

THIS TRUST DEED DATED the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BETWEEN:**

**CORPORATION**, a body corporate incorporated under the laws of \_\_\_\_\_ (hereinafter referred to as the "Company")

**OF THE FIRST PART**

- and -

**TRUSTEE**, of \_\_\_\_\_, \_\_\_\_\_ (hereinafter referred to as the "Trustee")

**OF THE SECOND PART**

**WHEREAS:**

- A. The Company is duly incorporated under the laws of \_\_\_\_\_.
- B. The Company represents to the Trustee that all necessary resolutions have been passed by the directors of the Company and all other proceedings taken and conditions complied with to authorize the execution and delivery of this Indenture and the creation, execution and issue of the Debentures intended to be issued and certified hereunder and to make the same legal, valid and binding upon the Company.
- C. The foregoing recitals are made as representations and statements of facts by the Company and not by the Trustee.
- D. The Trustee has consented to act as Trustee on the terms herein stated.

**NOW THEREFORE THIS INDENTURE WITNESSES THAT** in consideration of the premises and of the acceptance and consent by the Trustee as herein acknowledged and the sum of One Dollar (\$1.00) now paid by the Trustee to the Company, the receipt and sufficiency whereof are hereby acknowledged by the Company, it is hereby covenanted, agreed and declared by and between the parties hereto as follows:

#### **ARTICLE 1 - INTERPRETATION**

**1.1 Definitions** - In these presents unless there is something in the subject-matter or context inconsistent therewith:

- (a) "Applicable Law" means, in relation to any person, transaction or event, all applicable provisions (or mandatory applicable provisions, if so specified) of laws, statutes, rules or regulations, official directives and orders of all governmental bodies (whether administrative, legislative, executive or otherwise and, in the case of any central bank, fiscal or monetary authority, whether or not having the force of law) and judgments, orders and decrees of all courts, arbitrators, commissions or bodies exercising similar functions in actions or proceedings in which the person in question is a party or by which it is bound or having application to the transaction or event;
- (b) "Approved Securities" means the deposits and investments permitted under or in accordance with the provisions of Section 8.4;
- (c) "Bondholders", "holder", or "holders" means as regards the Bonds, the registered holders thereof from time to time;
- (d) "Bondholders' Counsel" means any firm chosen for that purpose by the Bondholders;
- (e) "Bondholders' Request" or "Bondholders' Resolution" means an instrument signed in writing in one or more counterparts by the holder or holders of not less than 66 2/3% in principal amount

of the Bonds outstanding from time to time directing the Trustee to take or approve, or refrain from taking or approving, some act, action or proceeding specified therein, which may be expressed to have retroactive effect and shall in any event be binding upon each Bondholder as if signed by all;

- (f) "Bonds" means the Bonds of the Company in substantially the form set forth in Schedule A with such appropriate insertions, omissions, substitutions and variations that may be approved or permitted under the terms of this Indenture or as the Trustee and the Company may approve, for the time being outstanding hereunder and entitled to the benefits of these presents;
- (g) "Event of Crystallization" means the occurrence of any (i) Event of Default of a type described in any of items (a), (b) or (c) of Section 7.1 if the Trustee has, in respect thereof determined or become bound to enforce the Security Interests hereby constituted, or (ii) any other Event of Default whether or not the Trustee has, in respect thereof, determined to become bound to enforce the Security Interests hereby constituted, in each case subject to the effects of a Rescission Notice in respect thereof under Section 7.3(b);
- (h) "Event of Default" has the meaning ascribed in Section 7.1;
- (i) "Extraordinary Resolution" has the meaning ascribed in Section 11.12;
- (j) "Mortgaged Property" or "Mortgaged Premises" means the assets, rights and things from time to time subject to (i) the floating charge or charges pursuant to Section 3.1 hereof; or (ii) the Security Interests constituted under any other instrument of assignment;
- (k) "Negotiable Instruments" means cash and all negotiable instruments including promissory notes, cheques, drafts and bills of exchange;
- (l) "other instrument of assignment" means an instrument by the Company in favour of the Trustee containing an assignment of general or specific application, and includes general assignments of book debts;
- (m) "Permitted Encumbrances" means as of any particular time in relation to the Company any of the following Security Interests:
  - (i) Security Interests for taxes, assessments or governmental charges and other statutory Security Interests which (y) are not at the time due or delinquent or (z) are being contested at the time in good faith by the Company;
  - (ii) Security Interests of any judgments rendered, or claims filed, against the Company which the Company shall be contesting in good faith if, and for so long as a stay of enforcement of such judgment or claim (if enforceable by seizure, sale or other remedy against any property), as the case may be, shall be in effect;
  - (iii) Security Interests incidental to construction or operations which (y) have not at such time been filed pursuant to law and which relate to obligations not due or delinquent or (z) relate to obligations being contested at the time in good faith or by the Company;
  - (iv) Security Interests incurred or created in the ordinary course of business and in accordance with sound industry practice in respect of any of the Mortgaged Premises as security in favour of any other Person which is conducting the exploration, development or operation of the property to which such Security Interests relate for the Company's portion of the costs and expenses of such exploration, development or operation, which have not at such time been filed pursuant to law and which relate to obligations not due or delinquent;
  - (v) Security Interests given by the Company to a public utility or any municipality or governmental or other authority when required by such public utility or municipality or other authority in connection with the operations of the Company;

- (vi) any Security Interest consented to by a Bondholders' Resolution;
- (vii) the Security Interests created hereby or otherwise in favour of the Trustee, the Bondholders or persons on their behalf;
- (viii) easements, rights-of-way, servitudes or other similar rights in land (including, without in any way limiting the generality of the foregoing, rights-of-way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved or taken by other Persons which singly and in the aggregate do not materially detract from the value of the land concerned or materially impair its use in the operation of the business of the Borrower or any Subsidiary (as applicable);
- (ix) Purchase Money Mortgages securing Purchase Money Obligations provided the equivalent in \_\_\_\_\_ Dollars of the principal amount outstanding (including any unpaid interest which has accrued) thereon does not exceed in the aggregate at any one time the equivalent of \$\_\_\_\_\_;
- (n) "person" means an individual, a partnership, a corporation, a trust, an unincorporated organization, a union, a government or any department or agency thereof and the heirs, executors, administrators or other legal representatives of an individual;
- (o) "Purchase Money Mortgage" means a Security Interest in favour of the party entitled to enforce a Purchase Money Obligation to secure such Purchase Money Obligation, provided that the property subject thereto is limited to the property in respect of which the Purchase Money Obligation was incurred including, in the case of real property, the fixed improvements and facilities constructed thereon and miscellaneous rights related thereto and no other property or assets;
- (p) "Purchase Money Obligation" means any indebtedness incurred by the Company as part of the purchase price of any property, (except shares of other companies or securities) provided that: (i) the principal amount of such indebtedness does not, at the time incurred, exceed 100% of the purchase price of the property; (ii) the principal amount of such indebtedness is incurred concurrently with such purchase; and (iii) immediately prior to entering into an agreement for the purchase of such property, the Company did not own or have any interest in or was entitled to own or have any interest in, such property;
- (q) "Receiver" has the meaning ascribed to it in Article 7 hereof;
- (r) "Register" means the register of Bondholders to be maintained by the Trustee in accordance with Section 2.7 hereof;
- (s) "Security Interest" means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance conditional sale or title retention agreement or security interest whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, but does not include a right of set-off or a set-off;
- (t) "Tangibles" means at a time all of the Company's right, title, estate and interest, whether absolute or contingent, legal or beneficial, present or future, vested or not at such time, in and to any (or such as is stipulated) tangible property, apparatus, plants, equipment, machinery and facilities, fixed or non-fixed, real or personal, used or capable of use in the Company's business or operations;
- (u) "this Indenture", "this Trust Deed", "this Trust Indenture", "these presents", "herein", "hereof", "hereby", "hereunder", and similar expressions refer to this Indenture and include any other deed or writing in amendment hereof or supplemental or ancillary hereto and references herein to Sections or other subdivisions or Schedules followed by a number, letter or combination mean and refer to the stipulated Section or other subdivision hereof or Schedule hereto;

- (v) "Trustee" means the present trustee or other trustee for the time being hereof;
- (w) "Working Day" means any day of the week except Saturday, Sunday or any statutory or bank holiday in \_\_\_\_\_.

**1.2 Included Words** - Words importing the singular number only shall include the plural and vice versa; words importing gender shall include the masculine, feminine and neuter; words importing persons shall include firms and corporations and vice versa; a reference to legislation or regulations includes restatements, consolidations or replacements thereof from time to time; and words denoting inclusiveness (such as "include" or "includes" or "including") or particularity (such as "in particular" or "such as") are, whether or not so stated, not limited by the context or by the words or phrases which precede or succeed them.

**1.3 Divisions** - The division of this Indenture into Articles and Sections and other subdivisions, the provision of an Index hereto and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Indenture.

**1.4 Invalidity of Provisions** - In case any of the provisions of this Indenture should be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**1.5 Schedule** - The Schedules to this Indenture, incorporated herein and made part hereof, is as follows:

Schedule "A" - form of Bonds;  
Schedule "B" - Promissory Notes

Any reference to such Schedule to this Indenture includes, unless the context otherwise requires, such Schedule as amended from time to time by one or more indentures supplemental hereto, whether or not so stated.

**1.6 Currency** - All currency references contained herein are to lawful money of \_\_\_\_\_ for the payment of public and private debts.

## ARTICLE 2 - THE BONDS

**2.1 Bonds** - The Bonds which may be issued by the Company hereunder shall be designated Series "\_\_\_", \_\_\_ Year, \_\_\_\_\_% Registered Bonds. Bonds may, subject to the limitations herein, be issued from time to time upon the request of the Company to the Trustee; provided that no request by the Company to the Trustee shall be required in connection with a delivery of a Bond to a transferee as contemplated by Section 2.9 hereof; certification and delivery of a new Bond upon mutilation, loss or destruction contemplated by Section 2.11 hereof; or an exchange of Bonds contemplated by Section 2.12 hereof.

**2.2 Aggregate Principal Amount and Denominations** - The aggregate principal amount of Bonds which may be issued from time to time and outstanding at any time under this Indenture shall be limited to a total amount of \$\_\_\_\_\_. Bonds shall be issued in fully registered form in denominations of \$\_\_\_\_\_ or integral multiples thereof authorized by the President of the Company (whose signature, either manual or facsimile, on any Bonds shall be conclusive evidence of such authorization) and shall be numbered or lettered in such manner as duly authorized officers of the Company, with the approval of the Trustee, may designate.

**2.3 Form** - The Bonds and the certificate of the Trustee to be endorsed on the Bonds shall respectively be substantially in the form set out in the Schedule A hereto with such appropriate insertions, omissions, substitutions and variations that may be approved or permitted under the terms of this Indenture or as the Trustee and the Company may approve in the manner provided herein for amendment to or modification of the form of the Bonds.

**2.4 Execution** - All Bonds issued hereunder and secured hereby shall be under the seal of the Company and shall be signed by the President of the Company, either manually or by facsimile signature.

**2.5 Certification**

- (a) No Bond shall be issued or if issued shall be obligatory until it has been certified by the Trustee and such certification shall be conclusive evidence that the Bond so certified has been duly issued hereunder and the holder thereof is entitled to the benefit of the security of and the trusts under this Indenture.
- (b) The certificate of the Trustee signed on any Bond shall not be construed as a representation or warranty by the Trustee as to the validity or security of this Indenture or any Bond.

**2.6 Bonds Rank Pari Passu** - All Bonds issued pursuant to this Indenture shall be equally secured, rank pari passu and rateably without discrimination or preference, whatever may be the actual dates, the terms of issue, or the principal amounts, of the same.

**2.7 Register** - The Company shall at all times, while any of the Bonds are outstanding, cause to be kept by the Trustee at its principal office in the City of \_\_\_\_\_, \_\_\_\_\_, a Register in which the holders of Bonds (including holders on original issuance and transferees) shall be entitled to have the same registered as to the principal and interest, such registration to be noted on the Bonds. The names and addresses of the holders of registered Bonds and particulars of the Bonds held by them respectively and of all transfers of registered Bonds shall be entered in the Register. The Register shall be open for inspection by the Trustee, the Company and any Bondholder at all reasonable times, and, at the request of any of them, the Trustee will provide certified copies of all entries made therein.

**THIS IS A 29-PAGE FORM.**