b) of this Security Agreement;
- (dd) **"Material Adverse Effect"** has the meaning set forth in the Debenture Purchase Agreement;
- (ee) **"Obligations"** has the meaning set out in Section 1.1 of this Security Agreement;
- (ff) **"ordinary course of business"** or **"ordinary course"** when used in relation to the taking of any action by any Person means that the action is consistent in its nature, scope and magnitude with the past practices of such Person and is taken in the ordinary course of the day to day operations of the business of such Person;
- (gg) **"Parties"** means the parties hereto and **"Party"** means any one of them;

- 20 -

- (lh) **"Permitted Dispositions"** has the meaning set forth in the Debenture Purchase Agreement;
- (ii) **"Permitted Encumbrances"** means as of any particular time in relation to the Collateral any of the following Security Interests or rights:
 - (i) statutory Encumbrances of landlords and Encumbrances of carriers, warehousemen, mechanics, suppliers, material men, repairmen and other Encumbrances imposed by law incurred in the ordinary course of business and Encumbrances for taxes, assessments or governmental charges or claims, in either case, for sums not yet overdue or being contested in good faith by appropriate proceedings, if such reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made in respect thereof;
 - (ii) Encumbrances incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, bids, trade contracts, leases, , government contracts, surety and appeal bonds, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);
 - (iii) Encumbrances upon specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
 - (iv) Encumbrances encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Debtor, including rights of offset and setoff;
 - (v) bankers' liens, rights of setoff and other similar Encumbrances existing solely with respect to cash on deposit in one or more accounts maintained by the Debtor, in each case granted in the ordinary course of business in favour of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; provided, however, that in no case shall any such Encumbrances secure (either directly or indirectly) the repayment of any Indebtedness;
 - (vi) leases or subleases (or any Encumbrances related thereto) granted to others that do not materially interfere with the ordinary course of business of the Debtor;
 - (vii) any action, claim, lis pendens, certificate of pending litigation, attachment or judgment Encumbrances which are being contested in good faith by appropriate proceedings;
 - (viii) easements, rights-of-way, restrictions and other similar charges or encumbrances not materially interfering with the ordinary course of business of the Debtor;
 - (ix) zoning restrictions, building bylaws, ordinances, regulations, licenses, and other restrictions on the use of real property or minor irregularities in title thereto,

- 21 -

which do not materially impair the use of such real property in the ordinary course of business of the Debtor and its Subsidiaries or the value of such real property for the purpose of such business;

- (x) any right of expropriation, access and use and all other similar rights conferred upon or vested in any Governmental Authority or agency imposed by law not materially interfering with the ordinary course of business of the Debtor;
- (xi) any right reserved to or vested in any Governmental Authority or agency by law or by the terms of any lease, grant or permit to terminate any such lease, grant or permit not materially interfering with the ordinary course of business of the Debtor;
- (xii) any right of first refusal, right of first offer, option, contract or other agreement to sell an asset existing on the date hereof and set forth in Schedule 4 attached to the Debenture Purchase Agreement; and
- (xiii) Encumbrances securing Hedging Obligations entered into for bona fide hedging purposes of the Debtor not for the purpose of speculation;
- (xiv) Security Interests, upon or in any property acquired by the Debtor after the date hereof in the ordinary course of business, created at the time of such purchase or within sixty (60) calendar days thereafter to secure the purchase price of such property or to secure Financial Indebtedness incurred solely for the purpose of financing the acquisition of such property and Security Interests existing on such property at the time of its acquisition (other than any such Security Interest created in contemplation of such acquisition), provided that no such Security Interest shall extend to any property of the Debtor other than the property so acquired;
- (xv) Encumbrances existing at the date of the Debenture Purchase Agreement and securing each of the Bank Debt with U.S. Bank National Association, the BDC Loan, the Vendor Take Back Loan, the Intercompany Notes and the Subordinated Debt; and
- (xvi) Encumbrances securing the Bank Debt with Wells Fargo Bank, National Association;
- (jj) **"Person"** means any individual, firm, partnership, company, corporation or other body corporate, government, governmental body, agency, instrumentality, unincorporated body or association and the heirs, executors, administrators or other legal representatives of an individual;
- (kk) **"Proceeds"** has the meaning set out in Section 1.1(b) of this Security Agreement;
- (ll) **"Receiver"** has the meaning set forth in Section 17.1(a) of this Security Agreement;
- (mm) **"Securities"** has the meaning set out in Section 1.1(e) of this Security Agreement;

- 22 -

- (nn) **"Securities Regulatory Authorities"** means the securities commissions or similar regulatory authorities in each of the provinces and territories of Canada and any other applicable jurisdiction;
- (oo) **"Security Interest"** means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance, security interest or insurance securing or in effect securing any obligation, conditional sale or title retention agreement, contractual deposit, trust deposit, escrow arrangement or other preferential arrangement whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes the rights of a lessor pursuant to an operating lease, capitalized lease or sale-leaseback arrangement, any right of set-off and any guarantees or indemnities;
- (pp) **"Shares"** has the meaning set out in Section 1.1(e) of this Security Agreement;
- (qq) **"Subordinated Debt"** has the meaning set forth in the Debenture Purchase Agreement;
- (rr) **"Subsidiary"** or **"subsidiary"** means: (i) any corporation or company of which at least a majority of the outstanding securities having by the terms thereof ordinary voting power to elect a majority of the board of such corporation or company is at the time directly, indirectly or beneficially owned or under the Control of the Debtor; (ii) any partnership of which, at the time, the Debtor directly, indirectly or beneficially owns or Controls at least a majority of the voting interests (however designated) thereof, or otherwise Controls such partnership; and (iii) any other Person of which at least a majority of the voting interests (however designated) are at the time directly, indirectly or beneficially owned or Controlled by the Debtor;
- (ss) **"Transaction Document"** has the meaning set forth in the Debenture Purchase Agreement;
- (tt) **"Unlimited Company"** has the meaning set forth in Section 4.1 of this Security Agreement;
- (uu) **"Unlimited Liability Shares"** has the meaning set forth in Section 4.1 of this Security Agreement;
- (vv) **"US GAAP"** means United States generally accepted accounting principles as established under the standards of the Financial Accounting Standards Board; and
- (ww) **"Vendor Take Back Loan"** means Financial Indebtedness of the Debtor in the aggregate principal amount of three million US Dollars (US\$3,000,000) to Daniel Gerler under a secured convertible subordinated promissory note dated July 8, 2014.

41.2

Other Terms

- (a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such

- 23 -

agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein or in any other Transaction Document) in accordance with the terms hereof and thereof, (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import, when used in any Transaction Document, shall be construed to refer to such Transaction Document in its entirety and not to any particular provision thereof, (iv) all references in a Transaction Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Security Agreement or the other Transaction Document in which such references appear, (v) any reference to any Applicable Laws shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Applicable Laws and any reference to any Applicable Laws shall, unless otherwise specified, refer to such Applicable Laws as amended, modified or supplemented from time to time, (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (vii) in the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.


42. COPY OF AGREEMENT AND FINANCING STATEMENT

42.1 The Debtor hereby:


- (a) acknowledges receiving a copy of this Security Agreement, and
- (b) waives all rights to receive from the Collateral Agent a copy of any financing statement, financing change statement or verification statement filed at any time in respect of this Security Agreement; provided that it receives a draft copy of any financing statement or financing change statement.

IN WITNESS WHEREOF, the Debtor has executed and delivered this Security Agreement as of the date and year first written above.

SHOEME TECHNOLOGIES LIMITED

Per: 
Name: SEAN CLARK
Title: President and CEO

This is **EXHIBIT "D"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017..


A Commissioner for taking
Affidavits within British Columbia

SUBORDINATION, POSTPONEMENT AND STANDSTILL AGREEMENT

THIS AGREEMENT is made as of the 12th day of December, 2014 among Deans Knight Capital Management Ltd., a corporation under the laws of Canada, in its capacities as portfolio manager and Collateral Agent on behalf of certain investors (the **"Investors"**) (**"Deans Knight"** or the **"Senior Creditor"**), Brown Shoe Investment Company, Inc., a Delaware corporation (**"Brown Shoe"** or the **"Senior Subordinated Creditor"**), 1006903 B.C. Ltd., a British Columbia corporation (**"1006903"**), ShoeMe Technologies Limited, a British Columbia corporation (**"ShoeMe"**) (1006903 and ShoeMe collectively, the **"Junior Subordinated Creditors"**), A12345 Holdings, Inc., a Washington corporation (the **"Borrower"**), Gerler and Son, Inc., a Washington corporation doing business as Onlineshoes.com (**"Gerler"**), and Shoes.com, Inc., a Delaware corporation (**"Shoes.com"**).

WHEREAS:

- A. The Borrower is indebted to ShoeMe pursuant to a promissory note (the **"ShoeMe Note"**) dated July 7, 2014 in the aggregate principal sum of ten million United States dollars (US\$10,000,000) issued by the Borrower in favour of 1006903 and assigned to ShoeMe pursuant to an assignment and assumption agreement dated November 26, 2014, such indebtedness owing by the Borrower to ShoeMe thereunder from time to time (including all renewals, extensions, amendments, modifications, and restatements thereof from time to time but not any increases in the amount thereof) are called the **"ShoeMe Indebtedness"**;
- B. The ShoeMe Indebtedness is secured by a security interest (the **"ShoeMe Security Interest"**, which term includes all other additional or collateral security now or hereafter securing the ShoeMe Indebtedness, together with any and all registrations filed in connection therewith) in all of the Borrower's present and after acquired personal property (the **"ShoeMe Collateral"**);
- C. The Borrower is indebted to 1006903 pursuant to (i) a promissory note dated the date hereof in the aggregate principal sum of two million United States dollars (US\$2,000,000) (the **"1006903 Note A"**) and a promissory note (the **"1006903 Note B"** and together the 1006903 Note A, the **"1006903 Note"**) dated the date hereof in the aggregate principal sum of four million United States dollars (US\$4,000,000) issued by the Borrower in favour of 1006903, such indebtedness owing by the Borrower to 1006903 thereunder from time to time (including all renewals, extensions, amendments, modifications, and restatements thereof from time to time but not any increases in the amount thereof) are called the **"1006903 Indebtedness"**;
- D. The 1006903 Indebtedness is secured by a security interest (the **"1006903 Security Interest"**, (which term includes all other additional or collateral security now or hereafter securing the 1006903 Indebtedness, together with any and all registrations filed in connection therewith) in all of the Borrower's present and after acquired personal property (the **"1006903 Collateral"** and together with the ShoeMe Collateral, the **"Junior Subordinated Collateral"**);
- E. The ShoeMe Indebtedness and the 1006903 Indebtedness are collectively called the **"Junior Subordinated Indebtedness"**, the ShoeMe Security Interest and the 1006903 Security Interest are collectively called the **"Junior Subordinated Security Interest"**;
- F. The ShoeMe Note, the 1006903 Note and all other documents executed in connection therewith are herein referred to collectively as the **"Junior Subordinated Documents"**;
- G. Pursuant to a debenture purchase agreement dated the date hereof (the **"Debenture Purchase Agreement"** and together with the Debentures, the Senior Guarantee, the Senior GSA and all Subordination, Postponement and Standstill Agreement

other documents executed and delivered in connection therewith (collectively, the "**Senior Documents**") between 1006903 and Deans Knight, acting as portfolio manager on behalf of the Investors, the Senior Creditor has purchased secured convertible debentures (each a "**Debenture**") of 1006903 in the aggregate principal amount of ten million Canadian dollars (Cdn\$10,000,000), pursuant to which the Borrower, ShoeMe, Gerler and Shoe.com (the "**Senior Guarantors**" and together with 1006903, the "**Senior Obligors**") will guarantee the payment and performance of all of 1006903's present and future debts, liabilities and obligations to the Investors under or in connection with each of the Debentures (the "**Senior Guarantee**"; the indebtedness owing by the Borrower to the Investors from time to time pursuant to each of the Senior Documents and including, but not limited to, the principal sum, all interest thereon and all other amounts due thereon together with the indebtedness of the Senior Guarantors under the Senior Guarantee being referred to collectively and including all renewals, extensions, amendments, modifications, and restatements thereof from time to time but not any increases in the amount thereof as the "**Senior Indebtedness**";

- H. The Senior Indebtedness is secured pursuant to that certain General Security Agreement dated the date hereof (the "**Senior GSA**") with Senior Creditor charging the collateral under and as defined in Senior GSA (the "**Senior Collateral**") for the purpose of securing the payment and performance of the Guarantee by the Borrower, pursuant to the terms and subject to the conditions set forth in the Senior GSA (the security interest created by the Senior GSA being referred to as the "**Senior Security Interest**";
- I. The Borrower is indebted to Senior Subordinated Creditor pursuant to a Secured Convertible Note (the "**Brown Shoe Note**") dated the date hereof in the aggregate principal sum of seven million and five hundred thousand United States dollars (US\$7,500,000) issued by the Borrower and 1006903 in favour of Brown Shoe to evidence payment of the balance of the purchase price payable by the Borrower to Brown Shoe for the purchase by the Borrower of all of the issued and outstanding shares of Shoes.com, Inc. pursuant to an agreement dated the date hereof among Brown Shoe, the Borrower and 1006903;
- J. The indebtedness of the Borrower under the Brown Shoe Note is guaranteed by 1006903, ShoeMe, Gerler and Shoe.com (the "**Senior Subordinated Guarantors**" and, together with A12345, the "**Senior Subordinated Obligors**") under the Guarantee and Security Agreement (the "**Senior Subordinated GSA**" and together with the Brown Note and all other documents executed and delivered in connection therewith (collectively, the "**Senior Subordinated Documents**")), dated the date hereof, among the Borrower, the Senior Subordinated Guarantors and Brown Shoe (the indebtedness and other obligations and liabilities owing by the Borrower to Brown Shoe under the Brown Shoe Note and the Senior Subordinated Guarantors under the Senior Subordinated GSA being referred to collectively and including all renewals, extensions, amendments, modifications, and restatements thereof from time to time but not any increases in the amount thereof as the "**Senior Subordinated Indebtedness**";
- K. The Senior Subordinated Indebtedness is secured by the collateral the "**Senior Subordinated Collateral**") under and as defined in the Senior Subordinated GSA (together with any and all registrations filed in connection therewith, is called the "**Senior Subordinated Security Interest**";
- L. Junior Subordinated Creditors have each to subordinate and postpone the Junior Indebtedness and Junior Security to the Senior Indebtedness, the Senior Subordinated Indebtedness, the Senior Security and the Senior Subordinated Security Interest and Senior Subordinated Creditors has agreed to subordinate and postpone the Senior Subordinated Indebtedness and Senior

Subordinated Security Interest to the Senior Indebtedness and Senior Security Interest, all to the extent and in the manner hereinafter set forth.

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged and confirmed) the parties agree as follows:

1. **Covenants, Representations and Warranties of Junior Subordinated Creditors.** The Subordinate Creditors represent and warrant to the Senior Creditor and the Senior Subordinated Creditor that:

- a) the Junior Subordinated Indebtedness and the Junior Subordinated Security Interest is in good standing and the Borrower is not in default thereunder;
- b) no Junior Subordinated Creditor holds security of any kind against other than the Junior Subordinated Collateral;
- c) they are the sole owners of the Junior Subordinated Indebtedness and the Junior Subordinated Security and have full power, authority and legal right to enter into this Agreement;
- d) as of the date hereof, the ShoeMe Indebtedness bears interest at the interest rate calculated and payable pursuant to the ShoeMe Note and is due and payable to ShoeMe on or before July 7, 2018; and
- e) they shall not, without the prior written consent of the Senior Creditor and the Senior Subordinated Creditor, advance any further sums or provide any further credit to the Borrower or increase the Junior Subordinated Indebtedness, except interest on funds already advanced as of the date hereof which may continue to accrue.

Upon written request by Senior Creditor or Senior Subordinated Creditor from time to time, the Junior Subordinated Creditors shall provide to Senior Creditor or Senior Subordinated Creditor, as applicable, copies of the relevant Junior Subordinated Security and/or a statement confirming the status thereof, including the amount of the Junior Subordinated Indebtedness then outstanding, the then applicable interest rate(s) and the payment terms and particulars of all existing or alleged defaults by the Borrower in respect thereof.

2. **Subordination and Postponement by Subordinate Creditors.** The Junior Subordinated Creditors hereby subordinate and postpone the Junior Subordinated Security Interest and the Junior Subordinated Indebtedness to the Senior Security Interest, the Senior Indebtedness, the Senior Subordinated Security Interest and Senior Subordinated Indebtedness and agree with Senior Creditor and Senior Subordinated Creditor that the Senior Security Interest and Senior Subordinated Security Interest shall be a lien and charge against the Senior Collateral or Senior Subordinated Collateral, as applicable, for the full amount of the Senior Indebtedness and Senior Subordinated Indebtedness, as applicable, in full priority to the Junior Subordinated Security Interest. No discharge, release or waiver by Senior Creditor or Senior Subordinated Creditor of any of the Senior Security Interest or Senior Subordinated Security Interest, as applicable, against or in respect of any part of the Senior Collateral or Senior Subordinated Collateral, as applicable, or any person or any amendment, renewal, extension, replacement, modification, supplement or restatement of any Senior Indebtedness and/or the Senior Security Interest or any Senior Subordinated Indebtedness and/or the Senior Subordinated Security Interest, as applicable, shall require notice to, or the consent of, the Junior Subordinated Creditors or otherwise affect the subordination and postponement of the Junior Subordinated Security Interest and the Junior Subordinated Indebtedness hereby granted by the Junior Subordinated Creditors. The Junior Subordinated Creditors

shall not amend, extend, renew, modify, replace, supplement or restate the Junior Subordinated Indebtedness or the Junior Subordinated Security Interest without the prior written consent of Senior Creditor and Senior Subordinated Creditor, such consent not to be unreasonably withheld, delayed or conditioned.

3. **Subordination and Postponement by Senior Subordinated Creditor.** The Senior Subordinated Creditor hereby subordinates and postpones the Senior Subordinated Security Interest and the Senior Subordinated Indebtedness to the Senior Security Interest and the Senior Indebtedness and agrees with Senior Creditor that the Senior Security Interest shall be a lien and charge against the Senior Collateral for the full amount of the Senior Indebtedness in full priority to the Senior Subordinated Security Interest in the Senior Subordinated Collateral. No discharge, release or waiver by Senior Creditor or of any of the Senior Security Interest against or in respect of any part of the Senior Collateral or any person or any amendment, renewal, extension, replacement, modification, supplement or restatement of any Senior Indebtedness and/or the Senior Security Interest shall require notice to, or the consent of, the Senior Subordinated Creditor or otherwise affect the subordination and postponement of the Senior Subordinated Security Interest hereby granted by the Senior Subordinated Creditor. The Senior Subordinated Creditor shall not amend, extend, renew, modify, replace, supplement or restate the Senior Subordinated Indebtedness or the Senior Subordinated Security Interest without the prior written consent of Senior Creditor, such consent not to be unreasonably withheld, delayed or conditioned.

4. **Postponement and Subordination of Senior Subordinated Indebtedness and Junior Subordinated Obligations; Distributions to Creditors.**

- (1) Subject only to Section 4(2) hereof, the payment and performance of all Senior Subordinated Indebtedness is hereby postponed and subordinated to the indefeasible payment and performance, in full in final satisfaction of all Senior Indebtedness and the payment and performance of all Junior Subordinated Indebtedness is hereby postponed and subordinated to the indefeasible payment and performance, in full in final satisfaction of all Senior Indebtedness and Senior Subordinated Indebtedness. The Senior Subordinated Creditor will not directly or indirectly, accept from any Obligor, in any manner, directly or indirectly, payment of, or consideration for the reduction of, the whole or any part of the Senior Subordinated Obligations in any manner contrary to this Agreement and if any such payment is received or made on the Senior Subordinated Obligations, such payment shall be held by the Senior Subordinate Creditor in trust for the benefit of, and shall be promptly paid over in the form received (duly endorsed, if necessary, to the Senior Creditor) to, Senior Creditor. The Junior Subordinated Creditors will not directly or indirectly, accept from any Obligor, in any manner, directly or indirectly, payment of, or consideration for the reduction of, the whole or any part of the Junior Subordinated Obligations in any manner contrary to this Agreement and if any such payment is received or made on the Junior Subordinated Obligations, such payment shall be held by the Junior Subordinated Creditors in trust for the benefit of, and shall be promptly paid over in the form received (duly endorsed, if necessary, to the Senior Creditor) to, the Senior Creditor and after the Senior Indebtedness is indefeasibly paid in full such payment shall be held by the Junior Subordinated Creditors in trust for the benefit of, and shall be promptly paid over in the form received (duly endorsed, if necessary, to the Senior Subordinated Creditor) to, the Senior Subordinated Creditor.
- (2) In the absence of a Creditor Proceeding or a notice of a Senior Payment Default, unless a Senior Blockage Notice has been given pursuant to Section 8(c) hereof which has not been withdrawn by the Senior Creditor, the Senior Subordinated Creditor shall be entitled to receive and retain any and all cash interest payments in respect of the Senior Subordinated Indebtedness not in excess of the rate per annum provided for in the Brown Note. After the indefeasible payment in full of the Senior Indebtedness, In the absence of a Creditor Proceeding or a notice of a Senior Subordinated Payment Default, unless a Senior Subordinated Blockage Notice has been given pursuant to

Section 8(e) hereof which has not been withdrawn by the Senior Subordinated Creditor, the Junior Subordinated Creditors shall be entitled to receive and retain any and all cash interest payments in respect of the 1006903 Note not in excess of the rate per annum provided for in the 1006903 Note.

5. **Priority of Security and Payments.** Any and all proceeds of realization from or relating to any Enforcement Action against any and all of the Senior Collateral, the Senior Subordinated Collateral or Junior Subordinated Collateral shall be applied in the following order:

- (i) first, to the payment of costs, charges, expenses and liabilities incurred by the Senior Creditor in connection with the Enforcement Action upon any Senior Collateral;
- (ii) second, to the indefeasible payment and satisfaction in full of all Senior Indebtedness;
- (iii) third, to the payment of costs, charges, expenses and liabilities incurred by the Senior Subordinated Creditor in connection with the enforcement of or realization upon any Senior Subordinated Security;
- (iv) fourth, to the payment and satisfaction in full of all Senior Subordinated Indebtedness;
- (v) fifth, to the to the payment of costs, charges, expenses and liabilities incurred by the Junior Subordinated Creditors in connection with the enforcement of or realization upon any Junior Subordinated Security;
- (vi) sixth to the payment and satisfaction in full of all Junior Subordinated Indebtedness; and
- (vii) And then to the Obligors or such other persons as may be entitled thereto under applicable laws.

6. **Effectiveness of Priority.** The subordination and postponement set out in this Agreement shall apply notwithstanding any of the following:

- (a) the dates of execution, attachment, delivery, registration, recording, filing, perfection or notification with respect to any of the Junior Subordinated Security Interest, Senior Subordinated Security Interest or the Senior Security;
- (b) the date of any advance or advances of all or any portion of the Senior Indebtedness, Senior Subordinated Indebtedness or the Junior Subordinated Indebtedness or the date or dates any such amount or amounts arose, and the date or dates upon which the obligations secured by the Senior Security Interest, the Senior Subordinated Security Interest, and the Junior Subordinated Security arise or become due;
- (c) the time of crystallization of any security interest (as defined in the *Securities Transfer Act* (British Columbia)), mortgage, charge, assignment, pledge or encumbrance;
- (d) the timing of enforcement or realization of the Senior Security Interest, Senior Subordinated Security Interest or the Junior Subordinated Security Interest;
- (e) any failed, inadequate, invalid or ineffective registration, recordation, filing or notification with respect to any Security Interest, security notice, mortgage, charge,

assignment, pledge or encumbrance;

- (f) circumstances where the amount of the obligations secured by Senior Security Interest, Senior Subordinated Security Interest or the Junior Subordinated Security may change from time to time;
- (g) any extension of time being given to the Borrower, any Senior Obligor or any Senior Subordinated Obligor or any other obligor (each, an "**Obligor**") or any other change in the terms of any of the Senior Documents, Senior Subordinated Documents or the Junior Subordinated Documents;
- (h) any compromise, arrangement or plan of debt restructuring or reorganization affecting the Borrower;
- (i) the release of any person, firm or corporation liable as a surety, guarantor or otherwise in respect of the indebtedness, liability and obligations of any Obligor to the Senior Creditor, the Senior Subordinated Creditor or Junior Subordinated Creditors;
- (j) the omission or refraining from proving the claim or any part of the claim of the Senior Creditor, the Senior Subordinated Creditor or Junior Subordinated Creditors in any bankruptcy, winding-up, liquidation, arrangement, compromise or other proceeding involving any Obligor;
- (k) the priority granted by any principle of law or any statute, including any applicable real property, mines and minerals or personal property security legislation; and
- (l) any other fact, matter or defect which, but for this Agreement, would impact on the relative priority of the Senior Security Interest, the Senior Indebtedness, the Senior Subordinated Security Interest, the Senior Subordinated Indebtedness, the Junior Subordinated Security and the Junior Subordinated Indebtedness.

7. **Rights to Deal with Obligors.** The Senior Creditor and the Senior Subordinated Creditor shall be entitled to deal with the Obligors as they may see fit without in any manner affecting the subordination and postponement hereunder, and in particular, without limiting the generality of the foregoing, Senior Creditor or the Senior Subordinated Creditor may from time to time:

- (a) grant time, renewals, extensions, releases, discharges or other indulgences or forbearances to the Obligors;
- (b) waive timely and strict compliance with or refrain from exercising any rights under the Senior Security Interest or the Senior Subordinated Security Interest, as applicable; and
- (c) take additional security from the Obligors, and amend, supplement, restate or replace (but not increase) the Senior Indebtedness, the Senior Security Interest, the Senior Subordinated Indebtedness, the Senior Subordinated Security Interest, as applicable.

8. **Payments.** The parties hereto covenant and agree as follows:

- (a) In the event of the commencement of any Creditor Proceedings, no Obligor shall make any payment (whether in cash or property) with respect to (a) any Senior

Subordinated Indebtedness (and the Senior Subordinated Creditor shall not accept the same) until the Senior Indebtedness has been paid in full and (b) Junior Subordinated Indebtedness (and the Junior Subordinated Creditors shall not accept the same) until the Senior Indebtedness and the Senior Subordinated Indebtedness has been paid in full.

- (b) In the event that the Senior Creditor notifies the Senior Subordinated Creditor and the Junior Subordinated Creditors in writing that the Senior Obligors have failed to make any payment of Senior Indebtedness when due (a "**Senior Payment Default**"), no Obligor shall make any payment (whether in cash or property) with respect to any Senior Subordinated Indebtedness (and the Senior Subordinated Creditor shall not receive or retain any such payment) or Junior Subordinated Indebtedness (and the Junior Subordinated Creditors shall not receive or retain any such payment) until the Senior Creditor notifies the Senior Subordinated Creditor and the Junior Subordinated Creditors in writing that such Senior Payment Default has been cured or waived. Senior Creditor agrees to provide notice to the Senior Subordinated Creditor and the Junior Subordinated Creditors of the cure or waiver of such Senior Payment Default.
- (c) In the event of the occurrence of an event of default under any Senior Document other than a Senior Payment Default (a "**Senior Default**"), the Senior Creditor shall have the right to notify the Senior Subordinated Creditor in writing (a "**Senior Blockage Notice**") that no payment in respect of the Senior Subordinated Obligations may be paid (and the Senior Subordinated Creditors shall not receive or retain any such payment) for so long as the Senior Creditor does not withdraw such Senior Blockage Notice. In no event may the total number of days during which any Senior Blockage Notice is in effect exceed 210 days in the aggregate during any 360 consecutive day period.
- (d) After the indefeasible payment in full of the Senior Indebtedness, in the event that the Senior Subordinated Creditor notifies the Junior Subordinated Creditors in writing that the Senior Subordinated Obligors have failed to make any payment of Senior Subordinated Indebtedness when due (a "**Senior Subordinated Payment Default**"), no Obligor shall make any payment (whether in cash or property) with respect to any Junior Subordinated Indebtedness (and the Junior Subordinated Creditors shall not receive or retain any such payment) until the Senior Subordinated Creditor notifies the Junior Subordinated Creditors in writing that such Senior Subordinated Payment Default has been cured or waived. Senior Subordinated Creditor agrees to provide notice to the Junior Subordinated Creditors of the cure or waiver of such Senior Subordinated Payment Default.
- (e) After the indefeasible payment in full of the Senior Indebtedness, in the event of the occurrence of an event of default under any Senior Subordinated Document other than a Senior Payment Default (a "**Senior Subordinated Default**"), the Senior Subordinated Creditor shall have the right to notify the Junior Subordinated Creditors in writing (a "**Senior Subordinated Blockage Notice**") that no payment in respect of the Junior Subordinated Obligations may be paid (and the Junior Subordinated Creditors shall not receive or retain any such payment) for so long as the Senior Subordinated Creditor does not withdraw such Senior Subordinate Blockage Notice.
- (f) In the event that any payment is received by the Senior Subordinated Creditor or the Junior Subordinated Creditors in violation of the provisions of this Section 6, such

payment shall be held by the Senior Subordinated Creditor or the Junior Subordinated Creditors, as applicable, in trust for the benefit of, and shall be promptly paid over in the form received (duly endorsed, if necessary, to the Senior Creditor or Senior Subordinated Creditor, as applicable) to, the Senior Creditor to the extent of the then outstanding amount of Senior Indebtedness and thereafter to the Senior Subordinated Creditor to the extent of the Senior Subordinated Indebtedness.

For purposes of this Section 6:

"Creditor Proceedings" means:

- (a) any dissolution, winding-up, total or partial liquidation, adjustment or readjustment of debt, reorganization, compromise, arrangement with creditors, plan of arrangement, proposal or similar proceedings under Insolvency Laws of or with respect to the any Obligor or its property or liabilities, in each case under Insolvency Laws;
- (b) any dissolution, winding-up, total or partial liquidation, adjustment or readjustment of debt, reorganization, compromise, arrangement with creditors, plan of arrangement or similar proceedings under the arrangement provisions of any applicable corporate law (in any case which involves the alteration, amendment, conversion, compromise, satisfaction or discharge of obligations of any or all creditors) of or with respect to any Obligor or its property or liabilities;
- (c) any bankruptcy, insolvency, receivership, petition or assignment in bankruptcy, or assignment for the benefit of creditors under any Insolvency Laws of or with respect to the any Obligor;
- (d) any marshalling of assets and liabilities of the any Obligor under any Insolvency Laws; or
- (e) any proceedings in relation to any of the foregoing,

"Insolvency Laws" means the Bankruptcy Code of the United States of America or any other bankruptcy, insolvency or analogous laws applicable to any Obligor or any of its properties or liabilities;

9. **Permissible Payments; Conversion of Brown Note.** Notwithstanding anything in this Agreement to the contrary the only payments permitted to be made under the Subordinated Indebtedness or the Junior Subordinated Indebtedness are the payments permitted by Section 4(2). Nothing in this Agreement shall affect the right of the Senior Subordinated Creditor to convert the Brown Note to equity in accordance with its terms and such conversion may be made at any time without the consent of any other party hereto.

10. **Standstill.** (a) The Senior Subordinated Creditor shall not take any Enforcement Action under or in respect of the Senior Subordinated Security or the Senior Subordinated Indebtedness, with respect to all or any part of the Senior Subordinated Collateral or against any without reasonable prior notice to, and the written consent of, the Senior Creditor. Notwithstanding the foregoing, no such consent shall be required after the 210th day after the commencement of a blockage of payments (the "**Standstill Period**") to the Senior Subordinated Creditor, provided, however that the foregoing restrictions on the Senior Subordinated Creditor shall immediately terminate upon any one or more of the following:

- (i) the acceleration of the Senior Obligations or receipt of written notice, within such two hundred and eighty (210) day period, from Senior Lender that the Senior Indebtedness has been paid in full;

- (ii) the commencement of any Enforcement Action by the Senior Lender in respect of the Senior Obligations or the Senior Security;
 - (iii) the commencement by any Obligor of any Creditor Proceedings;
 - (iv) the commencement by the Senior Lender of, or the joining with any other creditor in, any Creditor Proceedings; or
 - (v) the commencement of Creditor Proceedings by creditors other than the Senior Lender, which proceedings (A) are not contested by the applicable Obligor within the applicable time period for doing so, (B) are not stayed or dismissed within sixty (60) days after the initiation thereof, or (C) result in applicable Obligor being adjudged bankrupt or insolvent by a court of competent jurisdiction.
- (b) The Junior Subordinated Creditors shall not take any Enforcement Action under or in respect of the Junior Subordinated Security or the Junior Subordinated Indebtedness unless and until the indefeasible payment and performance, in full in final satisfaction of all Senior Indebtedness and Senior Subordinated Indebtedness.

11. **No Challenge.** The Senior Subordinated Creditor shall not at any time challenge, contest or bring into question the validity, priority or perfection of the Senior Security Interest, the Senior Indebtedness or any Enforcement Action taken by the Senior Creditor under or in respect of any of the foregoing against the Borrower or any Obligor or against all or any part of the Senior Collateral. The Junior Subordinated Creditors shall not at any time challenge, contest or bring into question the validity, priority or perfection of the Senior Security Interest, the Senior Indebtedness, the Senior Subordinated Security Interest, the Senior Subordinated Indebtedness or any Enforcement Action taken by the Senior Creditor or the Senior Subordinated Creditor under or in respect of any of the foregoing against the Borrower or any Obligor or against all or any part of the Senior Collateral or Senior Subordinated Collateral.

In this Agreement, "**Enforcement Action**" means the commencement of any power of sale, foreclosure or other judicial or private sale proceedings, appointing or obtaining the appointment of a receiver, a manager or a receiver and manager or other person having similar powers in respect of any person or property, taking possession or control of any property or undertaking, commencing, giving or making any demand for payment, any notice of intention to enforce security or any action or proceeding seeking payment or recovery of all or any part of any indebtedness or damages in lieu thereof, or accepting a transfer of any property in lieu of foreclosure, or the exercise of any other rights or remedies available to a creditor under its security or otherwise at law or in equity, including without limitation, any bankruptcy proceedings. Obligations

12. **Assignment.** The Senior Subordinated Creditor and Junior Subordinated Creditors agree that they shall not sell, transfer, assign or otherwise dispose of any interest in the Junior Subordinated Indebtedness or the Junior Subordinated Security or the Senior Subordinated Indebtedness or Senior Subordinated Security to any Person (as such term is defined in the Debenture Purchase Agreement) (the "**Assignee**") except upon terms and conditions which are expressly subject to the terms of this Agreement. Concurrently with any such sale, transfer, assignment or other disposition, the Senior Subordinated Creditor or the Junior Subordinated Creditors, as applicable, shall cause each Assignee to enter into a subordination and standstill agreement on the same terms and conditions as this Agreement. Senior Creditor may, without further notice to the Borrower, Senior Subordinated Creditor or the Junior

Subordinated Creditors, at any time assign, transfer or grant a Security Interest in this Agreement to any Person who is agent for all of the Investors.

13. **Obligations of Senior Subordinated Obligors Not Affected.**

- (i) The failure of any Obligor to make any payment or distribution with respect to the Senior Subordinated Obligations as a result of the provisions of this Agreement shall not be construed as preventing the occurrence of a Senior Subordinated Payment Default or the accrual of default interest in accordance with the terms of the Brown Note.
- (ii) Nothing contained in this Agreement is intended to or shall impair, as between the Senior Subordinated Obligors and the Senior Subordinated Creditor the obligation of the Senior Subordinated Obligors, which are absolute and unconditional, to pay to the Senior Subordinated Indebtedness as and when the same shall become due and payable in accordance with their terms, or affect the rights of the Senior Subordinated Creditor as against the Senior Subordinated Obligors, nor shall anything herein prevent the Senior Subordinated Creditor from exercising all remedies otherwise permitted by applicable law in respect of the Senior Subordinated Indebtedness, in each case, subject to (i) the terms and provisions of this Agreement, (ii) the postponement of the Senior Subordinated Indebtedness to the Senior Indebtedness set forth herein, (iii) the priority of the Senior Security Interest over the Senior Subordinated Security Interest Senior Subordinated Security Interest over the Junior Subordinated Security Interest set forth herein, and (iv) the rights and interests of the parties hereunder.
- (iii) Each Obligor shall resume payments and distributions in respect of the Senior Subordinated Indebtedness prohibited hereunder as soon as such payments and distributions are no longer prohibited hereunder, including any amounts (including any interest at the rate specified during such period in the Senior Subordinated Documents) in arrears by reason of operation of this Agreement.

14. **Acknowledgements.** It is acknowledged and agreed between the parties as follows:

- (a) all proceeds resulting from the enforcement or realization of any of the charges, assignments or other security interests contained in or constituted by any of the Senior Security Interest, Senior Subordinated Security Interest or the Junior Subordinated Security Interest, and all other proceeds received by any party pursuant to their respective security, will be divided or otherwise dealt with in such way as to give effect to the provisions of this Agreement and the priorities established hereby; and
- (b) any insurance proceeds received by any of the parties hereto shall be dealt with according to the preceding provisions hereof as though such insurance proceeds were paid or payable as proceeds of realization of the collateral for which they compensate.

15. **Further Assurances.** The parties hereto shall at all times promptly do, make, execute, acknowledge, deliver, or cause to be done, made, executed, acknowledged or delivered, all such further acts, deeds, agreements and other instruments as may reasonably be required or desirable to give full force and effect to the terms of this Agreement and shall take such steps as may be reasonably within its power to implement the full extent of this Agreement.

16. **Waivers and Amendments.** Unless otherwise provided, any amendment, addition, deletion or other modification to this Agreement may be made upon the written consent of each of the parties hereto

and no such amendment, addition, deletion or other modification to this Agreement shall be effective unless in writing and signed by each of the parties hereto. Any provision of this Agreement may only be waived by the party in whose favour such provision is intended to benefit, such waiver to be evidenced by a notice in writing by the waiving party to the other party.

17. **Notices.** Any notice, consent, waiver, direction or other communication required or permitted to be given under this Agreement by any party hereto to any other party shall be in writing and shall be delivered by (a) personal delivery; (b) certified or registered mail (first class postage pre-paid); (c) guaranteed overnight delivery by recognized national courier; or (d) facsimile transmission or email transmission, addressed to the party to which the notice is to be given at its address, facsimile number or email address for service herein (or to such other address which such party may subsequently designate by ten (10) calendar days' advance written notice to the other party). Any notice, consent, waiver, direction or other communication made or given by personal delivery, courier or facsimile transmission to the party to whom it was addressed as aforesaid shall be deemed to have been given and received on the date on which it was so delivered at such address (if a Business Day (as such term is defined in the Debenture Purchase Agreement), and if not, or received after 4:00 p.m. local time, the next succeeding Business Day) or if sent by prepaid registered mail be deemed to have been given and received on the fourth (4th) Business Day following the date of its mailing or if sent by email transmission be deemed to have been given and received at the time of receipt unless actually received after 4:00 p.m. local time or on a date that does not fall on a Business Day at the point of delivery in which case it shall be deemed to have been given and received on the next Business Day.

The address, facsimile or email address for service of each of the Parties shall be as follows or at such other address as a party hereto may designate by ten (10) calendar days' advance written notice to the other party:

- (a) If to the Junior Subordinated Creditors or any Obligor:

1006903 B.C. Ltd.
Suite 2390 - 1055 West Hastings Street
Vancouver, British Columbia, V6E 2B9
Canada
Attention: Nicholas Bozikis
email: nick@hardycapital.com
with a copy to (which shall not constitute notice):

Michael, Evrensel & Pawar LLP
Suite 650, 669 Howe Street
Vancouver, British Columbia, V6C 0B4
Canada
Attention: Ryan Patryluk
Telecopier No.: 604-669-1953
email: rpatryluk@meplaw.ca

- (b) If to the Senior Subordinated Creditor:

c/o Brown Shoe Company, Inc.
 8300 Maryland Avenue
 St. Louis, Missouri 63105
 Telephone: (314) 854-4000
 Fax: (314) 854-2044
 E-mail: moberlander@brownshoe.com
 Attention: Michael I. Oberlander

With a copy to:

Bryan Cave LLP
 One Metropolitan Square
 211 North Broadway, Suite 3600
 St. Louis, Missouri 63102
 Telephone: (314) 259-2000
 Fax: (314) 259-2020
 E-mail: wfseabaugh@bryancave.com
 smhosler@bryancave.com
 Attention: William Seabaugh
 Stephanie Hosler

(C) If to If to the Senior Creditor:

Deans Knight Capital Management Ltd.
 1500-999 West Hastings Street
 Vancouver, British Columbia, V6C 2W2
 Canada
 Attention: Dillon Cameron
 Telecopier No.: 604-669-0238
 email: dcameron@dcansknight.com

with a copy to (which shall not constitute notice):

Farris, Vaughan, Wills & Murphy LLP
 25th Floor – 700 W. Georgia St.
 Vancouver, British Columbia, V7Y 1B3
 Canada
 Attention: Mitchell Gropper, Q.C.
 Telecopier No.: 604-661-9349
 email: mgropper@farris.com

18. **Governing Law.** This Agreement and all actions arising out of or in connection with this Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to the conflict of laws provisions thereof.

19. **Exclusive Jurisdiction.** Each party hereto irrevocably attorns to the courts of the Province of British Columbia, which jurisdiction shall be the sole and exclusive jurisdiction for any disputes or claims in relation to this Agreement and all matters arising out of or in connection with this Agreement.

20. **Successors.** The acknowledgements and agreements contained in this Agreement shall extend to, be binding upon and enure to the benefit of each of the parties hereto and their respective successors, permitted assigns, permitted transferees, heirs, executors, administrators and personal representatives.

21. **Recitals.** The recitals to this Agreement form an integral part of this Agreement and shall be deemed to be included within the body of this Agreement as agreements of the parties hereto.

22. **Headings and Numbering of Articles.** The headings of the sections, subsections and clauses of this Agreement have been inserted for convenience and reference only and do not define, limit, alter or enlarge the meaning of any provision of this Agreement. Unless otherwise stated, a reference herein to a numbered or lettered section, subsection, clause or sub-clause refers to the section, subsection or clause, sub-clause or schedule bearing that number or letter in this Agreement.

23. **Entire Agreement and Paramountcy.** This Agreement constitutes the full and entire understanding and agreement between the parties hereto with regard to the subjects hereof and thereof and cancels and supersedes any prior understandings and agreements between the parties with respect thereto.

24. **Validity.** If any provision of this Agreement shall be judicially determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions thereof shall not in any way be affected or impaired thereby. To the extent permitted by applicable law, each party hereto hereby waives any provision of law that renders any provision hereof unenforceable in any respect.

25. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same instrument. This Agreement, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or by PDF, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

26. **Other Terms.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set out herein or in any other Transaction Document) in accordance with the terms hereof and thereof, (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import, when used in this Agreement or any Transaction Document, shall be construed to refer to this Agreement or such Transaction Document in its entirety and not to any particular provision hereof or thereof, (iv) all references in this Agreement or a Transaction Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement or the other Transaction Document in which such references appear, (v) any reference to any Applicable

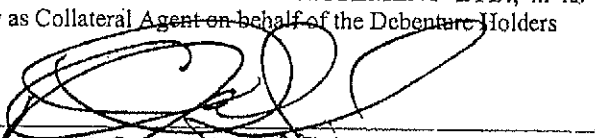
Laws shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such Applicable Laws and any reference to any Applicable Laws shall, unless otherwise specified, refer to such Applicable Laws as amended, modified or supplemented from time to time, (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (vii) in the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding day that is a Business Day.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF each Party has duly executed this Agreement as of the date and year first above written.

DEANS KNIGHT CAPITAL MANAGEMENT LTD., in its
capacity as Collateral Agent on behalf of the Debenture Holders

Per:


Name: CRAIG LANGDON
Title: AUTHORIZED SIGNATORY

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date and year first written above.

DEANS KNIGHT CAPITAL MANAGEMENT LTD.

Per: 

Name: CRIG LANGDON

Title: AUTHORIZED SIGNATORY

SHOEME TECHNOLOGIES LIMITED

Per: _____

Name: _____

Title: _____

A12345 HOLDINGS, INC.

Per: _____

Name: _____

Title: _____

1006903 B.C. LTD.

Per:



Name: Nicholas Bazikas

Title: CFO

A12345 HOLDINGS, INC.

Per: 

Name: Nicholas Rozitis

Title: CFO

SHOES.COM, INC.

Per: 

Name: Nicholas Bozakis
Title: CFO

SHOEME TECHNOLOGIES LIMITED

Per: 

Name: SEAN CLARK
Title: President and CEO

GERLER AND SON, INC.

Per: 

Name: Nicholas Bozakis

Title: CPO

BROWN SHOE INVESTMENT COMPANY, INC.Per: Name: Russell C. HammerTitle: Senior Vice President and Chief Executive Officer

This is **EXHIBIT "E"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.


A Commissioner for taking
Affidavits within British Columbia



VANCOUVER, B.C. – January 27, 2017 – SHOES.COM (the “Company”) announces that it will be shutting down operations as of today.

The Company will take all three of its e-commerce properties - SHOES.com, OnlineShoes.com and ShoeME.ca – offline, along with closing the two SHOES.com brick-and-mortar stores in Vancouver and Toronto. Employees were made aware of the decision this morning, and have been compensated through the end of the month. The Company is working with its secured lenders to determine the process to liquidate assets and currently intends to assign some or all of the group companies into bankruptcy.

A limited group of employees will stay on through the next few weeks as the Company winds down all operations.

Inquiries:
communications@shoes.com

This is **EXHIBIT "F"** referred to in the Affidavit of
DILLON CAMERON sworn before me at Vancouver
this 2nd day February, 2017.


A Commissioner for taking
Affidavits within British Columbia



289
Wells Fargo Capital Finance
40 King Street West
Suite 2500
Toronto, ON M5H 3Y2
Tel: 416 775 2900

January 31, 2017

**VIA OVERNIGHT DELIVERY
VIA EMAIL/FACSIMILE**

Deans Knight Capital Management Ltd.
1500-999 West Hastings Street
Vancouver, British Columbia, V6C 2W2
Canada
Attn: Dillon Cameron
Facsimile: (604) 669-0238

Farris, Vaughan, Wills & Murphy LLP
25th Floor – 700 W. Georgia Street
Vancouver, British Columbia, V7Y 1B3
Canada
Attn: Mitchell Gropper, Q.C.
Facsimile: (604) 661-9349

Dentons Canada LLP
250 Howe Street, 20th Floor
Vancouver, BC V6C 3R8
Canada
Attn: John R. Sandrelli
Email: john.sandrelli@dentons.com

Re: Notice re Subordination, Postponement and Standstill Agreement
Shoes.com, Inc./Onlineshoes.com Inc.

Gentlemen:

We write with respect to that certain Subordination, Postponement and Standstill Agreement dated as of March 31, 2015, by and among Onlineshoes.com Inc., Shoes.com, Inc., Shoes.com Holdings (USA) Inc., Shoes.com Technologies Inc., Shoes.com (Richer Poorer) LLC, Wells Fargo Bank, National Association (“**Wells Fargo**”), and Deans Knight Capital Management Ltd. (“**Deans Knight**”) (the “**Subordination Agreement**”).

Together we'll go far



Deans Deans Knight Capital Management Ltd.
January 31, 2017
Page 2

Pursuant to Section 3.03(2) of the Subordination Agreement, we have enclosed for your information a Notice of Events of Default, Acceleration, and Termination of Commitment ("**Notice of Default**") transmitted to Onlineshoes.com Inc. and Shoes.com, Inc. on January 31, 2017, in accordance with that certain Credit and Security Agreement dated as of March 31, 2015, between Wells Fargo and its credit parties. The Notice of Default constitutes a Senior Obligations Default. Capitalized terms not otherwise defined herein shall have the meanings provided in the Subordination Agreement.

Pursuant to Section 2.05(1) of the Subordination Agreement, this letter shall constitute Wells Fargo's notice of a purchase option Triggering Event due to the acceleration of the Senior Obligations and Wells Fargo's termination of any commitment to make further advances. Any Purchase Notice from Deans Knight shall be due within ten (10) Banking Days. Please note that Wells Fargo is not prohibited from pursuing its rights, including any Enforcement Action, during such 10-day period.


This letter shall also constitute a Payment Blockage Notice based upon the Senior Obligations Default. Pursuant to Section 2.09 of the Subordination Agreement, Deans Knight shall hold any payment or distribution in trust and must promptly deliver such payment to Wells Fargo.

Lastly, please be advised that Deans Knight may not exercise default remedies or take any Enforcement Action until the Wells Fargo obligations are indefeasibly paid in full, as further detailed in Section 2.04 of the Subordination Agreement.

If you have any questions about this notice, please contact Greg Fox (foxg@lanepowell.com; 206-223-7129) or me at your convenience.

Sincerely,

WELLS FARGO BANK, NATIONAL
ASSOCIATION



Kevin Freer, Vice President

cc: Gregory R. Fox, Esq.



GREGORY R. FOX
206.223.7129
foxg@lanepowell.com

January 31, 2017

VIA EMAIL AND OVERNIGHT DELIVERY

Onlineshoes.com Inc., administrative borrower
1730 Minor Avenue, Suite 700
Seattle, WA 98101
Attn: Jeffrey Mason
JeffreyM@shoes.com

Michael, Evrensel & Pawar LLP
669 Howe Street, Suite 650
Vancouver, BC Canada V6C 0B4
Attn: Jesse Ahuja, Esq.
jahuja@meplaw.ca

Re: Notice of Events of Default, Acceleration, and Termination of Commitment

Gentlemen:

This office and the undersigned represent Wells Fargo Bank, National Association ("**Wells Fargo**") in connection with that certain Credit and Security Agreement dated as of March 31, 2015, by and among Onlineshoes.com Inc., a Washington corporation and Shoes.com, Inc., a Delaware corporation (collectively, "**Borrowers**"), Shoes.com Holdings (USA) Inc., a Washington corporation ("**Holdco**"), and Shoes.com Technologies Inc., a British Columbia corporation (together with Holdco, "**Guarantors**", and with Borrowers, the "**Loan Parties**"), and Wells Fargo, as most recently amended by that certain Second Amendment to Credit and Security Agreement and Reservation of Rights dated as of June 10, 2016 (as amended or otherwise modified from time to time, the "**Credit Agreement**"). All capitalized terms used in this letter but not otherwise defined have the meaning given in the Credit Agreement.

Borrowers are in default under the Loan Documents on account of (i) the Events of Default identified in Wells Fargo's letter dated as of September 16, 2016, (ii) the Events of Default identified in Wells Fargo's letter dated April 4, 2016, and (iii) Borrowers' failure to maintain its business operations, as required under Section 7.6 of the Credit Agreement. The foregoing shall collectively be referred to herein as the "**Existing Events of Default**."

www.lanepowell.com
T. 206.223.7000
F. 206.223.7107

A PROFESSIONAL CORPORATION
1420 FIFTH AVENUE, SUITE 4200
P.O. BOX 91302
SEATTLE, WASHINGTON 98111-9402

LAW OFFICES
ANCHORAGE, AK . PORTLAND, OR
SEATTLE, WA . LONDON, ENGLAND

Onlineshoes.com Inc.
Shoes.com, Inc.
January 31, 2017
Page 2

Section 10.1 (Rights and Remedies) of the Credit Agreement provides that if an Event of Default has occurred and is continuing, Wells Fargo may (a) terminate any funding obligations of Wells Fargo under the Credit Agreement, (b) declare the Obligations due and payable, whereupon the Obligations shall become and thereafter be immediately due and payable in full without any presentment or demand and without any further or other notice of any kind, all of which are waived by Borrowers, and/or (c) give notice to any Account Debtor for direct payment to Wells Fargo of all Accounts.

In accordance with and pursuant to the above provisions of the Credit Agreement, please take notice that Wells Fargo hereby (a) terminates any funding obligations it may have under the Credit Agreement, (b) accelerates the maturity of all of the Obligations, which are now immediately due and payable in full, (c) assesses the Default Rate on the Obligations as of January 30, 2017, and (d) demands that Borrowers and each other Loan Party, at its own expense, assemble all of the Collateral and contact the undersigned to make arrangements for its delivery to Wells Fargo or its agent. The date of this letter shall be deemed the Termination Date. Furthermore, please take notice that Wells Fargo is not obligated to make Advances to, or issue Letters of Credit for the account of, or otherwise extend credit to, Borrowers under the Credit Agreement as a result of the termination of the funding obligations.

As a result of the termination of Wells Fargo's funding obligations, Wells Fargo will continue to apply any funds received in Borrowers' deposit accounts to the Obligations and will not advance funds to cover any amounts or items drawn on such accounts. Borrowers are solely responsible for any outstanding checks or other instruments.

Wells Fargo specifically does not waive, and does not forbear, with respect to any one or more of its respective rights. Wells Fargo expressly reserves all additional rights, remedies, actions and powers to which it may be entitled under the Loan Documents and applicable law based upon the existence and continuation of the Existing Events of Default. No failure on the part of Wells Fargo to exercise, and no delay in exercising, any right under any Loan Document shall operate as a waiver thereof or give rise to any course of dealing. Nor shall Wells Fargo's single or partial exercise of any right, power or privilege under any Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege thereunder.

The Loan Documents remain in full force and effect in accordance with their original terms, as amended. Nothing in this letter, any other correspondence, any oral communications between Wells Fargo and any Borrower or any guarantor, should be construed to be a waiver, modification or release of any breach, default or Event of Default, whether now existing or hereafter arising, or any of Wells Fargo's rights and remedies under the Loan Documents, any

Onlineshoes.com Inc.
Shoes.com, Inc.
January 31, 2017
Page 3

personal guaranty, other agreement, instrument or document between Wells Fargo and any Borrower or any guarantor, or by any Borrower in favor of Wells Fargo and applicable law.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE.

Sincerely,

LANE POWELL PC



Gregory R. Fox

cc: Kevin Freer
John Rizzardi, Esq.
Deans Knight Capital Management Ltd.
Caleres Investment Company, Inc.

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