

SHAREHOLDER RIGHTS PLAN AGREEMENT

between

NEW FLYER INDUSTRIES INC.

and

COMPUTERSHARE INVESTOR SERVICES INC.
as Rights Agent

Made as of August 29, 2011

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Form of Rights Certificate
Form of Election to Exercise
Form of Assignment

SHAREHOLDER RIGHTS PLAN AGREEMENT

THIS AGREEMENT is made as of August 29, 2011

BETWEEN:

NEW FLYER INDUSTRIES INC., a corporation incorporated under the laws of Ontario

(the “**Corporation**”)

AND:

COMPUTERSHARE INVESTOR SERVICES INC., a company existing under the laws of Canada

(the “**Rights Agent**”)

WHEREAS:

A. The Board has determined that it is advisable and in the best interests of the Corporation to adopt a shareholder rights plan (the “**Rights Plan**”) to ensure, to the extent possible, that the Corporation has sufficient time to properly develop and pursue alternatives that could maximize value for shareholders and to ensure that shareholders of the Corporation are treated fairly in connection with any take-over offer for the Corporation or other acquisition of control of the Corporation.

B. In order to implement the Rights Plan, the Board has:

- (i) authorized the issuance on the Effective Date of one right (a “**Right**”) in respect of each Share outstanding at the Record Time;
- (ii) authorized the issuance of one Right in respect of each Share issued after the Record Time and prior to the earlier of the Separation Time and the Expiration Time; and
- (iii) authorized the issuance of Rights Certificates to holders of Rights pursuant to the terms and subject to the conditions set forth herein.

C. Each Right entitles the holder thereof, after the Separation Time, to purchase securities of the Corporation pursuant to the terms and subject to the conditions set forth herein.

D. The Corporation desires to appoint the Rights Agent to act on behalf of the Corporation, and the Rights Agent is willing to so act, in connection with the issuance, transfer, exchange and replacement of Rights Certificates, the exercise of Rights and other matters referred to herein.

NOW THEREFORE, in consideration of the premises and respective agreements set forth herein, the parties hereby agree as set forth below.

ARTICLE 1 **INTERPRETATION**

1.1 Certain Definitions

For the purposes of this agreement, including the recitals hereto, the terms set forth below have the meanings indicated.

(a) “**Acquiring Person**” means any Person who is at any time after the date hereof the Beneficial Owner of 20% or more of the outstanding Shares, but does not include:

- (i) the Corporation or any Subsidiary of the Corporation;
- (ii) any Person who becomes the Beneficial Owner of 20% or more of the outstanding Shares as a result of one or any combination of:
 - (A) a Share Reduction;
 - (B) a Permitted Bid Acquisition;
 - (C) an Exempt Acquisition;
 - (D) a Pro Rata Acquisition; or
 - (E) a Convertible Security Acquisition,

provided, however, that if a Person becomes the Beneficial Owner of 20% or more of the outstanding Shares by reason of one or more or any combination of a Share Reduction, a Permitted Bid Acquisition, an Exempt Acquisition, a Pro Rata Acquisition or a Convertible Security Acquisition, and thereafter such Person, while such Person is the Beneficial Owner of 20% or more of the Shares then outstanding, becomes the Beneficial Owner of more than 1.0% of the number of Shares then outstanding in addition to those Shares such Person already holds (otherwise than pursuant to a Share Reduction, a Permitted Bid Acquisition, an Exempt Acquisition, a Pro Rata Acquisition or a Convertible Security Acquisition or any combination thereof), then, as of the date that such Person becomes a Beneficial Owner of such additional Shares, such Person shall become an “**Acquiring Person**”;

- (iii) for the period of 10 days after the Disqualification Date (as hereinafter defined), any Person who becomes the Beneficial Owner of 20% or more of the outstanding Shares as a result of such Person becoming disqualified

from relying on Section 1.1(e)(ii)(B) where such disqualification results solely because such Person is making or has announced a current intention to make a Take-over Bid, either alone or by acting jointly or in concert with any other Person, unless such disqualified Person during such 10-day period acquires more than 1.0% of the number of Shares then outstanding in addition to those Shares such disqualified Person already holds. For the purposes of this definition, “**Disqualification Date**” means the first date of public announcement that such Person is making or has a current intention to make a Take-over Bid, either alone or by acting jointly or in concert with another Person;

- (iv) an underwriter or a member of a banking or selling group that becomes the Beneficial Owner of 20% or more of the Shares in connection with a distribution of securities pursuant to an underwriting agreement with the Corporation; or
 - (v) any Person (a “**Grandfathered Person**”) who is the Beneficial Owner of more than 20% of the Shares determined as at the Record Time, provided, however, that this exception shall cease to apply if, after the Record Time, the Grandfathered Person (A) ceases to own more than 20% of the outstanding Shares, or (B) becomes the Beneficial Owner of more than an additional 1% of the number of outstanding Shares then outstanding in addition to those Shares such Person already holds (otherwise than pursuant to a Share Reduction, a Permitted Bid Acquisition, an Exempt Acquisition, a Pro Rata Acquisition or a Convertible Security Acquisition or any combination thereof).
- (b) “**Affiliate**”, when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified Person.
 - (c) “**Agreement**” means this shareholder rights plan agreement dated as of the date hereof, as the same may be amended or supplemented from time to time; “**hereof**”, “**herein**”, “**hereto**” and similar expressions mean and refer to this Agreement as a whole and not any particular part of this Agreement;
 - (d) “**Associate**”, when used to indicate a relationship with a specified individual, means any relative of such specified individual who has the same home as such specified individual, or any individual to whom such specified individual is married, or any individual with whom such specified individual is living in a conjugal relationship outside marriage, or any relative of such spouse or other individual who has the same home as such specified individual.

- (e) (i) A Person shall be deemed the “**Beneficial Owner**” of, and to have “**Beneficial Ownership**” of, and to “**Beneficially Own**”:
- (A) any securities of which such Person or any of such Person’s Affiliates or Associates is the owner at law or in equity;
 - (B) any securities of which such Person or any of such Person’s Affiliates or Associates has the right to become the owner at law or in equity within 60 days (where such right is exercisable within a period of 60 days, whether or not upon conditions or subject to the occurrence of a contingency or the making of one or more payments) upon the exercise of any conversion right, exchange right, share purchase right (other than the Rights), warrants or options or pursuant to any agreement, arrangement, pledge or understanding, whether or not in writing, other than:
 - (1) customary agreements with and between underwriters and banking group or selling group members with respect to a distribution of securities; and
 - (2) pledges of securities in the ordinary course of the pledgee’s business; and
 - (C) any securities that are Beneficially Owned within the meaning of Section 1.1(e)(i)(A) or 1.1(e)(i)(B) by any other Person with which such Person is acting jointly or in concert.
- (ii) Notwithstanding the provisions of Section 1.1(e)(i), a Person shall not be deemed the “**Beneficial Owner**” of, or to have “**Beneficial Ownership**” of, or to “**Beneficially Own**”, any security because:
- (A) (1) the holder of such security has agreed to deposit or tender such security to a Take-over Bid made by such Person or any of such Person’s Affiliates or Associates or any other Person referred to in Section 1(e)(i)(C) pursuant to a Permitted Lock-up Agreement; or
 - (2) such security has been deposited or tendered pursuant to a Take-over Bid made by such Person or any of such Person’s Affiliates or Associates or made by any other Person acting jointly or in concert with such Person until such deposited or tendered security has been taken up;
 - (B) such Person, any Affiliate or Associate of such Person or any other Person acting jointly or in concert with such Person holds such security; provided that:

- (1) the ordinary business of such Person (the “**Portfolio Manager**”) includes the management or administration of investment funds or mutual funds for other Persons and such security is held by the Portfolio Manager in the ordinary course of such business in the performance of the Portfolio Manager’s duties for the account of any other Person (a “**Client**”), including non-discretionary accounts held on behalf of a Client by a broker or dealer registered under applicable law;
- (2) such Person (the “**Trust Company**”) is licensed to carry on the business of a trust company under applicable laws and, as such, acts as trustee or administrator or in a similar capacity in relation to the estates of deceased or incompetent Persons (each, an “**Estate Account**”) or in relation to other accounts (each, an “**Other Account**”) and holds such security in the ordinary course of such duties for such Estate Accounts or for such Other Accounts;
- (3) such Person (the “**Crown Agent**”) is established by statute for purposes that include, and the ordinary business or activity of such Person includes, the management of investment funds for employee benefit plans, pension plans, insurance plans, or various public bodies; or
- (4) such Person (the “**Plan Administrator**”) is the administrator or the trustee of one or more pension funds or plans registered under the laws of Canada or the United States of America or any province or state thereof (each, a “**Plan**”), or is a Plan;

provided, however, that in any of the foregoing cases, the Portfolio Manager, the Trust Company, the Crown Agent, the Plan Administrator or the Plan, as the case may be, is not then making or has not then announced an intention to make a Take-over Bid, alone or by acting jointly or in concert with any other Person, other than an Offer to Acquire Shares or other securities pursuant to a distribution by the Corporation, or a Permitted Bid or by means of ordinary market transactions (including pre-arranged trades entered into in the ordinary course of business of such Person) executed through the facilities of a stock exchange or organized over-the-counter market in respect of securities of the Corporation;

- (C) such Person is a Client of the same Portfolio Manager as another Person on whose account the Portfolio Manager holds such security, or because such Person is an Estate Account or an Other Account of the same Trust Company as another Person on whose

account the Trust Company holds such security or because such Person is a Plan with the same Plan Administrator as another Plan on whose account the Plan Administrator holds such security provided, however, that such Person is not then making or has not then announced an intention to make a Take-over Bid, alone or by acting jointly or in concert with any other Person, other than an Offer to Acquire Shares or other securities pursuant to a distribution by the Corporation, or a Permitted Bid or by means of ordinary market transactions (including pre-arranged trades entered into in the ordinary course of business of such Person) executed through the facilities of a stock exchange or organized over-the-counter market in respect of securities of the Corporation;

- (D) such Person is a Client of a Portfolio Manager and such security is owned at law or in equity by the Portfolio Manager or because such Person is an Estate Account or an Other Account of a Trust Company and such security is owned at law or in equity by the Trust Company or such Person is a Plan and such security is owned at law or in equity by the Plan Administrator of such Plan provided, however, that such Person is not then making or has not then announced an intention to make a Take-over Bid, alone or by acting jointly or in concert with any other Person, other than an Offer to Acquire Shares or other securities pursuant to a distribution by the Corporation, or a Permitted Bid or by means of ordinary market transactions (including pre-arranged trades entered into in the ordinary course of business of such Person) executed through the facilities of a stock exchange or organized over-the-counter market in respect of securities of the Corporation; or
- (E) such Person is the registered holder of securities as a result of carrying on the business, or acting as a nominee, of a securities depositary provided, however, that such Person is not then making or has not then announced an intention to make a Take-over Bid, alone or by acting jointly or in concert with any other Person, other than an Offer to Acquire Shares or other securities pursuant to a distribution by the Corporation, or a Permitted Bid or by means of ordinary market transactions (including pre-arranged trades entered into in the ordinary course of business of such Person) executed through the facilities of a stock exchange or organized over-the-counter market in respect of securities of the Corporation.

For the purposes of this Agreement, in determining the percentage of the outstanding Shares with respect to which a Person is or is deemed to be the Beneficial Owner, any unissued Shares as to which such Person is deemed the Beneficial Owner pursuant to this Section 1.1(e) shall be deemed outstanding.

- (f) **“Board”** means the board of directors of the Corporation and any duly constituted and empowered committee thereof authorized by the Board to act on its behalf hereunder;
- (g) **“Business Corporations Act”** means the *Business Corporations Act* (Ontario), as amended and the regulations thereunder, as now in effect or as the same may from time to time be amended, re-enacted or replaced.
- (h) **“Business Day”** means any day, other than a Saturday or Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by law to close.
- (i) **“Close of Business”** on any given date means the time on such date (or, if such date is not a Business Day, the time on the next Business Day) at which the principal office of the transfer agent for the Shares or the IDSs in Toronto, Ontario (or, after the Separation Time, the principal office of the Rights Agent in Toronto, Ontario) is closed to the public.
- (j) **“Closing Price”** per security of any securities on any date of determination means:
 - (i) the closing board lot sale price or, if such price is not available, the average of the closing bid and asked prices, for each of such securities as reported by the principal stock exchange or national securities quotation system on which such securities are listed or admitted to trading (provided that, if at the date of determination such securities are listed or admitted to trading on more than one stock exchange or national securities quotation system, then such price or prices shall be determined based upon the stock exchange or quotation system on which such securities are then listed or admitted to trading on which the largest number of such securities were traded during the most recently completed calendar year);
 - (ii) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a stock exchange or a national securities quotation system, then the last sale price, or in case no sale takes place on such date, the average of the high bid and low asked prices for each of such securities in the over-the-counter market, as quoted by any reporting system then in use; or
 - (iii) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a stock exchange or a national securities quotation system or quoted by any such reporting system, then the average of the closing bid and asked prices as furnished by a professional market maker making a market in the securities selected in good faith by the Board,

provided that, if for any reason none of such prices are available on such date, then the “Closing Price” per security of such securities on such date shall mean the fair value per

security of the securities on such date as determined by a nationally or internationally recognized investment dealer or investment banker selected in good faith by the Board with respect to the fair value per security of such securities.

(k) **“Competing Permitted Bid”** means a Take-over Bid that:

- (i) is made after a Permitted Bid or another Competing Permitted Bid has been made and prior to the expiry of such Permitted Bid or Competing Permitted Bid;
- (ii) satisfies all components of the definition of a Permitted Bid other than the requirement set forth in Section 1.1(l)(ii)(A)(1); and
- (iii) contains, and the take-up and payment for securities tendered or deposited thereunder is subject to, irrevocable and unqualified conditions that no Shares or Notes shall be taken up or paid for pursuant to such Take-over Bid prior to the Close of Business on a date that is no earlier than the later of:
 - (A) 35 days after the date of such Take-over Bid; and
 - (B) the earliest date on which Shares or Notes may be taken up or paid for under any other Permitted Bid or Competing Permitted Bid that preceded the Competing Permitted Bid that is then outstanding for the Shares or Notes,

provided that, should a Competing Permitted Bid cease to be a Competing Permitted bid because it ceases to meet any or all of the requirements mentioned above prior to the time it expires (after giving effect to any extension) or is withdrawn, then any acquisition of Shares made pursuant to such Competing Permitted Bid, including any acquisition of Shares made prior to such time, shall not be a Permitted Bid Acquisition.

(l) **“Consolidation”** means, assuming approval by the Shareholders at the Special Meeting, the consolidation of the Shares on a ten-for-one basis, as described in the management information circular of the Corporation prepared for the Special Meeting.

(m) **“Controlled”**: a corporation is “controlled” by another Person or two or more Persons acting jointly or in concert if:

- (i) securities entitled to vote in the election of directors carrying more than 50% of the votes for the election of directors are held, directly or indirectly, by or for the benefit of the other Person or two or more Persons acting jointly or in concert; and
- (ii) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of such corporation;

and “controls”, “controlling” and “under common control with” shall be interpreted accordingly.

- (n) “**Convertible Security**” means a security issued from time to time by the Corporation (other than the Rights) convertible or exchangeable into a Share and a “**Convertible Security Acquisition**” means an acquisition by a Person of Shares upon the exercise, conversion or exchange of Convertible Securities received by a Person pursuant to a Permitted Bid Acquisition, an Exempt Acquisition or a Pro Rata Acquisition.
- (o) “**Co-Rights Agents**” has the meaning ascribed thereto in Section 4.1.1.
- (p) “**Disposition Date**” has the meaning ascribed thereto in Section 5.1.2.
- (q) “**Dividend Reinvestment Acquisition**” means an acquisition of Shares pursuant to a Dividend Reinvestment Plan.
- (r) “**Dividend Reinvestment Plan**” means a regular dividend reinvestment or other plan of the Corporation made available by the Corporation to holders of Shares where such plan permits the holder to direct that some or all of:
 - (i) dividends on the Shares;
 - (ii) proceeds of redemption of Shares;
 - (iii) interest paid on evidences of indebtedness of the Corporation; or
 - (iv) optional cash payments;be applied to the purchase of Shares.
- (s) “**Effective Date**” means the date hereof.
- (t) “**Election to Exercise**” has the meaning ascribed thereto in Section 2.2.4(b).
- (u) “**Exchange**” means the Toronto Stock Exchange and any other exchange or market on which the Shares may, from time to time, be listed or quoted for trading.
- (v) “**Exempt Acquisition**” means an acquisition of Shares:
 - (i) in respect of which the Board has waived the application of Section 3.1 pursuant to Sections 5.1.2, 5.1.4 or 5.1.5;
 - (ii) pursuant to a distribution by the Corporation of Shares or Convertible Securities (and the conversion or exchange of such securities) pursuant to a prospectus or similar document or by way of private placement, provided that all necessary stock exchange approvals for the distribution have been obtained and the distribution complies with the terms and

conditions of those approvals and the purchaser does not become the Beneficial Owner of more than 25% of the Shares outstanding immediately prior to the distribution (and in making this determination, the securities to be issued to that purchaser pursuant to the distribution will be deemed to be held by that purchaser but will not be included in the aggregate number of outstanding Shares immediately prior to the distribution);

- (iii) pursuant to an amalgamation, merger or other statutory procedure requiring shareholder approval; or
- (iv) pursuant to a Dividend Reinvestment Plan.
- (w) “**Exercise Price**” means the price at which a holder of a Right may purchase the securities issuable upon exercise of one whole Right and, until adjustment thereof in accordance with the terms hereof, the Exercise Price shall be \$50.00, provided that, notwithstanding section 2.3.2, as it applies to the Consolidation only, the Exercise Price will remain \$50.00 after giving effect to the Consolidation.
- (x) “**Expansion Factor**” has the meaning ascribed thereto in Section 2.3.2(i)(A).
- (y) “**Expiration Time**” means the earlier of:
 - (i) the Termination Time; and
 - (ii) the date of termination of this agreement pursuant to Section 5.9 or 5.10.
- (z) “**Fiduciary**” means a trust company registered under the trust company legislation of Canada or any province thereof, a trust company organized under the laws of any state of the United States, a portfolio manager registered under the securities legislation of one or more provinces of Canada or an investment adviser registered under the United States *Investment Advisers Act of 1940*, as amended, or any other securities legislation of the United States or any state of the United States.
- (aa) “**Flip-in Event**” means a transaction or event in or pursuant to which any Person becomes an Acquiring Person.
- (bb) “**Grandfathered Person**” has the meaning ascribed thereto in Section 1.1(a)(v).
- (cc) “**holder**” has the meaning ascribed thereto in Section 2.8.
- (dd) “**IDSs**” means the income deposit securities of the Corporation which are each comprised of one Share and \$5.53 principal amount of 14% subordinated notes due August 19, 2020 of New Flyer Industries Canada ULC.

- (ee) **“Independent Shareholders”** means holders of outstanding Shares, other than any:
- (i) Acquiring Person;
 - (ii) Offeror other than a Person who at the relevant time is deemed not to Beneficially Own such Shares and/or Notes by reason of Section 1.1(e)(ii)(B);
 - (iii) Affiliate or Associate of such Acquiring Person or Offeror;
 - (iv) Person acting jointly or in concert with such Acquiring Person or Offeror; or
 - (v) employee benefit plan, stock purchase plan, deferred profit sharing plan and any similar plan or trust for the benefit of employees of the Corporation or a Subsidiary of the Corporation, unless the beneficiaries of such plan or trust direct the manner in which the Shares are to be voted or withheld from voting or direct whether or not the Shares are to be tendered to a Take-over Bid.
- (ff) **“Market Price”** per security of any securities on any date of determination means the average of the daily Closing Prices per security of such securities on each of the 20 consecutive Trading Days through and including the Trading Day immediately preceding such date of determination; provided, however, that if an event of a type analogous to any of the events described in Section 2.3 shall have caused any Closing Price used to determine the Market Price on any Trading Day not to be fully comparable with the Closing Price on the Trading Day immediately preceding such date of determination, each such Closing Price so used shall be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 in order to make it fully comparable with the Closing Price on the Trading Day immediately preceding such date of determination.
- (gg) **“Nominee”** has the meaning ascribed thereto in Section 2.2.3.
- (hh) **“Notes”** means the 14% subordinated notes due August 19, 2020 of New Flyer Industries Canada ULC held in the form of an IDS or that were held in the form of an IDS at the time of a Take-over Bid.
- (ii) **“Offer to Acquire”** shall include:
- (i) an offer to purchase or a solicitation of an offer to sell Shares, IDSs or Notes or any combination of Shares, IDSs and Notes or a public announcement of an intention to make such an offer or solicitation; and

- (ii) an acceptance of an offer to sell Shares, IDSs or Notes or any combination of Shares, IDSs and Notes, whether or not such offer to sell has been solicited,

or any combination thereof, and the Person accepting an offer to sell shall be deemed to be making an Offer to Acquire to the Person that made the offer to sell.

- (jj) **“Offeror”** means a Person who has publicly announced and not withdrawn a current intention to make, or who has made and not withdrawn, a Take-over Bid, other than a Person who has completed a Permitted Bid, a Competing Permitted Bid or an Exempt Acquisition.
- (kk) **“Offeror’s Securities”** means the aggregate of the Shares Beneficially Owned on the date of a Take-over Bid by an Offeror.
- (ll) **“Permitted Bid”** means a Take-over Bid made by way of a Take-over Bid circular for outstanding Shares and outstanding Notes that were represented by IDSs at the time the bid was made or the intention to make the bid was announced and which also complies with the following additional provisions:
 - (i) the Take-over Bid is made to all holders of Shares and all holders of Notes that were represented by IDSs at the time the bid was made or the intention to make the bid was announced of record and in the book-based system, solely as stand alone securities or as stand alone securities and as a component of IDSs, other than the Offeror; and
 - (ii) the Take-over Bid contains, and the take-up and payment for securities tendered or deposited thereunder are subject to, irrevocable and unqualified conditions that:
 - (A) no Shares or Notes shall be taken up or paid for pursuant to the Take-over Bid:
 - (1) prior to the Close of Business on a date which is not less than 60 days following the date of the Take-over Bid; and
 - (2) unless, at the Close of Business on such date, more than 50% of the then outstanding Shares held by Independent Shareholders have been deposited or tendered pursuant to the Take-over Bid and have not been withdrawn;
 - (B) unless the Take-over Bid is withdrawn, Shares and Notes may be deposited pursuant to such Take-over Bid at any time prior to the Close of Business on the date of the first take-up of or payment for Shares and Notes;
 - (C) any Shares or Notes deposited pursuant to the Take-over Bid may be withdrawn until taken up and paid for; and

- (D) if the requirement set forth in Section 1.1(II)(ii)(A)(2) is satisfied, the Offeror will make a public announcement of that fact and the Take-over Bid will remain open for deposits and tenders of Shares and Notes for not less than 10 Business Days from the date of such public announcement,

provided that, should a Permitted Bid cease to be a Permitted Bid because it ceases to meet any or all of the requirements mentioned above prior to the time it expires (after giving effect to any extension) or is withdrawn, then any acquisition of Shares or Notes made pursuant to such Permitted Bid, including any acquisition of Shares or Notes made prior to such time, shall not be a Permitted Bid Acquisition. The term “Permitted Bid” shall include a Competing Permitted Bid.

- (mm) **“Permitted Bid Acquisition”** means an acquisition of Shares made pursuant to a Permitted Bid or a Competing Permitted Bid.
- (nn) **“Permitted Lock-up Agreement”** means an agreement between a Person and one or more holders of Shares or holders of Notes represented by IDSs (each, a **“Locked-up Person”**), the terms of which are publicly disclosed and a copy of which is made available to the public, including the Corporation, not later than the date the Lock-up Bid (as defined below) is publicly announced or, if the Lock-up Bid has been made prior to the date on which such agreement is entered into, not later than the date of such agreement, and if such date is not a Business Day, the next Business Day, pursuant to which each Locked-up Person agrees to deposit or tender Shares or Notes to a Take-over Bid (the **“Lock-up Bid”**) made or to be made by the Person, any of such Person’s Affiliates or Associates or any other Person acting jointly or in concert with such Person, provided that:
 - (i) the agreement permits any Locked-up Person to terminate its obligation to deposit or tender to or not to withdraw Shares or Notes from the Lock-up Bid in order to tender or deposit the Shares or Notes to another Take-over Bid or support another transaction:
 - (A) where the price or value per Share and/or Note offered under such other Take-over Bid or transaction is higher than the price or value per Share and/or Note offered under the Lock-up Bid; or
 - (B) if:
 - (1) the price or value per Share and/or Note offered under the other Take-over Bid or transaction exceeds by as much as or more than an amount (the **“Specified Amount”**) specified in the agreement the price or value per Share and/or Note offered under the Lock-up Bid, provided that such Specified Amount is not greater than 7% of the price

or value per Share and/or Note offered under the Lock-up Bid; or

- (2) the number of Shares and/or Notes to be purchased under the other Take-over Bid or transaction exceeds by as much as or more than a number (the “**Specified Number**”) specified in the agreement the number of Shares and/or Notes that the Offeror has offered to purchase under the Lock-up Bid at a price or value per Share and/or Note that is not less than the price or value per Share and/or Note offered under the Lock-up Bid, provided that the Specified Number is not greater than 7% of the number of Shares and/or Notes offered to be purchased under the Lock-up Bid,

and, for greater clarity, the agreement may contain a right of first refusal or require a period of delay to give such Person an opportunity to at least match a higher price or value in another Take-over Bid or transaction or other similar limitation on a Locked-up Person’s right to withdraw Shares and/or Notes from the agreement, so long as the limitation does not preclude the exercise by the Locked-up Person of the right to withdraw Shares and/or Notes during the period of the other Take-over Bid or transaction; and

- (ii) no “**break-up**” fees, “**top-up**” fees, penalties, expenses or other amounts that exceed in the aggregate the greater of:

- (A) the cash equivalent of 2.5% of the price or value of the consideration payable under the Lock-up Bid to a Locked-up Person; and
- (B) 50% of the amount by which the price or value of the consideration payable under another Take-over Bid or transaction to a Locked-up Person exceeds the price or value of the consideration that such Locked-up Person would have received under the Lock-up Bid,

shall be payable by a Locked-up Person pursuant to the agreement in the event a Locked-up Person fails to deposit or tender Shares and/or Notes to the Lock-up Bid or withdraws Shares and/or Notes in order to accept the other Take-over Bid or support another transaction.

- (oo) “**Person**” includes any individual, firm, partnership, association, trust, trustee, executor, administrator, legal personal representative, government, governmental body or authority, corporation or other incorporated or unincorporated organization, syndicate or other entity.

- (pp) “**Privacy Laws**” has the meaning attributed thereto in Section 4.6.

- (qq) **“Pro Rata Acquisition”** means an acquisition by a Person of Shares pursuant to:
- (i) a stock dividend, stock split or other event pursuant to which such Person becomes the Beneficial Owner of Shares on the same pro rata basis as all other holders of Shares of the same class, including the Consolidation;
 - (ii) the acquisition or exercise of rights to purchase Shares or Convertible Securities distributed to all holders of Shares (other than holders resident in any jurisdiction where such distribution is restricted or impractical as a result of applicable law) by the Corporation pursuant to a rights offering (but only if such rights are acquired directly from the Corporation); or
 - (iii) a distribution of Voting Shares or Convertible Securities made pursuant to a prospectus or by way of a private placement or a conversion or exchange of any Convertible Security,
- provided, however, that such Person does not thereby acquire a greater percentage of Shares or of Convertible Securities so offered than such Person’s percentage of Shares Beneficially Owned immediately prior to such acquisition.
- (rr) **“Record Time”** means the Close of Business on the Effective Date.
- (ss) **“Redemption Price”** has the meaning attributed thereto in Section 5.1.1.
- (tt) **“Regular Periodic Cash Dividends”** means cash dividends or distributions paid on the Shares at regular intervals in any fiscal year of the Corporation to the extent that such cash dividends do not exceed in the aggregate in any fiscal year, on a per Share basis, the greatest of:
- (i) \$0.117 per Share or, if the Consolidation is effected, \$1.17 per Share;
 - (ii) 200% of the aggregate amount of cash dividends declared payable by the Corporation on its Shares in its immediately preceding fiscal year divided by the number of Shares outstanding as at the end of such fiscal year;
 - (iii) 300% of the arithmetic mean of the aggregate amounts of cash dividends declared payable by the Corporation on its Shares in its three immediately preceding fiscal years divided by the arithmetic mean of the number of Shares outstanding as at the end of each of such fiscal years; and
 - (iv) 100% of the aggregate Adjusted EBITDA of the Corporation for its immediately preceding fiscal year divided by the number of Shares outstanding as at the end of such fiscal year; and for this purpose **“Adjusted EBITDA”** has the meaning attributed thereto in the Corporation’s annual information form for such year.
- (uu) **“Rights”** means the herein described rights to purchase securities pursuant to the terms and subject to the conditions set forth herein.

- (vv) “**Rights Certificate**” means a certificate representing the Rights after the Separation Time which shall be substantially in the form attached hereto as Schedule A.
- (ww) “**Rights Register**” and “**Rights Registrar**” have the respective meanings ascribed thereto in Section 2.6.1.
- (xx) “**Securities Act**” means the *Securities Act* (Ontario), as amended, and the rules and regulations made thereunder, as now in effect or as the same may from time to time be amended, re-enacted or replaced.
- (yy) “**Separation Time**” means:
- (i) the Close of Business on the tenth Business Day after the earliest of:
 - (A) the Share Acquisition Date;
 - (B) the date of the commencement of, or first public announcement or disclosure of the intention of any Person (other than the Corporation or any Subsidiary of the Corporation) to commence, a Take-over Bid (other than a Permitted Bid or a Competing Permitted Bid); and
 - (C) the date upon which a Permitted Bid or Competing Permitted Bid ceases to be a Permitted Bid or a Competing Permitted Bid, as applicable;

provided that, if any Take-over Bid referred to in Section 1(yy)(i)(B) or any Permitted Bid or Competing Permitted Bid referred to in Section 1(yy)(i)(C) expires or is cancelled, terminated or otherwise withdrawn prior to the Separation Time, such Take-over Bid, Permitted Bid or Competing Permitted Bid, as the case may be, shall be deemed, for the purposes of this definition, never to have been made, and provided further that if the Board determines, pursuant to Section 5.1.2, 5.1.4 or 5.1.5, to waive the application of Section 3.1 to a Flip-in Event, then the Separation Time in respect of such Flip-in Event shall be deemed never to have occurred; or

- (ii) such later date as may be determined by the Board in good faith.
- (zz) “**Share Acquisition Date**” means the first date of public announcement or disclosure by the Corporation or an Acquiring Person of facts indicating that a Person has become an Acquiring Person, which, for the purposes of this definition, shall include (without limitation) a report filed pursuant to Part 5 of Multilateral Instrument 62-104 – *Take-Over Bids and Issuer Bids* or Section 102.1 or 102.2 of the *Securities Act* (Ontario), announcing or disclosing such information.

- (aaa) “**Share Reduction**” means an acquisition or redemption by the Corporation or a Subsidiary of the Corporation of Shares which, by reducing the number of Shares outstanding, increases the percentage of Shares Beneficially Owned by any Person to 20% or more of the Shares then outstanding.
- (bbb) “**Shareholder**” means a holder of outstanding Shares.
- (ccc) “**Shares**” means the common shares in the capital of the Corporation as presently constituted, and includes common shares that are a component of IDSs, as such shares may be subdivided, consolidated, reclassified or otherwise changed from time to time.
- (ddd) “**Special Meeting**” means the special meeting of Shareholders of the Corporation to be held on September 30, 2011 or any adjournment thereof.
- (eee) “**Subsidiary**” a specified Person is a Subsidiary of another Person if:
 - (i) it is controlled by (A) that other, or (B) that other and one more or Persons, each of which is controlled by that other, or (C) two or more Persons, each of which is controlled by that other; or
 - (ii) it is a Subsidiary of a Person that is that other’s Subsidiary.
- (fff) “**Take-over Bid**” means an Offer to Acquire Shares and/or IDSs, Notes and/or Convertible Securities, where the securities subject to the Offer to Acquire, together with the Shares into or for which the securities subject to the Offer to Acquire are convertible or exchangeable and the Offeror’s Securities, constitute in the aggregate 20% or more of the outstanding Shares at the date of the Offer to Acquire.
- (ggg) “**Termination Time**” means the time at which the right to exercise Rights shall terminate pursuant to Section 5.1.
- (hhh) “**Trading Day**”, when used with respect to any securities, means the day on which the principal Canadian or other securities exchange or securities quotation system (as determined by the Board) on which such securities are listed or admitted to trading is open for the transaction of business or, if the securities are not listed or admitted to trading on any Canadian or other securities exchange or securities quotation system, a Business Day.

1.2 **Currency**

All sums of money which are referred to in this Agreement are expressed in lawful money of Canada, unless otherwise specified.

1.3 Number and Gender

Wherever the context requires, terms (including defined terms) used herein importing the singular number only shall include the plural and vice versa and words importing any one gender shall include all others.

1.4 Sections and Headings

The division of this Agreement into Articles, Sections and Schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereunder”, “hereof”, and similar expressions refer to this Agreement as amended or supplemented from time to time and not to any particular Article, Section or Schedule or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles, Sections and Schedules of or to this Agreement.

1.5 Statutory References

Unless the context otherwise requires, any reference to a specific section, subsection, clause or rule of any act or regulation shall be deemed to refer to the same as it may be amended, reenacted or replaced or, if repealed and there shall be no replacement therefor, to the same as it is in effect on the date of this Agreement.

1.6 Determination of Percentage Ownership

The percentage of Shares Beneficially Owned by any Person, shall, for the purposes of this Agreement, be and be deemed to be the product determined by the formula:

$$100 \quad \times \quad \frac{A}{B}$$

where:

A = the aggregate number of votes for the election of all directors generally attaching to the Shares Beneficially Owned by such Person; and

B = the aggregate number of votes for the election of all directors generally attaching to all outstanding Shares.

Where any Person is deemed to Beneficially Own unissued Shares pursuant to Section 1.1(e), such Shares shall be deemed to be outstanding for the purpose of both A and B in the formula above.

1.7 Acting Jointly or in Concert

For the purposes of this Agreement, a Person is acting jointly or in concert with another Person if such first Person has any agreement, commitment or understanding, whether

formal or informal or written or unwritten, with the other Person, any Affiliate or Associate of such other Person or any other Person acting jointly or in concert with such other Person to acquire or Offer to Acquire Shares or Convertible Securities (other than customary agreements with and between underwriters and banking or selling group members with respect to a distribution of securities and pledges of securities in the ordinary course of business to secure indebtedness).

1.8 Generally Accepted Accounting Principles

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be such principles in effect from time to time in Canada, as established or adopted by the Canadian Institute of Chartered Accountants, or any successor institute, including International Financial Reporting Standards, applicable on a consolidated basis (unless otherwise specifically provided herein to be applicable on an unconsolidated basis) as at the date on which a calculation is made or required to be made in accordance with generally accepted accounting principles. Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purpose of this Agreement or any document, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with generally accepted accounting principles applied on a consistent basis.

ARTICLE 2 **THE RIGHTS**

2.1 Legend on Share Certificates

2.1.1 Certificates representing the Shares, including without limitation, Shares issued upon the conversion of Convertible Securities, issued after the Record Time but prior to the Close of Business on the earlier of:

- (a) the Separation Time; and
- (b) the Expiration Time,

shall also evidence one Right for each Share represented thereby and shall have impressed on, printed on, written on or otherwise affixed to them the following legend:

“Until the Separation Time (as defined in the Rights Agreement referred to below), this certificate also evidences and entitles the holder hereof to certain Rights as set forth in a Shareholder Rights Plan Agreement, made as of August 29, 2011, as the same may be amended or supplemented from time to time in accordance with the terms thereof (the “**Rights Agreement**”), between the Corporation and Computershare Investor Services Inc., as Rights Agent, the terms of which are hereby incorporated herein by reference and a copy of which is on file at the registered office of the Corporation. Under certain circumstances, as set forth in the Rights Agreement, such Rights may be amended or redeemed,

may expire, may become void (if, in certain cases, they are “Beneficially Owned” by an “Acquiring Person”, as such terms are defined in the Rights Agreement, or a transferee thereof) or may be evidenced by separate certificates and may no longer be evidenced by this certificate. The Corporation will mail or arrange for the mailing of a copy of the Rights Agreement to the holder of this certificate without charge as soon as practicable after the receipt of a written request therefor. The Rights Agreement is also available online free of charge from www.sedar.com”

2.1.2 Certificates representing Shares that are issued and outstanding at the Record Time shall evidence one Right for each Share evidenced thereby, notwithstanding the absence of the foregoing legend, until the earlier of:

- (a) the Separation Time; and
- (b) the Expiration Time.

2.2 Initial Exercise Price; Exercise of Rights; Detachment of Rights

2.2.1 Subject to adjustment as herein set forth, including without limitation as set forth in Article 3, each Right will entitle the holder thereof from and after the Separation Time and prior to the Expiration Time, to purchase one Share for the Exercise Price determined as at the Business Day immediately preceding the Separation Time (which Exercise Price and number of Shares are subject to adjustment as set forth below). Notwithstanding any other provision of this Agreement, any Rights held by the Corporation or any of its Subsidiaries shall be void.

2.2.2 Until the Separation Time:

- (a) the Rights shall not be exercisable and no Right may be exercised; and
- (b) for administrative purposes, each Right will be evidenced by the certificate for the associated Share registered in the name of the holder thereof (which certificate shall be deemed to represent a Rights Certificate) and will be transferable only together with, and will be transferred by a transfer of, such associated Share.

2.2.3 From and after the Separation Time and prior to the Expiration Time, the Rights may be exercised, and the registration and transfer of the Rights shall be separate from and independent of Shares. Promptly following the Separation Time, the Corporation will prepare or cause to be prepared and the Rights Agent will mail to each holder of record of Shares as of the Separation Time and, in respect of each Convertible Security converted into Shares after the Separation Time and prior to the Expiration Time, promptly after such conversion, the Corporation will prepare or cause to be prepared and the Rights Agent will mail to the holder so converting (other than an Acquiring Person and, in respect of any Rights Beneficially Owned by such Acquiring Person which are not held of record by such Acquiring Person, the holder of record of such rights, a “**Nominee**”) at such holder’s address as shown by the records of the Corporation (the Corporation hereby agreeing to furnish copies of such records to the Rights Agent for this purpose):

- (a) a Rights Certificate in substantially the form of Schedule A appropriately completed, representing the number of Rights held by such holder at the Separation Time and having such marks of identification or designation and such legends, summaries or endorsements printed thereon as the Corporation may deem appropriate and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any law, rule or regulation or judicial or administrative order, or with any article or regulation of any stock exchange or quotation system on which the Rights may from time to time be listed or traded, or to conform to usage; and
- (b) a disclosure statement prepared by the Corporation describing the Rights,

provided that a Nominee shall be sent the materials provided for in Sections 2.2.3(a) and 2.2.3(b) only in respect of all Shares held of record by it which are not Beneficially Owned by an Acquiring Person and the Corporation may require any Nominee or suspected Nominee to provide such information and documentation as the Corporation may reasonably require for such purpose.

2.2.4 Rights may be exercised in whole or in part on any Business Day after the Separation Time and prior to the Expiration Time by submitting to the Rights Agent, at its principal office in Toronto, Ontario:

- (a) the Rights Certificate evidencing such Rights;
- (b) an election to exercise (an “**Election to Exercise**”) substantially in the form attached to the Rights Certificate duly completed, and executed in a manner acceptable to the Rights Agent; and
- (c) payment by certified cheque, banker’s draft or money order payable to the order of the Rights Agent (which will promptly submit such payment to the Corporation), of a sum equal to the Exercise Price multiplied by the number of Rights being exercised and a sum sufficient to cover any transfer tax or charge which may be payable in respect of any transfer involved in the transfer or delivery of Rights Certificates or the issuance or delivery of certificates for Shares in a name other than that of the holder of the Rights being exercised.

2.2.5 Upon receipt of a Rights Certificate, which is accompanied by an appropriately completed and duly executed Election to Exercise (which does not indicate that such Right is void as provided by Section 3.1.2) and payment as set forth in Section 2.2.4, the Rights Agent (unless otherwise instructed in writing by the Corporation) will thereupon promptly:

- (a) requisition from the transfer agent certificates representing the number of Shares to be purchased (the Corporation hereby irrevocably authorizing its transfer agent to comply with all such requisitions);
- (b) after receipt of such Share certificates, deliver such certificates to, or to the order of, the registered holder of such Rights Certificate, registered in such name or names as may be designated by such holder;

- (c) when appropriate, requisition from the Corporation the amount of cash, if any, to be paid in lieu of issuing fractional Shares;
- (d) when appropriate, after receipt of such cash, deliver such cash to, or to the order of, the registered holder of the Rights Certificate; and
- (e) tender to the Corporation all payments received on exercise of the Rights.

2.2.6 If the holder of any Rights shall exercise less than all the Rights evidenced by such holder's Rights Certificate, a new Rights Certificate evidencing the Rights remaining unexercised will be issued by the Rights Agent to such holder or to such holder's duly authorized assigns.

2.2.7 The Corporation covenants and agrees that it will:

- (a) take all such action as may be necessary and within its power to ensure that all Shares delivered upon the exercise of Rights shall, at the time of delivery of the certificates for such Shares (subject to payment of the Exercise Price), be duly and validly authorized, executed, issued and delivered as fully paid and non-assessable;
- (b) take all such action as may reasonably be considered to be necessary and within its power to comply with any applicable requirements of the Business Corporations Act, the Securities Act and the other applicable provincial or territorial or federal securities laws of Canada, or the rules and regulations thereunder, or any other applicable law, rule or regulation, in connection with the issuance and delivery of the Rights, the Rights Certificates and the issuance of any Shares upon exercise of the Rights;
- (c) use reasonable efforts to cause all Shares issued upon exercise of the Rights to be listed or traded on the stock exchanges or other markets on which the Shares are listed or traded at that time;
- (d) cause to be reserved and kept available out of its authorized and unissued Shares, the number of Shares that, as provided in this Agreement, will from time to time be sufficient to permit the exercise in full of all outstanding Rights;
- (e) pay when due and payable, if applicable, any and all federal, provincial, state and municipal taxes (not in the nature of income, capital gains or withholding taxes) and charges which may be payable in respect of the original issuance or delivery of the Rights Certificates or certificates for Shares issued upon the exercise of Rights, provided that the Corporation shall not be required to pay any transfer tax or charge which may be payable in respect of any transfer of Rights or the issuance or delivery of certificates for Shares issued upon the exercise of Rights, in a name other than that of the holder of the Rights being transferred or exercised; and

- (f) after the Separation Time, except as permitted by Section 5.1 or Section 5.4, not take (or permit any Subsidiary to take) any action if at the time such action is taken it is reasonably foreseeable that such action will diminish substantially or otherwise eliminate the benefits intended to be afforded by the Rights.

2.3 Adjustments to Exercise Price; Number of Rights

2.3.1 The Exercise Price, the number and kind of securities subject to purchase upon exercise of each Right and the number of Rights outstanding are subject to adjustment from time to time as provided in this Section 2.3 and in Article 3.

2.3.2 If the Corporation shall at any time after the Record Time and prior to the Expiration Time:

- (a) declare or pay a dividend on the Shares payable in Shares or Convertible Securities in respect thereof other than pursuant to any Dividend Reinvestment Plan;
- (b) subdivide or change the then outstanding Shares into a greater number of Shares;
- (c) consolidate or change the then outstanding Shares into a smaller number of Shares, including as a result of the Consolidation; or
- (d) issue any Shares (or Convertible Securities in respect thereof) in respect of, in lieu of or in exchange for existing Shares, whether in a reclassification, amalgamation, statutory arrangement, consolidation or otherwise,

then the Exercise Price and the number of Rights outstanding (or, if the payment or effective date therefor shall occur after the Separation Time, the securities purchasable upon the exercise of Rights) shall be adjusted as follows:

- (i) if the Exercise Price and number of Rights outstanding are to be adjusted:
 - (A) the Exercise Price in effect after such adjustment will be equal to the Exercise Price in effect immediately prior to such adjustment divided by the number of Shares (or other securities of the Corporation) (the “**Expansion Factor**”) that a holder of one Share immediately prior to such dividend, subdivision, change, consolidation or issuance would hold thereafter as a result thereof, and
 - (B) each Right held prior to such adjustment will become that number of Rights equal to the Expansion Factor, and the adjusted number of Rights will be deemed to be allocated among the Shares with respect to which the original Rights were associated (if they remain outstanding) and the securities of the Corporation issued in respect of such dividend, subdivision, change, consolidation or issuance,

so that each such Share (or other security of the Corporation) will have exactly one Right associated with it; and

- (ii) if the securities purchasable upon exercise of Rights are to be adjusted, the securities purchasable upon exercise of each Right after such adjustment will be the securities that a holder of the securities purchasable upon exercise of one Right immediately prior to such distribution, subdivision, change, consolidation or issuance would hold thereafter as a result thereof.

Adjustments made pursuant to this Section 2.3.2 shall be made successively, whenever an event referred to in this Section 2.3.2 occurs.

2.3.3 If, after the Record Time and prior to the Expiration Time, the Corporation shall issue any of its securities other than Shares in a transaction of a type described in Sections 2.3.2(a) or 2.3.2(d), such securities shall be treated herein as nearly equivalent to Shares as may be practicable and appropriate under the circumstances, and the Corporation and the Rights Agent agree to amend this Agreement in order to effect such treatment.

2.3.4 If an event occurs which would require an adjustment under both this Section 2.3 and Section 3.1, the adjustment provided for in this Section 2.3 shall be in addition to, and shall be made prior to, any adjustment required pursuant to Section 3.1.

2.3.5 If the Corporation shall at any time after the Record Time and prior to the Separation Time issue any Shares otherwise than in a transaction referred to in Section 2.3.2, each such Share so issued shall automatically have one new Right associated with it, which Right shall be evidenced by the certificate representing such Share.

2.3.6 (a) If the Corporation shall at any time after the Record Time and prior to the Expiration Time fix a record date for the making of a distribution to all holders of Shares of rights, options or warrants (other than the Rights) entitling them (for a period expiring within 45 calendar days after such record date) to subscribe for or purchase Shares (or Convertible Securities in respect of Shares) at a price per Share (or, in the case of such a Convertible Security, having a conversion, exchange or exercise price per Share (including the price required to be paid to purchase such Convertible Security)) less than 90% of the Market Price per Share on such record date, the Exercise Price in effect after such record date will equal the Exercise Price in effect immediately prior to such record date multiplied by a fraction:

- (i) of which the numerator shall be the number of Shares outstanding on such record date plus the number of Shares which the aggregate offering price of the total number of Shares so to be offered (and/or the aggregate initial conversion, exchange or exercise price of the Convertible Securities so to be offered (including the price required to be paid to purchase such Convertible Securities)) would purchase at such Market Price per Share; and
- (ii) of which the denominator shall be the number of Shares outstanding on such record date plus the number of additional Shares to be offered for

subscription or purchase (or into which the Convertible Securities so to be offered are initially convertible, exchangeable or exercisable).

(b) In case such subscription price maybe satisfied, in whole or in part, by consideration other than cash, the value of such consideration shall be as determined in good faith by the Board. Such adjustment shall be made successively whenever such a record date is fixed. To the extent that such rights, options or warrants are not exercised prior to the expiration thereof, the Exercise Price shall be readjusted in the manner contemplated above based on the number of Shares (or securities convertible into or exchangeable for Shares) actually issued upon the exercise of such rights, options or warrants.

(c) For purposes of this Agreement, the granting of the right to purchase Shares (whether from treasury or otherwise) pursuant to any Dividend Reinvestment Plan or employee benefit or similar plans (so long as such right to purchase is in no case evidenced by the delivery of rights, options or warrants by the Corporation) shall be deemed not to constitute an issue of rights, options or warrants by the Corporation; provided, however, that in the case of any Dividend Reinvestment Plan, the right to purchase Shares is at a price per share of not less than 90% of the current market price per share (determined as provided in such plans) of the Shares.

2.3.7 If the Corporation shall at any time after the Record Time and prior to the Expiration Time fix a record date for the making of a distribution to all holders of Shares of:

- (a) evidences of indebtedness or assets (other than a Regular Periodic Cash Dividend or a dividend paid in Shares or Convertible Securities, but including any dividend payable in securities other than Shares or Convertible Securities); or
- (b) rights, options or warrants entitling them to subscribe for or purchase Shares (or Convertible Securities in respect of Shares) at a price per share (or, in the case of such a Convertible Security, having a conversion, exchange or exercise price per Share (including the price required to be paid to purchase such Convertible Security)) less than 90% of the Market Price per Share on such record date (excluding rights, options or warrants referred to in Section 2.3.6),

the Exercise Price in effect after such record date shall be equal to the Exercise Price in effect immediately prior to such record date less the fair market value (as determined in good faith by the Board) of the portion of the assets, evidences of indebtedness, rights, options warrants or other securities so to be distributed applicable to each of the securities purchasable upon exercise of one Right. Such adjustment shall be made successively whenever such a record date is fixed.

2.3.8 Each adjustment made pursuant to this Section 2.3 shall be made as of:

- (a) the payment or effective date for the applicable dividend, subdivision, change, consolidation or issuance, in the case of an adjustment made pursuant to Section 2.3.2; and

- (b) the record date for the applicable dividend or distribution, in the case of an adjustment made pursuant to Section 2.3.6 or 2.3.7, subject to readjustment to reverse the same if such distribution shall not be made.

2.3.9 If the Corporation shall at any time after the Record Time and prior to the Expiration Time issue any shares (other than Shares), or rights, options or warrants to subscribe for or purchase any such shares, or Convertible Securities in respect of any such shares, in a transaction referred to in any of Sections 2.3.2(a) to 2.3.2(d), inclusive, if the Board acting in good faith determines that the adjustments contemplated by Sections 2.3.2, 2.3.6 and 2.3.7 in connection with such transaction will not appropriately protect the interests of the holders of Rights, then the Board may from time to time, but subject to obtaining the prior approval of the holders of the Rights obtained as set forth in Section 5.4.2, determine what other adjustments to the Exercise Price, number of Rights or securities purchasable upon exercise of Rights would be appropriate and, notwithstanding Sections 2.3.2, 2.3.6 and 2.3.7, such adjustments, rather than the adjustments contemplated by Sections 2.3.2, 2.3.6 and 2.3.7, shall be made upon the Board providing written certification thereof to the Rights Agent as set forth in Section 2.3.17. The Corporation and the Rights Agent shall amend this Agreement as appropriate to provide for such adjustments.

2.3.10 Notwithstanding anything herein to the contrary, no adjustment of the Exercise Price shall be required unless such adjustment would require an increase or decrease of at least 1% in such Exercise Price; provided, however, that any adjustments which by reason of this Section 2.3.10 are not required to be made shall be carried forward and taken into account in any subsequent adjustment. All adjustments to the Exercise Price made pursuant to this Section 2.3 shall be calculated to the nearest cent.

2.3.11 All Rights originally issued by the Corporation prior or subsequent to any adjustment made to an Exercise Price hereunder shall evidence the right to purchase, at the adjusted Exercise Price, the number of Shares purchasable from time to time hereunder upon exercise of the Rights, all subject to further adjustment as provided herein.

2.3.12 Unless the Corporation shall have exercised its election, as provided in Section 2.3.13, upon each adjustment of an Exercise Price as a result of the calculations made in Sections 2.3.6 and 2.3.7, each Right outstanding immediately prior to the making of such adjustment shall thereafter evidence the right to purchase, at the adjusted Exercise Price, that number of Shares obtained by:

- (a) multiplying:
 - (i) the number of Shares covered by a Right immediately prior to such adjustment;by
 - (ii) the Exercise Price in effect immediately prior to such adjustment; and
- (b) dividing the product so obtained by the Exercise Price in effect immediately after such adjustment.

2.3.13 The Corporation may elect on or after the date of any adjustment of an Exercise Price to adjust the number of Rights, in lieu of any adjustment in the number of Shares purchasable upon the exercise of a Right. Each of the Rights outstanding after the adjustment in the number of Rights shall be exercisable for the number of Shares for which a Right was exercisable immediately prior to such adjustment. Each Right held of record prior to such adjustment of the number of Rights shall become the number of Rights obtained by dividing the relevant Exercise Price in effect immediately prior to adjustment of the relevant Exercise Price by the relevant Exercise Price in effect immediately after adjustment of the relevant Exercise Price. Other than with respect to Consolidation, the Corporation shall make a public announcement of its election to adjust the number of Rights, indicating the record date for the adjustment, and, if known at the time, the amount of the adjustment to be made. This record date may be the date on which the relevant Exercise Price is adjusted or any day thereafter, but, if the Rights Certificates have been issued, shall be at least 10 calendar days later than the date of the public announcement. If Rights Certificates have been issued, upon each adjustment of the number of Rights pursuant to this Section 2.3.13, the Corporation shall, as promptly as practicable, cause to be distributed to holders of record of Rights Certificates on such record date, Rights Certificates evidencing, subject to Section 5.5, the additional Rights to which such holders shall be entitled as a result of such adjustment, or, at the option of the Corporation, shall cause to be distributed to such holders of record in substitution and replacement for the Rights Certificates held by such holders prior to the date of adjustment, and upon surrender thereof, if required by the Corporation, new Rights Certificates evidencing all the Rights to which such holders shall be entitled after such adjustment. Rights Certificates so to be distributed shall be issued, executed and countersigned in the manner provided for herein and may bear, at the option of the Corporation, the relevant adjusted Exercise Price and shall be registered in the names of holders of record of Rights Certificates on the record date specified in the public announcement.

2.3.14 In any case in which this Section 2.3 shall require that an adjustment in an Exercise Price be made effective as of a record date for a specified event, the Corporation may elect to defer until the occurrence of such event the issuance to the holder of any Right exercised after such record date of the number of Shares and other securities of the Corporation, if any, issuable upon such exercise over and above the number of Shares and other securities of the Corporation, if any, issuable upon such exercise on the basis of the relevant Exercise Price in effect prior to such adjustment; provided, however, that the Corporation shall deliver to such holder an appropriate instrument evidencing such holder's right to receive such additional Shares (fractional or otherwise) or other securities upon the occurrence of the event requiring such adjustment.

2.3.15 Notwithstanding anything in this Section 2.3 to the contrary, the Corporation shall be entitled to make such adjustments in the Exercise Price, in addition to those adjustments expressly required by this Section 2.3, as and to the extent that in its good faith judgment the Board shall determine to be advisable in order that any:

- (a) subdivision or consolidation of the Shares;
- (b) issuance wholly for cash of any Shares at less than the Market Price;

- (c) issuance wholly for cash of any Shares or securities that by their terms are exchangeable for or convertible into or give a right to acquire Shares;
- (d) stock dividends; or
- (e) issuance of rights, options or warrants referred to in this Section 2.3, hereafter made by the Corporation to holders of its Shares,

shall not be taxable to such shareholders or shall have more favourable tax consequences to such shareholders.

2.3.16 Irrespective of any adjustment or change in the securities purchasable upon exercise of the Rights, the Rights Certificates theretofor and thereafter issued may continue to represent the securities so purchasable following such adjustment or change.

2.3.17 Whenever an adjustment to the Exercise Price is made pursuant to this Section 2.3, the Corporation shall:

- (a) promptly prepare a certificate setting forth such adjustment and a brief statement of the facts accounting for such adjustment; and
- (b) promptly file with the Rights Agent and with each transfer agent for the Shares a copy of such certificate and mail a brief summary thereof to each holder of Rights who requests a copy.

Failure to file such certificate or to cause such notice to be given as aforesaid, or any defect therein, shall not affect the validity of any such adjustment or change.

2.4 Date on Which Exercise is Effective

Each Person in whose name any certificate for Shares is issued upon the exercise of Rights shall for all purposes be deemed to have become the holder of record of the Shares represented thereby on, and such certificate shall be dated, the date upon which the Rights Certificate evidencing such Rights was duly surrendered (together with a duly completed Election to Exercise) and payment of the Exercise Price for such Rights (and any applicable transfer taxes and other governmental charges payable by the exercising Person hereunder) was made; provided, however, that if the date of such surrender and payment is a date upon which the Share transfer books of the Corporation are closed, such Person shall be deemed to have become the record holder of such Shares on, and such certificate shall be dated, the next Business Day on which the Share transfer books of the Corporation are open.

2.5 Execution, Authentication, Delivery and Dating of Rights Certificates

2.5.1 The Rights Certificates shall be executed on behalf of the Corporation by any two officers of the Corporation. The signature of any of these officers on the Rights Certificates may be manual or facsimile. Rights Certificates bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Corporation shall bind the

Corporation, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the countersignature and delivery of such Rights Certificates.

2.5.2 Promptly following the Separation Time, the Corporation will notify the Rights Agent of such Separation Time and will deliver Rights Certificates executed by the Corporation to the Rights Agent for countersignature and a disclosure statement describing the Rights, and the Rights Agent shall countersign (manually or by facsimile signature in a manner satisfactory to the Corporation) and deliver such Rights Certificates and statement to the holders of the Rights pursuant to Section 2.2. No Rights Certificate shall be valid for any purpose until countersigned by the Rights Agent as aforesaid.

2.5.3 Each Rights Certificate shall be dated the date of countersignature thereof.

2.6 Registration, Transfer and Exchange

2.6.1 After the Separation Time, the Corporation will cause to be kept a register (the “**Rights Register**”) in which, subject to such reasonable regulations as it may prescribe, the Corporation will provide for the registration and transfer of Rights. The Rights Agent is hereby appointed “**Rights Registrar**” for the purpose of maintaining the Rights Register for the Corporation and registering Rights and transfers of Rights as herein provided and the Rights Agent hereby accepts such appointment. If the Rights Agent shall cease to be the Rights Registrar, the Rights Agent will have the right to examine the Rights Register at all reasonable times.

2.6.2 After the Separation Time and prior to the Expiration Time, upon surrender for registration of transfer or exchange of any Rights Certificate, and subject to the provisions of Sections 2.6.4 and 3.1.2, the Corporation will execute, and the Rights Agent will countersign, deliver and register, in the name of the holder or the designated transferee or transferees, as required pursuant to the holder’s instructions, one or more new Rights Certificates evidencing the same aggregate number of Rights as did the Rights Certificates so surrendered.

2.6.3 All Rights issued upon any registration of transfer or exchange of Rights Certificates shall be valid obligations of the Corporation, and such Rights shall be entitled to the same benefits under this Agreement as the Rights surrendered upon such registration of transfer or exchange.

2.6.4 Every Rights Certificate surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Corporation or the Rights Agent, as the case may be, duly executed by the holder thereof or such holder’s attorney duly authorized, in writing. As a condition to the issuance of any new Rights Certificate under this Section 2.6, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Rights Agent) in connection therewith.

2.7 Mutilated, Lost, Stolen and Destroyed Rights Certificates

2.7.1 If any mutilated Rights Certificate is surrendered to the Rights Agent prior to the Expiration Time, the Corporation shall execute and the Rights Agent shall countersign and deliver in exchange therefor a new Rights Certificate evidencing the same number of Rights as did the Rights Certificate so surrendered.

2.7.2 If there shall be delivered to the Corporation and the Rights Agent prior to the Expiration Time:

- (a) evidence to their reasonable satisfaction of the destruction, loss or theft of any Rights Certificate; and
- (b) such security or indemnity as may be reasonably required by them to save each of them and any of their agents harmless,

then, in the absence of notice to the Corporation or the Rights Agent that such Rights Certificate has been acquired by a *bona fide* purchaser, the Corporation shall execute and, upon the Corporation's request, the Rights Agent shall countersign and deliver, in lieu of any such destroyed, lost or stolen Rights Certificate, a new Rights Certificate evidencing the same number of Rights as did the Rights Certificate so destroyed, lost or stolen.

2.7.3 As a condition to the issuance of any new Rights Certificate under this Section 2.7, the Corporation may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Rights Agent) connected therewith.

2.7.4 Every new Rights Certificate issued pursuant to this Section 2.7 in lieu of any destroyed, lost or stolen Rights Certificate shall evidence a contractual obligation of the Corporation, whether or not the destroyed, lost or stolen Rights Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Agreement equally and proportionately with any and all other Rights duly issued hereunder.

2.8 Persons Deemed Owners

The Corporation, the Rights Agent and any agent of the Corporation or the Rights Agent may deem and treat the person in whose name a Rights Certificate (or, prior to the Separation Time, the associated Share certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby for all purposes whatsoever. As used in this Agreement, unless the context otherwise requires, the term "**holder**" of any Rights shall mean the registered holder of such Rights (or, prior to the Separation Time, the associated Shares).

2.9 Delivery and Cancellation of Certificates

All Rights Certificates surrendered upon exercise or for redemption, for registration of transfer or exchange shall, if surrendered to any Person other than the Rights Agent, be delivered to the Rights Agent and, in any case, shall be promptly cancelled by the Rights Agent. The Corporation may at any time deliver to the Rights Agent for cancellation any

Rights Certificates previously countersigned and delivered hereunder which the Corporation may have acquired in any manner whatsoever, and all Rights Certificates so delivered shall be promptly cancelled by the Rights Agent. No Rights Certificate shall be countersigned in lieu of or in exchange for any Rights Certificates cancelled as provided in this Section 2.9 except as expressly permitted by this Agreement. The Rights Agent shall, subject to applicable law, destroy all cancelled Rights Certificates and deliver a certificate of destruction to the Corporation on request.

2.10 Agreement of Rights Holders

Every holder of Rights, by accepting such Rights, consents and agrees with the Corporation and the Rights Agent and with every other holder of Rights:

- (a) to be bound by and subject to the provisions of this Agreement, as amended from time to time in accordance with the terms hereof, in respect of all Rights held;
- (b) that, prior to the Separation Time, each Right will be transferable only together with, and will be transferred by a transfer of, the associated Shares;
- (c) that, after the Separation Time, the Rights will be transferable only on the Rights Register as provided herein;
- (d) that, prior to due presentment of a Rights Certificate (or, prior to the Separation Time, the associated Share certificate) for registration of transfer, the Corporation, the Rights Agent and any agent of the Corporation or the Rights Agent may deem and treat the Person in whose name the Rights Certificate (or, prior to the Separation Time, the associated Share certificate) is registered as the absolute owner thereof and of the Rights evidenced thereby (notwithstanding any notations of ownership or writing on such Rights Certificate or the associated Share certificate made by anyone other than the Corporation or the Rights Agent) for all purposes whatsoever, and neither the Corporation nor the Rights Agent shall be affected by any notice to the contrary;
- (e) that such holder of Rights has waived its right to receive any fractional Rights or any fractional Shares or other securities upon exercise of a Right (except as provided herein);
- (f) that, subject to Section 5.4, without the approval of any holder of Rights or Shares and upon the sole authority of the Board acting in good faith, this Agreement may be supplemented or amended from time to time as provided herein; and
- (g) that, notwithstanding anything in this Agreement to the contrary, neither the Corporation nor the Rights Agent shall have any liability to any holder of a Right or any other Person as a result of the inability to perform any of its obligations under this Agreement by reason of applicable law, including any preliminary or permanent injunction or other order, decree or ruling issued by a court of competent jurisdiction or by a governmental, regulatory or administrative agency or commission, or any statute, rule, regulation or executive order promulgated or

enacted by any governmental authority, prohibiting or otherwise restraining performance of such obligation.

ARTICLE 3 **ADJUSTMENTS TO THE RIGHTS**

3.1 Flip-In Event

3.1.1 Subject to Section 3.1.2 and Section 5.1, if prior to the Expiration Time a Flip-in Event occurs, each Right shall constitute, effective at the close of business on the tenth Business Day after the Share Acquisition Date (or such longer period as may be required to satisfy the requirements of the securities acts or comparable legislation of each of the provinces and territories of Canada), the right to purchase from the Corporation, upon exercise thereof in accordance with the terms hereof, that number of Shares as have an aggregate Market Price on the date of the consummation or occurrence of such Flip-in Event equal to four times the Exercise Price upon payment of an amount in cash equal to the Exercise Price (such right to be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 if, after such date of consummation or occurrence, an event of a type analogous to any of the events described in Section 2.3 shall have occurred with respect to such Shares).

3.1.2 Notwithstanding anything in this Agreement to the contrary, upon the occurrence of any Flip-in Event, any Rights that are or were Beneficially Owned on or after the earlier of the Separation Time and the Share Acquisition Date, or which may thereafter be Beneficially Owned, by:

- (a) an Acquiring Person, any Affiliate or Associate of an Acquiring Person, any other Person acting jointly or in concert with an Acquiring Person or any Associate or Affiliate of such Acquiring Person, or any Affiliate or Associate of such Person so acting jointly or in concert; or
- (b) a transferee or other successor in title of Rights, direct or indirect, from an Acquiring Person, any Affiliate or Associate of an Acquiring Person, any other Person acting jointly or in concert with an Acquiring Person or any Affiliate or Associate of such Acquiring Person, or any Affiliate or Associate of such Person so acting jointly or in concert, where such a transferee or other successor in title becomes a transferee or other successor in title concurrently with or subsequent to the Acquiring Person becoming such in a transfer that the Board, acting in good faith, has determined is part of a plan, arrangement or scheme of an Acquiring Person or of any other Person referred to in this Section 3.1.2(b) that has the purpose or effect of avoiding Section 3.1.2(a),

shall become void without any further action by the Corporation and any holder of such Rights (including any transferee of, or other successor entitled to, such Rights, whether directly or indirectly) shall thereafter have no right to exercise such Rights under any provisions of this Agreement and, further, shall thereafter not have any rights whatsoever with respect to such Rights, whether under any provision of this Agreement or otherwise. The holder of any Rights represented by a Rights Certificate which is submitted to the Rights Agent upon exercise or for

registration of transfer or exchange which does not contain the necessary certifications set forth in the Rights Certificate establishing that such Rights are not void under this Section 3.1.2 shall be deemed to be an Acquiring Person for the purposes of this Section 3.1.2 and such Rights shall become void.

3.1.3 Any Rights Certificate that represents Rights Beneficially Owned by a Person described in either of Section 3.1.2(a) or 3.1.2(b) or transferred to any Nominee of any such Person, and any Rights Certificate issued upon transfer, exchange, replacement or adjustment of any other Rights Certificate referred to in this sentence, shall contain or will be deemed to contain the following legend:

“The Rights represented by this Rights Certificate were issued to a Person who was an Acquiring Person or an Affiliate or an Associate of an Acquiring Person (as such terms are defined in the Rights Agreement) or a Person acting jointly or in concert with an Acquiring Person or any Associate or Affiliate of such Acquiring Person or any Affiliate or Associate of such Person so acting jointly or in concert. This Rights Certificate and the Rights represented hereby shall be void in the circumstances specified in Section 3.1.2 of the Rights Agreement.”

The Rights Agent shall not be under any responsibility to ascertain the existence of facts that would require the imposition of such legend but shall be required to impose such legend only if instructed to do so in writing by the Corporation or if a holder fails to certify upon transfer or exchange in the space provided on the Rights Certificate that such holder is not a Person described in such legend.

3.1.4 After the Separation Time, the Corporation shall do all such acts and things necessary and within its power to ensure compliance with the provisions of this Section 3.1 including, without limitation, all such acts and things as may be required to satisfy the requirements of the Business Corporations Act, the Securities Act and the securities laws or comparable legislation in any other jurisdiction where the Corporation is subject to such laws and the rules of the stock exchanges or other markets where the Shares are listed or traded at such time in respect of the issue of Shares upon the exercise of Rights in accordance with this Agreement.

3.2 Fiduciary Duties of the Board

For clarification it is understood that nothing contained in this Agreement shall be considered to affect the obligations of the directors of the Corporation to exercise their fiduciary duties. Without limiting the generality of the foregoing, nothing contained herein shall be construed to suggest or imply that the Board shall not be entitled to recommend that holders of the Shares reject or accept any Take-over Bid or take any other action including, without limitation, the commencement, prosecution, defence or settlement of any litigation and the solicitation of additional or alternative Take-over Bids or other proposals to Shareholders that the directors believe is necessary or appropriate in the exercise of their fiduciary duties.

ARTICLE 4

THE RIGHTS AGENT

4.1 General

4.1.1 The Corporation hereby appoints the Rights Agent to act as agent for the Corporation and the holders of the Rights in accordance with the terms and conditions hereof, and the Rights Agent hereby accepts such appointment. The Corporation may from time to time appoint such co-rights agents (“**Co-Rights Agents**”) as it may deem necessary or desirable, subject to the approval of the Rights Agent. If the Corporation appoints one or more Co-Rights Agents, the respective duties of the Rights Agent and Co-Rights Agents shall be as the Corporation may determine with approval of the Rights Agent. The Corporation agrees to pay to the Rights Agent reasonable compensation for all services rendered by it hereunder and, from time to time, on demand of the Rights Agent, its reasonable expenses and counsel fees and other disbursements incurred in the administration and execution of this Agreement and the exercise and performance of its duties hereunder (including the reasonable fees and other disbursements of any expert retained by the Rights Agent with the approval of the Corporation, such approval not to be unreasonably withheld). The Corporation also agrees to indemnify the Rights Agent for, and to hold it harmless against, any loss, liability, or expense, incurred without negligence, bad faith or wilful misconduct on the part of the Rights Agent, for anything done or omitted by the Rights Agent in connection with the acceptance and administration of this Agreement, including the reasonable costs and expenses of defending against any claim of liability, which right to indemnification will survive the termination of this Agreement or the resignation or removal of the Rights Agent.

4.1.2 The Rights Agent shall be protected and shall incur no liability for or in respect of any action taken, suffered or omitted by it in connection with its administration of this Agreement in reliance upon any certificate for Shares, Rights Certificate, certificate for other securities of the Corporation, instrument of assignment or transfer, power of attorney, endorsement, affidavit, letter, notice, direction, consent, certificate, statement, or other paper or document believed by it to be genuine and to be signed, executed and, where necessary, verified or acknowledged, by the proper Person or Persons.

4.1.3 The Corporation shall inform the Rights Agent in a reasonably timely manner of events which may materially affect the administration of this Agreement by the Rights Agent and, at any time upon request, shall provide to the Rights Agent an incumbency certificate certifying the then current officers of the Corporation.

4.2 Merger, Amalgamation, Consolidation or Change of Name of Rights Agent

4.2.1 Any corporation into which the Rights Agent or any successor Rights Agent may be merged or amalgamated or with which it may be consolidated, or any corporation resulting from any merger, amalgamation or consolidation to which the Rights Agent or any successor Rights Agent is a party, or any corporation succeeding to the shareholder services business of the Rights Agent or any successor Rights Agent, will be the successor to the Rights Agent under this Agreement without the execution or filing of any document or any further act on the part of any of the parties hereto, provided that such corporation would be eligible for appointment as a

successor Rights Agent under the provisions of Section 4.4. In case at the time such successor Rights Agent succeeds to the agency created by this Agreement any of the Rights Certificates have been countersigned but not delivered any such successor Rights Agent may adopt the countersignature of the predecessor Rights Agent and deliver such Rights Certificates so countersigned; and in case at that time any of the Rights Certificates have not been countersigned, any successor Rights Agent may countersign such Rights Certificates either in the name of the predecessor Rights Agent or in the name of the successor Rights Agent; and in all such cases such Rights Certificates will have the full force provided in the Rights Certificates and in this Agreement.

4.2.2 In case at any time the name of the Rights Agent is changed and at such time any of the Rights Certificates shall have been countersigned but not delivered, the Rights Agent may adopt the countersignature under its prior name and deliver Rights Certificates so countersigned; and in case at that time any of the Rights Certificates shall not have been countersigned, the Rights Agent may countersign such Rights Certificates either in its prior name or in its changed name; and in all such cases such Rights Certificates shall have the full force provided in the Rights Certificates and in this Agreement.

4.3 Duties of Rights Agent

The Rights Agent undertakes the duties and obligations imposed by this Agreement upon the following terms and conditions, by all of which the Corporation and the holders of Rights Certificates, by their acceptance thereof, shall be bound:

- (a) The Rights Agent may retain and consult with legal counsel (who may be legal counsel for the Corporation), and the opinion of such counsel will be full and complete authorization and protection to the Rights Agent as to any action taken or omitted by it in good faith and in accordance with such opinion and the Rights Agent may also retain and consult with such other experts or advisors as the Rights Agent shall consider necessary or appropriate to properly carry out the duties and obligations imposed under this Agreement (at the Corporation's expense) and the Rights Agent shall be entitled to act and rely in good faith on the advice of such expert or advisor.
- (b) Whenever in the performance of its duties under this Agreement the Rights Agent deems it necessary or desirable that any fact or matter be proved or established by the Corporation prior to taking, refraining from taking or suffering any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by Chief Executive Officer or the Chief Financial Officer or other senior officer of the Corporation and delivered to the Rights Agent; and such certificate will be full authorization to the Rights Agent for any action taken, not taken or suffered in good faith by it under the provisions of this Agreement in reliance upon such certificate.
- (c) The Rights Agent will be liable hereunder only for its own gross negligence, bad faith or wilful misconduct.

- (d) The Rights Agent will not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the certificates for Shares, or the Rights Certificates (except its countersignature thereof) or be required to verify the same, and all such statements and recitals are and will be deemed to have been made by the Corporation only.
- (e) The Rights Agent will not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due authorization, execution and delivery hereof by the Rights Agent) or in respect of the validity or execution of any Share certificate, or Rights Certificate (except its countersignature thereof); nor will it be responsible for any breach by the Corporation of any covenant or condition contained in this Agreement or in any Rights Certificate; nor will it be responsible for any change in the exercisability of the Rights (including the Rights becoming void pursuant to Section 3.1.2 or any adjustment required under the provisions of Section 2.3) or responsible for the manner, method or amount of any such adjustment or the ascertaining of the existence of facts that would require any such adjustment (except with respect to the exercise of Rights after receipt of the certificate contemplated by Section 2.3 describing any such adjustment or any written notice from the Corporation or any holder that a Person has become an Acquiring Person); nor will it by any act hereunder be deemed to make any representation or warranty as to the authorization of any Shares to be issued pursuant to this Agreement or any Rights or as to any Shares, when issued, being duly and validly authorized, issued and delivered as fully paid and non-assessable.
- (f) The Corporation agrees that it will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent for the carrying out or performing by the Rights Agent of the provisions of this Agreement.
- (g) The Rights Agent is hereby authorized and directed to accept instructions with respect to the performance of its duties hereunder from any individual designated in writing by the Corporation, and to apply to such individuals for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered by it in good faith in accordance with instructions of any such individual. It is understood that instructions to the Rights Agent shall, except where circumstances make it impractical or the Rights Agent otherwise agrees, be given in writing and, where not in writing, such instructions shall be confirmed in writing as soon as reasonably practicable after the giving of such instructions.
- (h) The Rights Agent and any shareholder, director, officer or employee of the Rights Agent may buy, sell or deal in Shares, Rights or other securities of the Corporation or become pecuniarily interested in any transaction in which the Corporation may be interested, or contract with or lend money to the Corporation or otherwise act as fully and freely as though it were not the Rights Agent under

this Agreement. Nothing herein shall preclude the Rights Agent from acting in any other capacity for the Corporation or for any other legal entity.

- (i) The Rights Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Rights Agent will not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys or agents or for any loss to the Corporation resulting from any such act, default, neglect or misconduct, provided reasonable care was exercised in the selection and continued employment thereof.

4.4 Change of Rights Agent

The Rights Agent may resign and be discharged from its duties under this Agreement by giving 60 days prior written notice (or such lesser notice as is acceptable to the Corporation) to the Corporation, to each transfer agent of Shares and to the holders of the Rights, all in accordance with Section 5.11 and at the expense of the Corporation. The Corporation may remove the Rights Agent by giving 30 days prior written notice to the Rights Agent, to each transfer agent of the Shares and to the holders of the Rights in accordance with Section 5.11. If the Rights Agent should resign or be removed or otherwise become incapable of acting, the Corporation will appoint a successor to the Rights Agent. If the Corporation fails to make such appointment within a period of 30 days after such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Rights Agent or by the holder of any Rights (which holder shall, with such notice, submit such holder's Rights Certificate for inspection of the Corporation), then the holder of any Rights may apply to any court of competent jurisdiction for the appointment of a new Rights Agent. Any successor Rights Agent, whether appointed by the Corporation or by such a court, must be a corporation incorporated under the laws of Canada or a province thereof and authorized to carry on the business of a rights agent in Ontario. After appointment, the successor Rights Agent will be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Rights Agent without further act or deed; but the predecessor Rights Agent, upon payment by the Corporation to the predecessor Rights Agent of all outstanding fees and expenses owed by the Corporation to the predecessor Rights Agent pursuant to this Agreement, shall deliver and transfer to the successor Rights Agent any property at the time held by it hereunder, and execute and deliver any further assurance, conveyance, act or deed necessary for the purpose. Not later than the effective date of any such appointment, the Corporation will file notice thereof in writing with the predecessor Rights Agent and each transfer agent of the Shares and mail a notice thereof in writing to the holders of the Rights in accordance with Section 5.11. Failure to give any notice provided for in this Section 4.4, however, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of the successor Rights Agent, as the case may be.

4.5 Compliance with Money Laundering Legislation

The Rights Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Rights Agent reasonably determines that such an act might cause it to be in non-compliance with any

applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Rights Agent reasonably determine at any time that its acting under this Agreement has resulted in it being in noncompliance with any applicable anti-money laundering or antiterrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days' written notice to the Corporation, provided that (i) the Rights Agent's written notice shall describe the circumstances of such non-compliance and (ii) that if such circumstances are rectified to the Rights Agent's satisfaction within such 10-day period, then such resignation shall not be effective.

4.6 Privacy Provision

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individual's personal information (collectively, "**Privacy Laws**") applies to obligations and activities under this Agreement. Despite any other provision of this Agreement, neither party will take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Corporation will, prior to transferring or causing to be transferred personal information to the Rights Agent, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or will have determined that such consents either have previously been given upon which the parties can rely or are not required under the Privacy Laws. The Rights Agent will use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws.

ARTICLE 5 MISCELLANEOUS

5.1 Redemption, Waiver, Extension and Termination

5.1.1 Subject to the prior consent of the holders of Shares or Rights obtained as set forth in Section 5.4, the Board, acting in good faith, may, at any time prior to the occurrence of a Flip-in Event as to which the application of Section 3.1 has not been waived pursuant to Sections 5.1.2, 5.1.4 or 5.1.5, elect to redeem all but not less than all of the then outstanding Rights at a redemption price of \$0.00001 per Right, appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 if an event of a type analogous to any of the events described in Section 2.3 shall have occurred (such redemption price being herein referred to as the "**Redemption Price**").

5.1.2 The Board may waive the application of Section 3.1 in respect of the occurrence of any Flip-in Event if the Board has determined, in good faith, within 10 Business Days following the Share Acquisition Date, that a Person became an Acquiring Person by inadvertence and without any intention to become, or knowledge that it would become, an Acquiring Person under this Agreement and, if such a waiver is granted by the Board, such Share Acquisition Date shall be deemed not to have occurred. Any such waiver pursuant to this Section 5.1.2 may only be given on the condition that such Person, within 14 days after the foregoing determination by the Board or such later date as the Board may determine (the "**Disposition Date**"), has reduced its Beneficial Ownership of Shares such that, at the time the waiver becomes effective, the Person is no longer an Acquiring Person. If the Person remains an Acquiring Person at the Close

of Business on the Disposition Date, then the Disposition Date shall be deemed to be the date of occurrence of a further Share Acquisition Date and Section 3.1 shall apply thereto.

5.1.3 If a Person acquires Shares pursuant to a Permitted Bid or a Competing Permitted Bid or an Exempt Acquisition referred to in Section 5.1.4, then the Board shall, immediately upon the consummation of such acquisition and without further formality, be deemed to have elected to redeem the Rights at the Redemption Price.

5.1.4 The Board may, prior to the occurrence of the relevant Flip-in Event, upon prior written notice delivered to the Rights Agent, determine to waive the application of Section 3.1 to a Flip-in Event that may occur by reason of a Take-over Bid made by means of a Take-over Bid circular to all holders of record of Shares; provided that, if the Board waives the application of Section 3.1 to a particular Take-over Bid pursuant to this Section 5.1.4, then the Board shall be deemed to have waived the application of Section 3.1 to any other Take-over Bid made by means of a Take-over Bid circular to all holders of record of Shares prior to the expiry, termination or withdrawal of any Take-over Bid in respect of which a waiver is, or is deemed to have been, granted under this Section 5.1.4.

5.1.5 The Board may, prior to the Close of Business on the tenth Business Day following a Share Acquisition Date, upon prior written notice delivered to the Rights Agent, waive the application of Section 3.1 to the related Flip-in Event; provided that the Acquiring Person has reduced its Beneficial Ownership of Shares (or has entered into a contractual arrangement with the Corporation, acceptable to the Board, to do so within 10 days of the date on which contractual arrangement is entered into or such later date as the Board may determine) such that, at the time the waiver becomes effective pursuant to this Section 5.1.5, such Person is no longer an Acquiring Person. In the event of such a waiver becoming effective prior to the Separation Time, for the purposes of this Agreement, such Flip-in Event shall be deemed not to have occurred.

5.1.6 Where a Take-over Bid that is not a Permitted Bid is withdrawn or otherwise terminated after the Separation Time has occurred and prior to the occurrence of a Flip-in Event, or if the Board grants a waiver under Section 5.1.5 after the Separation Time, then the Board may elect to redeem all the outstanding Rights at the Redemption Price. Upon the Rights being redeemed pursuant to this Section 5.1.6, all of the provisions of this Agreement shall continue to apply as if the Separation Time had not occurred and Rights Certificates representing the number of Rights held by each holder of record of Shares at the Separation Time had not been mailed to each such holder, and for all purposes of this Agreement the Separation Time shall be deemed not to have occurred, and the Corporation shall be deemed to have issued replacement Rights to the holders of its then outstanding Shares.

5.1.7 If the Board is deemed under Section 5.1.3 to have elected or elects under Sections 5.1.1 or 5.1.6 to redeem the Rights, then the right to exercise the Rights will thereupon, without further action and without notice, terminate and the only right thereafter of the holders of Rights shall be to receive the Redemption Price.

5.1.8 Within 10 days after the Board is deemed under Section 5.1.3 to have elected or elects under Sections 5.1.1 or 5.1.6 to redeem the Rights, the Corporation shall give notice of

redemption to the holders of the then outstanding Rights by mailing such notice to each such holder at its last address as it appears upon the Rights Register or, prior to the Separation Time, on the registry books of the transfer agent for the Voting Shares. Any notice which is mailed in the manner herein provided shall be deemed given, whether or not the holder receives the notice. Each such notice of redemption will state the method by which the payment of the Redemption Price will be made, and will state that no payment will be made to holders entitled to less than \$10, in accordance with Section 5.1.9.

5.1.9 The Corporation shall not be obligated to make a payment of the Redemption Price to any holder of Rights unless such holder is entitled to receive at least \$10 in respect of all of the Rights held by such holder.

5.2 Expiration

No Person will have any rights pursuant to this Agreement or in respect of any Right after the Expiration Time, except for the Rights Agent as specified in Sections 4.1.1 and 4.1.2.

5.3 Issuance of New Rights Certificates

Notwithstanding any of the provisions of this Agreement or of the Rights to the contrary, the Corporation may, at its option, issue new Rights Certificates evidencing Rights in such form as may be approved by its Board to reflect any adjustment or change in the number or kind or class of Shares purchasable upon exercise of Rights made in accordance with the provisions of this Agreement.

5.4 Supplements and Amendments

5.4.1 Subject to Section 5.4.3, the Corporation may from time to time amend, vary or delete any of the provisions of this Agreement and the Rights provided that no amendment, variation or deletion made on or after the Special Meeting shall be made without the prior consent of the Shareholders or holders of the Rights, given as provided in Section 5.4.2, except that amendments, variations or deletions made for any of the following purposes shall not require such prior approval but shall be subject to subsequent ratification in accordance with Section 5.4.2:

- (a) in order to make such changes as are necessary in order to maintain the validity or effectiveness of this Agreement and the Rights as a result of any change in any applicable legislation, regulations or rules;
- (b) in order to make such changes as are necessary in order to cure any clerical or typographical error; or
- (c) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement, provided that such action pursuant to this paragraph(c) shall not adversely affect the interests of the Shareholders or the holders of Rights in any material respect.

5.4.2 Any amendment, variation or deletion made by the Corporation pursuant to Section 5.4.1 shall if made:

- (a) prior to the Separation Time, be submitted to the Shareholders at the next meeting of Shareholders and the Shareholders may, by resolution passed by a majority of the votes cast by Independent Shareholders who vote in respect of such amendment, variation or deletion, confirm or reject such amendment or supplement; or
- (b) after the Separation Time, be submitted to the holders of Rights at a meeting to be held on a date not later than the date of the next meeting of Shareholders and the holders of Rights may, by resolution passed by a majority of the votes cast by the holders of Rights which have not become void pursuant to Section 3.1.2 who vote in respect of such amendment, variation or deletion, confirm or reject such amendment or supplement.

Any amendment, variation or deletion pursuant to Section 5.4.1 made before the Special Meeting shall be effective when made, subject to confirmation by the Shareholders at the Special Meeting, and in other cases shall be effective from the later of the date of the consent of the holders of Shares or Rights, as applicable, adopting such amendment, variation or deletion and the date of approval thereof by the Exchange (except in the case of an amendment, variation or deletion referred to in Sections 5.4.1(a), 5.4.1(b) or 5.4.1(c), which shall be effective from the later of the date of the resolution of the Board adopting such amendment, variation or deletion and the date of approval thereof by the Exchange) and, where such amendment, variation or deletion is confirmed, it shall continue in effect in the form so confirmed). If an amendment, variation or deletion pursuant to Sections 5.4.1(a), 5.4.1(b) or 5.4.1(c) is rejected by the Shareholders or the holders of Rights or is not submitted to the Shareholders or holders of Rights as required, then such amendment, variation or deletion shall cease to be effective from and after the termination of the meeting at which it was rejected or to which it should have been but was not submitted or from and after the date of the meeting of holders of Rights that should have been but was not held, and no subsequent resolution of the Board to amend, vary or delete any provision of this Agreement to substantially the same effect shall be effective until confirmed by the Shareholders or holders of Rights, as the case may be.

5.4.3 For greater certainty, neither the exercise by the Board of any power or discretion conferred on it hereunder nor the making by the Board of any determination or the granting of any waiver it is permitted to make or give hereunder shall constitute an amendment, variation or deletion of the provisions of this Agreement or the Rights for purposes of this Section 5.4 or otherwise.

5.4.4 The approval, confirmation or consent of the holders of Rights with respect to any matter arising hereunder shall be deemed to have been given if the action requiring such approval, confirmation or consent is authorized by the affirmative votes of the holders of Rights present or represented at and entitled to be voted at a meeting of the holders of Rights and representing a majority of the votes cast in respect thereof. For the purposes hereof, each outstanding Right (other than Rights which are void pursuant to the provisions hereof or which, prior to the Separation Time, are held otherwise than by Independent Shareholders) shall be

entitled to one vote, and the procedures for the calling, holding and conduct of the meeting shall be those, as nearly as may be, which are provided in the Corporation's bylaws and the Business Corporations Act with respect to meetings of shareholders of the Corporation.

5.4.5 Notwithstanding anything in this Section 5.4 to the contrary, no such supplement or amendment shall be made to the provisions of Article 4 except with the written concurrence of the Rights Agent to such supplement or amendment.

5.5 Fractional Rights and Fractional Shares

5.5.1 The Corporation shall not be required to issue fractions of Rights or to distribute Rights Certificates which evidence fractional Rights. After the Separation Time there shall be paid, in lieu of such fractional Rights, to the registered holders of the Rights Certificates with regard to which fractional Rights would otherwise be issuable, an amount in cash equal to the same fraction of the value of a whole Right. The Board shall determine the value of a whole Right applicable for this purpose.

5.5.2 The Corporation shall not be required to issue fractional Shares upon exercise of the Rights or to distribute certificates that evidence fractional Shares. In lieu of issuing fractional Shares, the Corporation shall pay to the registered holder of Rights Certificates at the time such Rights are exercised as herein provided, an amount in cash equal to the same fraction of the Market Price of one Share at the date of such exercise.

5.6 Rights of Action

Subject to the terms of this Agreement, all rights of action in respect of this Agreement, other than rights of action vested solely in the Rights Agent, are vested in the respective holders of the Rights; and any holder of Rights, without the consent of the Rights Agent or of the holder of any other Rights may, on such holder's own behalf and for such holder's own benefit and the benefit of other holders of Rights, enforce, and may institute and maintain any suit, action or proceeding against the Corporation to enforce, or otherwise act in respect of, such holder's right to exercise such holder's Rights in the manner provided in this Agreement and in such holder's Rights Certificate. Without limiting the foregoing or any remedies available to the holders of Rights, it is specifically acknowledged that the holders of Rights would not have an adequate remedy at law for any breach of this Agreement and will be entitled to specific performance of the obligations under, and injunctive relief against actual or threatened violations of, the obligations of any Person subject to, this Agreement.

5.7 Holder of Rights Not Deemed a Shareholder

No holder, as such, of any Rights shall be entitled to vote, receive dividends or be deemed for any purpose the holder of Shares or any other securities which may at any time be issuable on the exercise of Rights, nor shall anything contained herein or in any Rights Certificate be construed to confer upon the holder of any Rights, as such, any of the rights of a Shareholder or any right to vote for the election of directors or upon any matter submitted to Shareholders at any meeting thereof or to give or withhold consent to any corporate action, or to receive notice of meetings or other actions affecting Shareholders (except as provided in

Section 5.8) or to receive dividends or subscription rights or otherwise, until such Rights, shall have been exercised in accordance with the provisions hereof.

5.8 Notice of Proposed Actions

In case the Corporation proposes after the Separation Time and prior to the Expiration Time to effect the liquidation, dissolution or winding up of the Corporation or the sale of all or substantially all of the Corporation's assets, then, in each such case, the Corporation shall give to each holder of a Right, in accordance with Section 5.11, a notice of such proposed action, which shall specify the date on which such liquidation, dissolution, or winding up is to take place, and such notice shall be so given at least 20 Business Days prior to the date of the taking of such proposed action by the Corporation.

5.9 Effective Time

This Agreement is effective and in full force and effect in accordance with its terms and conditions from and after the Effective Date. If this Agreement is not approved at the Special Meeting by resolution passed by a majority of the votes cast by Independent Shareholders, then this Agreement and all outstanding Rights shall terminate and be void and of no further force and effect on and from that date; provided that termination shall not occur if a Flip-in Event has occurred (other than a Flip-in Event which has been waived pursuant to Sections 5.1.2, 5.1.4 or 5.1.5) prior to the date upon which this Agreement would otherwise terminate pursuant to this Section 5.9.

5.10 Reconfirmation

This Agreement must be reconfirmed by a resolution passed by a majority of the votes cast by Independent Shareholders who vote in respect of such reconfirmation at every third annual meeting of the Corporation. If this Agreement is not so reconfirmed or is not presented for reconfirmation at such annual meeting, then this Agreement and all outstanding Rights shall terminate and be void and of no further force and effect on and from the date of termination of the applicable annual meeting; provided that termination shall not occur if a Flip-in Event has occurred (other than a Flip-in Event which has been waived pursuant to Sections 5.1.2, 5.1.4 or 5.1.5) prior to the date upon which this Agreement would otherwise terminate pursuant to this Section 5.10.

5.11 Notices

Notices or demands authorized or required by this Agreement to be given or made to or by the Rights Agent, the holder of any Rights or the Corporation will be sufficiently given or made and shall be deemed to be received if delivered or sent by first-class mail, postage prepaid, or by facsimile machine or other means of printed telecommunication, charges prepaid and confirmed in writing by mail or delivery, addressed (until another address is filed in writing with the Rights Agent or the Corporation, as applicable), as follows:

- (a) if to the Corporation:

New Flyer Industries Inc.
711 Kernaghan Avenue
Winnipeg, Manitoba
R2C 3T4

Attention: Executive Vice President and General Counsel
Fax: 204-224-6652

- (b) if to the Rights Agent:

Computershare Investor Services Inc.
100 University Avenue
8th Floor
Toronto, Ontario
M5J 2Y1

Attention: General Manager, Client Services
Fax: 416-263-9539

- (c) if to the holder of any Rights, to the address of such holder as it appears on the Rights Register or, prior to the Separation Time, on the registry books of the Corporation for the Shares.

Any notice which is mailed or sent or delivered in the manner herein provided for shall be deemed given and received whether or not the holder receives the notice.

5.12 Costs of Enforcement

The Corporation agrees that if the Corporation or any other Person (the securities of which are purchasable upon exercise of Rights) fails to fulfil any of its obligations pursuant to this Agreement, then the Corporation or such Person will reimburse the holder of any Rights for the costs and expenses (including legal fees) reasonably incurred by such holder in actions to enforce his rights pursuant to any Rights or this Agreement.

5.13 Posting for Trading of Shares

Following the occurrence of a Flip-in Event that has not been waived, the Corporation shall use reasonable efforts to cause the Shares to be posted for trading on the Exchange once the public distribution of Shares satisfies the Exchange's requirements for listing and posting of securities.

5.14 Regulatory Approvals

Any obligation of the Corporation or action or event contemplated by this Agreement, shall be subject to applicable law and to the receipt of any requisite approval or consent from any governmental or regulatory authority. Without limiting the generality of the

foregoing, any issuance or delivery of debt or equity securities (other than non-convertible debt securities) of the Corporation upon the exercise of Rights and any amendment to this Agreement shall be subject to the applicable prior consent of the stock exchanges and markets on which the Corporation is from time to time listed or quoted.

5.15 Declaration as to Non-Canadian Holders

If, upon the advice of outside counsel, any action or event contemplated by this Agreement would require compliance with the securities laws or comparable legislation of a jurisdiction outside of Canada, the Board acting in good faith may take such actions as it may deem appropriate to ensure that such compliance is not required, including without limitation establishing procedures for the issuance to a Canadian resident Fiduciary of Rights or securities issuable on exercise of Rights, the holding thereof in trust for the Persons entitled thereto (but reserving to the Fiduciary or to the Fiduciary and the Corporation, as the Corporation may determine, absolute discretion with respect thereto) and the sale thereof and remittance of the proceeds of such sale, if any, to the Persons entitled thereto. In no event shall the Corporation or the Rights Agent be required to issue or deliver Rights or securities issuable on exercise of Rights to Persons who are citizens, residents or nationals of any jurisdiction other than Canada and any province or territory thereof and the United States of America and any state thereof in which such issue or delivery would be unlawful without registration of the relevant Persons or securities for such purposes.

5.16 Successors

All the covenants and provisions of this Agreement by or for the benefit of the Corporation or the Rights Agent shall bind and enure to the benefit of their respective successors and assigns hereunder.

5.17 Benefits of this Agreement

Nothing in this Agreement shall be construed to give to any Person other than the Corporation, the Rights Agent and the holders of the Rights any legal or equitable right, remedy or claim under this Agreement; this Agreement shall be for the sole and exclusive benefit of the Corporation, the Rights Agent and the holders of the Rights.

5.18 Effective Date

This Agreement is in force as of and from the date hereof in accordance with its terms. This Agreement and all outstanding Rights shall terminate and no longer be of any force or effect from and after the Expiration Time.

5.19 Determinations and Actions by the Board

All actions, calculations, interpretations and determinations (including all omissions with respect to the foregoing) which are done or made by the Board for the purposes hereof, in good faith:

- (a) may be relied upon by the Rights Agent; and

- (b) shall not subject any member of the Board to any liability to the holders of the Rights or to any other parties.

5.20 Governing Law

This Agreement and the Rights issued hereunder shall be deemed to be a contract made under the laws of the Province of Ontario and for all purposes will be governed by and construed in accordance with the laws of such province applicable to contracts to be made and performed entirely within such province.

5.21 Language

Les parties aux présentes ont exigé que la présente convention ainsi que tous les documents et avis qui s'y rattachent ou qui en coulent soient rédigés en langue anglaise. The parties hereto have required that this Agreement and all documents and notices related thereto or resulting therefrom be drawn up in English.

5.22 Counterparts

This Agreement may be executed in any number of counterparts and each of such counterparts will for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

5.23 Severability

If any term or provision hereof or the application thereof to any circumstance is, in any jurisdiction and to any extent, invalid or unenforceable, such term or provision will be ineffective only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining terms and provisions hereof or the application of such term or provision in jurisdictions or to circumstances other than those as to which it is held invalid or unenforceable.

5.24 Time of the Essence

Time shall be of the essence hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

NEW FLYER INDUSTRIES INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

**COMPUTERSHARE INVESTOR
SERVICES INC.**

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE A

to a Shareholder Rights Plan Agreement made as of August 29, 2011
between New Flyer Industries Inc. and Computershare Investor Services Inc.

Certificate No. [] [] Rights

THE RIGHTS ARE SUBJECT TO REDEMPTION, AT THE OPTION OF THE CORPORATION, ON THE TERMS SET FORTH IN THE SHAREHOLDER RIGHTS PLAN AGREEMENT. UNDER CERTAIN CIRCUMSTANCES (SPECIFIED IN SECTION 3.1.2 OF SUCH AGREEMENT), RIGHTS BENEFICIALLY OWNED BY AN ACQUIRING PERSON, CERTAIN RELATED PARTIES OF AN ACQUIRING PERSON OR A TRANSFEREE OF AN ACQUIRING PERSON OR ANY SUCH RELATED PARTIES WILL BECOME VOID WITHOUT FURTHER ACTION.

RIGHTS CERTIFICATE

This certifies that [] is the registered holder of the number of Rights set forth above, each of which entitles the registered holder thereof, subject to the terms, provisions and conditions of the Shareholder Rights Plan Agreement made as of August 29, 2011 (the “**Rights Agreement**”) between New Flyer Industries Inc., a corporation incorporated under the laws of Canada, (the “**Corporation**”) and Computershare Investor Services Inc., a corporation incorporated under the laws of Ontario, as Rights Agent (the “**Rights Agent**”), which term shall include any successor Rights Agent under the Rights Agreement), to purchase from the Corporation, at any time after the Separation Time and prior to the Expiration Time (as such terms are defined in the Rights Agreement), one fully paid common share of the Corporation (a “**Share**”) at the Exercise Price referred to below, upon presentation and surrender of this Rights Certificate, together with the Form of Election to Exercise appropriately completed and duly executed, to the Rights Agent at its principal office in Toronto, Ontario. Until adjustment thereof in certain events as provided in the Rights Agreement, the Exercise Price shall be \$50.00 per Right (payable in cash, certified cheque or money order payable to the order of the Corporation).

The number of Shares which may be purchased for the Exercise Price is subject to adjustment as set forth in the Rights Agreement.

This Rights Certificate is subject to all of the terms, provisions and conditions of the Rights Agreement, which terms, provisions and conditions are hereby incorporated by reference and made a part hereof and to which Rights Agreement reference is hereby made for a full description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Rights Agent, the Corporation and the holders of the Rights Certificates. Copies of the Rights Agreement are on file at the registered office of the Corporation and are available upon written request.

This Rights Certificate, with or without other Rights Certificates, upon surrender at the principal office of the Rights Agent in Toronto, Ontario, may be exchanged for another Rights Certificate or Rights Certificates of like tenor evidencing an aggregate number of Rights equal to the aggregate number of Rights evidenced by the Rights Certificate or Rights Certificates surrendered. If this Rights Certificate shall be exercised in part, the registered holder shall be entitled to receive, upon surrender hereof, another Rights Certificate or Rights Certificates for the number of whole Rights not exercised.

In certain circumstances described in the Rights Agreement, each Right evidenced hereby may be adjusted so as to entitle the registered holder thereof to purchase or receive securities in the capital of the Corporation other than Shares or more or less than one Share (or a combination thereof), all as provided in the Rights Agreement. The number of Shares which may be purchased for the Exercise Price is subject to adjustment as set forth in the Rights Agreement.

Subject to the provisions of the Rights Agreement, the Rights evidenced by this Rights Certificate may be redeemed by the Corporation at a redemption price of \$0.00001 per Right subject to adjustment in certain events.

No fractional Shares will be issued upon the exercise of any Right or Rights evidenced hereby, but in lieu thereof a cash payment will be made, as provided in the Rights Agreement.

No holder of this Rights Certificate, as such, shall be entitled to vote or receive dividends or be deemed for any purpose the holder of Shares or any other securities which may at any time be issuable upon the exercise hereof, nor shall anything contained in the Rights Agreement or herein be construed to confer upon the holder hereof, as such, any of the rights of a shareholder of the Corporation or any right to vote for the election of directors or upon any matter submitted to shareholders at any meeting thereof, or to give or withhold consent to any corporate action, or to receive notice of any meeting or other actions affecting shareholders (except as provided in the Rights Agreement), or to receive distributions or subscription rights or otherwise, until the Rights evidenced by this Rights Certificate shall have been exercised as provided in the Rights Agreement.

This Rights Certificate shall not be valid for any purpose until it shall have been countersigned by the Rights Agent.

WITNESS the facsimile signature of the proper officers of the Corporation.

Date: [_____]

NEW FLYER INDUSTRIES INC.

By: _____
Name:
Title:

COMPUTERSHARE INVESTOR
SERVICES INC.

By: _____
Name:
Title:

FORM OF ELECTION TO EXERCISE

NEW FLYER INDUSTRIES INC.

The undersigned hereby irrevocably elects to exercise _____ whole Rights represented by this Rights Certificate to purchase the Shares issuable upon the exercise of such Rights and requests that certificates for such Shares be issued in the name of and delivered to:

Rights Certificate No. _____

Name

Address

City and Province

Social Insurance No. or other
taxpayer identification numbers

If such number of Rights shall not be all the Rights evidenced by this Rights Certificate, a new Rights Certificate for the balance of such Rights shall be registered in the name of and delivered to:

Name

Address

City and Province

Social Insurance No. or other
taxpayer identification numbers

Date: _____

Signature

Written Signature Guaranteed

(Signature must correspond to name as written upon the face of this Rights Certificate in every particular without alteration or enlargement or any change whatsoever)

Signature must be guaranteed by a major Canadian trust company, a Schedule 1 Canadian chartered bank, a member of a recognized stock exchange in Canada or a member of the Securities Transfer Association Medallion (STAMP) Program.

(To be completed by the holder if true)

The undersigned hereby represents, for the benefit of the Corporation and all holders of Rights and Shares, that the Rights evidenced by this Rights Certificate are not and, to the knowledge of the undersigned, have never been, Beneficially Owned by an Acquiring Person, any Associate or Affiliate of an Acquiring Person, any other Person acting jointly or in concert with an Acquiring Person or any Associate or Affiliate of such Acquiring Person, or an Associate or Affiliate of such Person so acting jointly or in concert (as such terms are defined in the Rights Agreement).

Signature

NOTICE

If the certification set forth above in the Form of Election to Exercise is not completed, the Corporation is entitled to treat the Beneficial Owner of the Rights represented by this Rights Certificate to be an Acquiring Person (as defined in the Rights Agreement) and, accordingly, such Rights shall be null and void.

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Please print name and address of transferee)

the Rights represented by this Rights Certificate, together with all right, title and interest therein.

Date: _____

Signature

Written Signature Guaranteed

(Signature must correspond to name as written upon the face of this Rights Certificate in every particular without alteration or enlargement or any change whatsoever)

Signature must be guaranteed by a major Canadian trust company, a Schedule 1 Canadian chartered bank, a member of a recognized stock exchange in Canada or a member of the Securities Transfer Association Medallion (STAMP) Program.

(To be completed by the holder if true)

The undersigned hereby represents, for the benefit of the Corporation and all holders of Rights and Shares, that the Rights evidenced by this Rights Certificate are not and, to the knowledge of the undersigned, have never been, Beneficially Owned by an Acquiring Person, any Associate or Affiliate of an Acquiring Person, any other Person acting jointly or in concert with an Acquiring Person or any Associate or Affiliate of such Acquiring Person, or an Associate or Affiliate of such Person so acting jointly or in concert (as such terms are defined in the Rights Agreement).

Signature

(Please print name below signature)

NOTICE

If the certification set forth above in the Form of Assignment is not completed, the Corporation is entitled to treat the Beneficial Owner of the Rights represented by this Rights Certificate to be an Acquiring Person (as defined in the Rights Agreement) and, accordingly, such Rights shall be null and void.