

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

**FORM F-10**

**REGISTRATION STATEMENT UNDER  
THE SECURITIES ACT OF 1933**

**AYR WELLNESS INC.**

*(Exact name of Registrant as specified in its charter)*

**British Columbia, Canada**  
*(Province or other Jurisdiction of  
Incorporation or Organization)*

**2833**  
*(Primary Standard Industrial  
Classification  
Code Number)*

**98-1500584**  
*(I.R.S. Employer Identification  
Number, if  
applicable)*

**2601 South Bayshore Drive, 9<sup>th</sup> Floor, Miami, FL 33133; (786) 885-0397**  
*(Address and telephone number of Registrant's principal executive offices)*

**C T Corporation System  
1015 15th Street N.W., Suite 1000  
Washington, DC 20005  
(202) 572-3100**

*(Name, address (including zip code) and telephone number (including area code) of agent for service in the United States)*

**Copies to:**

**Brad Asher  
Ayr Wellness Inc.  
2601 South Bayshore Drive,  
9<sup>th</sup> Floor, Miami, FL 33133  
(786) 885-0397**

**Richard Raymer  
Dorsey & Whitney LLP  
TD Canada Trust Tower  
Brookfield Place, 161 Bay Street,  
Suite 4310 Toronto, Ontario  
Canada, M5J 2S1  
(416) 367-7388**

**Approximate date of commencement of proposed sale of the securities to the public:**  
As soon as practicable after this registration statement becomes effective

**Ontario, Canada**  
*(Principal jurisdiction regulating this offering)*

It is proposed that this filing shall become effective (check appropriate box below):

- A.  upon filing with the Commission, pursuant to Rule 467(a) (if in connection with an offering being made contemporaneously in the United States and Canada).
- B.  at some future date (check the appropriate box below)
- pursuant to Rule 467(b) on ( ) at ( ) (designate a time not sooner than 7 calendar days after filing).
  - pursuant to Rule 467(b) on ( ) at ( ) (designate a time 7 calendar days or sooner after filing) because the securities regulatory authority in the review jurisdiction has issued a receipt or notification of clearance on ( ).
  - pursuant to Rule 467(b) as soon as practicable after notification of the Commission by the Registrant or the Canadian securities regulatory authority of the review jurisdiction that a receipt or notification of clearance has been issued with respect hereto.
  - after the filing of the next amendment to this Form (if preliminary material is being filed).

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to the home jurisdiction's shelf prospectus offering procedures, check the following box.

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registration Statement shall become effective as provided in Rule 467 under the Securities Act of 1933 or on such date as the Commission, acting pursuant to Section 8(a) of Securities Act of 1933, may determine.**

**PART I**

**INFORMATION REQUIRED TO BE DELIVERED TO OFFEREEES OR PURCHASERS**

*Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the United States Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State.*

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*This preliminary short form prospectus is a preliminary base shelf prospectus. A copy of this preliminary short form prospectus has been filed with the securities regulatory authorities in each of the provinces and territories of Canada but has not yet become final for the purpose of the sale of securities. Information contained in this preliminary short form prospectus may not be complete and may have to be amended. The securities may not be sold until a receipt for the short form prospectus is obtained from the securities regulatory authorities.*

*No securities regulatory authority has expressed an opinion about these securities, and it is an offence to claim otherwise.*

*This short form base shelf prospectus has been filed under legislation in each of the provinces and territories of Canada that permits certain information about these securities to be determined after this short form base shelf prospectus has become final and that permits the omission from this short form base shelf prospectus of that information. The legislation requires the delivery to purchasers of a prospectus supplement containing the omitted information within a specified period of time after agreeing to purchase any of these securities.*

*Information has been incorporated by reference in this prospectus from documents filed with securities commissions or similar authorities in Canada. Copies of the documents incorporated herein by reference may be obtained on request without charge from the corporate secretary of AYR Wellness Inc. at 2601 South Bayshore Drive, 9<sup>th</sup> Floor, Miami, FL 33133, telephone: (786) 885-0397, and are also available electronically at [www.sedarplus.ca](http://www.sedarplus.ca) and [www.sec.gov/edgar](http://www.sec.gov/edgar).*

## PRELIMINARY SHORT FORM BASE SHELF PROSPECTUS

New Issue and/or Secondary Offering

March 21, 2024



US\$250,000,000

**Subordinate Voting Shares**  
**Restricted Voting Shares**  
**Limited Voting Shares**  
**Warrants**  
**Subscription Receipts**  
**Debt Securities**  
**Convertible Securities**  
**Units**

AYR Wellness Inc. (the “**Company**”, “**AYR**”, “**us**”, “**we**” or “**our**”) may offer, issue and sell, as applicable, from time to time: (i) subordinate voting shares (“**Subordinate Voting Shares**”); (ii) restricted voting shares (“**Restricted Voting Shares**”); (iii) limited voting shares (“**Limited Voting Shares**”, and collectively with the Subordinate Voting Shares and the Restricted Voting Shares, the “**Restricted Shares**”); (iv) warrants (“**Warrants**”) to acquire any of the other securities that are described in this short form base shelf prospectus (the “**Prospectus**”); (v) subscription receipts (“**Subscription Receipts**”) convertible into other Securities (as defined below); (vi) debt securities (“**Debt Securities**”), which may consist of bonds, debentures, notes or other evidences of indebtedness of the Company of any kind, nature or description and which may be issuable in series; (vii) securities convertible into or exchangeable for Restricted Shares and/or other Securities (“**Convertible Securities**”); and (viii) units (“**Units**”) comprised of one or more of any of the other Securities that are described in this Prospectus, or any combination of such Securities (all of the foregoing collectively, the “**Securities**” and individually, a “**Security**”), for up to an aggregate offering price of US\$250,000,000 (or its equivalent in any other currencies), in one or more transactions during the 25-month period that this Prospectus, including any amendments hereto, remains effective.

The Company is a foreign private issuer under United States securities laws and is, under a multi-jurisdictional disclosure system (“**MJDS**”) adopted by the securities regulatory authorities in United States and Canada, to prepare this Prospectus in accordance with Canadian disclosure requirements, which are different from United States disclosure requirements. Prospective investors in the United States should be aware that such requirements are different from those of the United States.

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We will provide the specific terms of any offering of Securities, including the specific terms of the Securities with respect to a particular offering and the terms of such offering, in one or more prospectus supplements (each a “**Prospectus Supplement**”) and may include, without limitation, where applicable: (i) in the case of Restricted Shares, the number of Restricted Shares offered, the offering price (or the manner of determination thereof if offered on a non-fixed price basis) and any other specific terms; (ii) in the case of Warrants, the number of Restricted Shares and/or other Securities issuable upon exercise thereof, the exercise price and exercise period and the terms of any provisions allowing or providing for adjustments in the exercise price or the number of Securities issuable upon exercise thereof; (iii) in the case of Subscription Receipts, the number of Subscription Receipts being offered, the offering price (or the manner of determination thereof if offered on a non-fixed price basis), the terms, conditions and procedures for the exchange or conversion of the Subscription Receipts for or into Restricted Shares and/or other Securities and any other specific terms; (iv) in the case of Debt Securities, the specific designation, aggregate principal amount, currency or currency unit for the Debt Securities, maturity, interest rate (which may be fixed or variable) and time of payment of interest, authorized denominations, covenants, events of default, any terms for redemption, any terms for sinking fund payments, any exchange or conversion provisions, the initial offering price (or the manner of determination thereof if offered on a non-fixed price basis), any terms for subordination of the Debt Securities to other indebtedness, whether the Debt Securities will be secured by any assets or guaranteed by any affiliates or associates of the Company and any other specific terms; (v) in the case of Convertible Securities, the number of Convertible Securities offered, the offering price, the procedures for the conversion or exchange of such Convertible Securities into or for Restricted Shares and/or other Securities and any other specific terms; and (vi) in the case of Units, the designation, number and terms of the Restricted Shares, Warrants,

Subscription Receipts, Debt Securities or Convertible Securities comprising the Units. A Prospectus Supplement may include specific variable terms pertaining to the Securities that are not within the alternatives and parameters described in this Prospectus. The Securities may be offered separately or together or in any combination, and as separate series. One or more securityholders of the Company may also offer and sell Securities under this Prospectus. See “*Secondary Sales*”.

This prospectus may qualify an “at-the-market distribution” as defined in National Instrument 44-102 – *Shelf Distributions* (“**NI 44-102**”). The sale of Restricted Shares may be effected from time to time in one or more transactions at non-fixed prices pursuant to transactions that are deemed to be an “at-the-market” distributions as contemplated by NI 44-102 and as permitted by applicable law, including sales made directly on the Canadian Securities Exchange (the “**CSE**”) or other existing trading markets for the Securities, and as set forth in a Prospectus Supplement for such purpose. However, there may be market-based limitations affecting how much the Company may raise under an “at-the-market” distribution based on the Company’s historical trading activity. The Company has not engaged any investment dealer in respect of an “at-the-market” distribution, and there is a possibility that the Company may not establish an “at-the-market” distribution program at all. Any “at-the-market” distributions qualified under this prospectus will be required to be completed in accordance with NI 44-102. See “*Plan of Distribution*”.

In addition, the Securities may be offered and issued in consideration for the acquisition of other businesses, assets or securities by the Company or one of its subsidiaries. The consideration for any such acquisition may consist of the Securities separately, a combination of Securities or any combination of, among other things, Securities, cash and assumption of liabilities.

Prospective investors should be aware that the purchase of any Securities may have tax consequences that may not be fully described in this Prospectus or in any Prospectus Supplement, and should carefully review the tax discussion, if any, in the applicable Prospectus Supplement and in any event consult with a tax adviser.

All information permitted under applicable securities laws to be omitted from this Prospectus will be contained in one or more Prospectus Supplements that will be delivered to purchasers together with this Prospectus except in cases where an exemption from such delivery has been obtained. For the purposes of applicable securities laws, each Prospectus Supplement will be incorporated by reference into this Prospectus as of the date of the Prospectus Supplement and only for the purposes of the distribution of the Securities to which that Prospectus Supplement pertains. You should read this Prospectus and any applicable Prospectus Supplement carefully before you invest in any Securities offered pursuant to this Prospectus.

Our Securities may be offered and sold pursuant to this Prospectus through underwriters, dealers, directly or through agents designated from time to time at amounts and prices and other terms determined by us or any selling securityholders. In connection with any underwritten offering of Securities other than an “at-the-market distribution” (as defined under applicable Canadian securities legislation) and subject to applicable laws, the underwriters may over-allot or effect transactions which stabilize or maintain the market price of the Securities offered at levels other than those that might otherwise prevail on the open market. Such transactions, if commenced, may be discontinued at any time. No underwriter, dealer or agent involved in an “at-the-market distribution” under this Prospectus, no affiliate of such an underwriter, dealer or agent and no person or company acting jointly or in concert with such underwriter, dealer or agent will over-allot Securities in connection with such distribution or effect any other transactions that are intended to stabilize or maintain the market price of the Securities. See “*Plan of Distribution*”.

A Prospectus Supplement will set out the names of any underwriters, dealers, agents or selling securityholders involved in the sale of our Securities, the amounts, if any, to be purchased by underwriters, the plan of distribution for such Securities, including the net proceeds we expect to receive from the sale of such Securities, if any, the amounts and prices at which such Securities are sold, the compensation of such underwriters, dealers or agents and other material terms of the plan of distribution.

The Securities may be sold from time to time in one or more transactions at a fixed price or prices or at non-fixed prices. If offered on a non-fixed price basis, the Securities may be offered at market prices prevailing at the time of sale, at prices determined by reference to the prevailing price of a specified security in a specified market or at prices to be negotiated with purchasers, in which case the compensation payable to an underwriter, dealer or agent in connection with any such sale will be decreased by the amount, if any, by which the aggregate price paid for Securities by the purchasers is less than the gross proceeds paid by the underwriter, dealer or agent to the Company or any selling securityholder. The price at which the Securities will be offered and sold may vary from purchaser to purchaser and during the period of distribution.

The Company currently has four classes of issued and outstanding shares: Subordinate Voting Shares, Restricted Voting Shares, Limited Voting Shares and multiple voting shares (“**Multiple Voting Shares**”, and together with the Restricted Shares, “**Shares**”). The Multiple Voting Shares and Restricted Shares are substantially identical with the exception of the voting rights and conversion rights attached to the Multiple Voting Shares. Previously, the Company amended its constating documents (the “**Capital Structure Amendments**”) to, among other things, (i) create and set the terms of the Restricted Voting Shares and Limited Voting Shares, including applying coattail terms to such shares similar to those applicable to its existing Subordinate Voting Shares, as more particularly described below, and (ii) amend the terms of the existing Multiple Voting Shares and Subordinate Voting Shares, including by amending the requirements in respect of who may hold Subordinate Voting Shares. The Company implemented the Capital Structure Amendments in order to seek to maintain its “foreign private issuer” status under U.S. securities laws and thereby avoid a commensurate material increase in its ongoing costs. This was accomplished by implementing a mandatory conversion mechanism in the Company’s share capital to decrease the number of shares eligible to be voted for directors of the Company if the Company’s FPI Threshold (as defined below) is exceeded. Each of the classes of Restricted Shares is economically identical and mandatorily inter-convertible (continuously and without formality) based on (i) the holder’s status as a U.S. Person or Non-U.S. Person (each as defined below), and (ii) the status of the Company’s FPI Threshold (as defined below). Each class of Restricted Shares is entitled to one vote per share on all matters to be brought before the Company’s shareholders for approval, except in respect of votes regarding the election of directors of the Company, where the holders of Limited Voting Shares do not have any entitlement to vote. Each Restricted Share is entitled to one vote per Restricted Share and each Multiple Voting Share is entitled to 25 votes per Multiple Voting Share on all matters upon which the holders of such classes of securities are entitled to vote, as applicable. Holders of Shares will vote together on all matters subject to a vote of holders of each of these classes of securities as if they were one class of shares, except to the extent that a separate vote of holders as a separate class is required by law or provided by our articles and except that holders of Limited Voting Shares will not be entitled to vote on the election of directors. The Multiple Voting Shares are convertible into Subordinate Voting Shares or Restricted Voting Share, as applicable, at a ratio of one Subordinate Voting Share or Restricted Voting Shares, as applicable, for every one Multiple Voting Share at any time at the option of the holders thereof and automatically in certain other circumstances. The holders of Restricted Shares benefit from provisions in the articles of the Company (the “**Articles**”) that give them certain conversion rights in the event of a take-over bid for the Multiple Voting Shares. Each class of Restricted Shares is also subject to similar coattail provisions under the Articles, pursuant to which each class of Restricted Shares may be converted into another class of Shares in the event an offer is made to purchase such other class of Shares and the offer is one which is required to be made to all or substantially all the holders in Canada of such other class of Shares (assuming that the offeree was resident in Ontario). See “*Description of Securities – Restricted Shares*” “– *Multiple Voting Shares*”.

The Restricted Shares are listed on the CSE under the symbol “AYR.A” and quoted on the OTCQX® Best Market operated by OTC Markets Group, Inc (the “**OTCQX**”) under the symbol “AYRWF”. The Anti-Dilutive Warrants are listed on the CSE under the symbol “AYR.WT.U”. On March 20, 2024, the last trading day prior to the date of this Prospectus, the closing price of (i) the Restricted Shares was C\$2.70 on the CSE and \$2.02 on the OTCQX, and (ii) the Anti-Dilutive Warrants was \$0.81 on the CSE.

Unless otherwise specified in the applicable Prospectus Supplement, each class of Securities (other than the Restricted Shares and the Anti-Dilutive Warrants) will not be listed on any securities exchange. Accordingly, there is currently no market through which the Securities (other than the Restricted Shares and the Anti-Dilutive Warrants) may be sold and purchasers may not be able to resell any such Securities purchased under this Prospectus and the Prospectus Supplement relating to such Securities. This may affect the

pricing of such Securities in the secondary market, the transparency and availability of trading prices, the liquidity of such Securities and the extent of issuer regulation.

In connection with any offering of Securities, unless otherwise specified in a Prospectus Supplement or pursuant to an “at-the-market distribution”, the underwriters, dealers or agents, as the case may be, may over-allot or effect transactions which stabilize, maintain or otherwise affect the market price of the Securities at a level other than those which otherwise might prevail on the open market. Such transactions may be commenced, interrupted or discontinued at any time. A purchaser who acquires Securities forming part of the underwriters’, dealers’ or agents’ over-allocation position acquires those Securities under this Prospectus and the Prospectus Supplement relating to the particular offering of Securities, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases. No underwriter, dealer or agent involved in an “at-the-market distribution”, no affiliate of such an underwriter, dealer or agent and no person or company acting jointly or in concert with such an underwriter, dealer or agent may over-allot Securities in connection with the distribution or may effect any other transactions that are intended to stabilize or maintain the market price of the Securities in connection with an “at-the-market distribution”. See “*Plan of Distribution*”.

The directors and officers of the Company reside outside of Canada and certain experts retained by the Company are organized outside of Canada. Each of these individuals and entities have appointed the following agents for service of process:

<u>Name of Director or Officer*</u>	<u>Name and Address of Agent</u>
Jonathan Sandelman, Executive Chair	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
David Goubert, President and Chief Executive Officer	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Brad Asher, Chief Financial Officer	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
George DeNardo, Chief Operating Officer	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Jamie Mendola, Chief Business Development Officer	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Joyce Johnson, Lead Independent Director	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Charles Miles, Director	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Louis F. Karger, Director	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Glenn Isaacson, Director	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Michael Warren, Director	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9
Jared Cohen, Director	152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, ON, Canada M5L 1B9

Purchasers are advised that it may not be possible for investors to enforce judgments obtained in Canada against any person or company that resides outside of Canada, even if the party has appointed an agent for service of process.

An investment in the Securities is speculative and involves significant risks. Readers should carefully review and evaluate the risk factors contained in this Prospectus, the applicable Prospectus Supplement and in the documents incorporated by reference herein before purchasing any Securities. See “*Cautionary Note Regarding Forward-Looking Statements*” and “*Risk Factors*”.

**The Company is not making an offer of the Securities in any jurisdiction where such offer is not permitted.**

Unless otherwise specified in a Prospectus Supplement relating to any Securities offered, certain legal matters in connection with the offering of Securities will be passed upon on behalf of the Company by Stikeman Elliott LLP.

**No underwriter has been involved in the preparation of this Prospectus nor has any underwriter performed any review of the contents of this Prospectus.**

Our head office is located at 2601 South Bayshore Drive, 9<sup>th</sup> Floor, Miami, FL 33133.

#### **Note to U.S. Holders**

This offering is made by a foreign issuer that is permitted, under MJDS adopted by the United States, to prepare this Prospectus in accordance with the disclosure requirements of its home country. Prospective investors should be aware that such requirements are different from those of the United States.

Prospective investors should be aware that the acquisition of the securities described herein may have tax consequences both in the United States and in Canada. Such consequences for investors who are resident in, or citizens of, the United States may not be described fully herein.

The enforcement by investors of civil liabilities under U.S. federal securities laws may be affected adversely by the fact that the Company is incorporated or organized under the laws of a foreign country.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE “SEC”) NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

AYR derives a substantial portion of its revenues from the cannabis industry in certain states (“States”, each a “State”) of the United States of America (“U.S.” or “United States”), which industry is illegal under U.S. federal law. AYR is a vertically-integrated multi-State operator in the U.S. cannabis sector, with a portfolio of cannabis assets in the States of Massachusetts, Nevada, Pennsylvania, Florida, New Jersey, Ohio, Illinois and Connecticut (not yet in operation as at the date hereof). Currently, through its operating companies, AYR is a leading cultivator, manufacturer and retailer of cannabis products and branded cannabis packaged goods, and is engaged in the manufacture, possession, use, sale or distribution of cannabis and/or holds licenses in the adult-use and/or medicinal cannabis marketplace in the States of Massachusetts, Nevada, Pennsylvania, Florida, New Jersey, Ohio, Illinois and Connecticut (not yet in operation as at the date hereof).

The United States federal government regulates drugs through the Controlled Substances Act (21 U.S.C. § 811) (the “CSA”), which places controlled substances, including marijuana (defined as all parts of the plant *Cannabis sativa L.* containing more than 0.3 percent tetrahydrocannabinol (“THC”)), in a schedule. Marijuana (also referred to herein as cannabis) is currently classified as a Schedule I drug. Under United States federal law, a Schedule I drug or substance has a high potential for abuse, no accepted medical use in the United States, and a lack of accepted safety for the use of the drug under medical supervision. The United States Food and Drug Administration (“FDA”) has not approved marijuana as a safe and effective drug for any indication.

In the United States, marijuana is largely regulated at the State level. State laws permitted use or possession of cannabis are in direct conflict with the federal CSA, which makes cannabis use and possession federally illegal. Although certain states authorize medical or adult-use cannabis production and distribution by licensed or registered entities, under U.S. federal law, the possession, use, cultivation, and transfer of cannabis and any related drug paraphernalia is illegal and any such acts are criminal acts under federal law. The Supremacy Clause of the United States Constitution establishes that the United States Constitution and federal laws made pursuant to it are paramount and, in case of conflict between federal and State law, the federal law shall apply. AYR faces significant risks for operating in an industry that is illegal under U.S. federal law, including the risk of potential enforcement of such federal laws against AYR or its affiliates.

Additionally, under United States federal law, it is a violation of federal money laundering statutes for financial institutions to accept proceeds from distribution of Schedule I controlled substances, including cannabis. For this reason, banks and other institutions in the United States (whether or not they have a U.S. federal charter) could be prosecuted for providing financial services to cannabis-touching businesses even if their operations are legal under State law. The U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) issued a memorandum (the “FinCEN Memo”) which outlined pathways for financial institutions to provide financial services in compliance with federal enforcement priorities. Nonetheless, many banks and financial institutions in the United States and Canada remain hesitant or unwilling to provide financial services to cannabis businesses. This creates the necessity for some cannabis businesses to conduct their operations primarily or entirely in cash, with attendant security and other risks.

Under President Barack Obama, the U.S. government attempted to address the inconsistencies between federal and State regulation of cannabis in a memorandum sent by then-Deputy Attorney General James Cole to all United States Attorneys in August 2013 (the “Cole Memorandum”). The Cole Memorandum acknowledged that notwithstanding the designation of cannabis as a controlled substance at the federal level in the United States, several States have enacted laws relating to cannabis for medical and recreational purposes, and that conduct in compliance with the laws of those jurisdictions were less likely to be an enforcement priority for the Department of Justice. The Cole Memorandum listed the type of threats related to cannabis on which the Department of Justice should focus. The list included preventing the distribution of cannabis to minors, and preventing the diversion of cannabis from State-legal jurisdictions into the illicit market, among other things. It did not provide guidelines for acceptable State regulatory schemes.

In March 2017, then newly-appointed Attorney General Jeff Sessions, a long-time opponent of State-regulated medical and recreational cannabis, noted limited federal resources and acknowledged that much of the Cole Memorandum had merit; however, he had previously stated that he did not believe it had been implemented effectively. On January 4, 2018, Sessions issued a new memorandum (known as the “Sessions Memorandum”) which rescinded the Cole Memorandum, and directed all U.S. Attorneys to enforce the laws enacted by the United States Congress according to already-established principles. The Sessions Memorandum did not direct prosecutors to enforce federal law against persons and entities operating in compliance with State regulatory schemes, and there was no direction to give such enforcement any particular priority. Later-appointed Attorney General William Barr stated that he did not intend to pursue prosecution against parties who are involved in the cannabis business, and are compliant with State law, pursuant to the Cole Memorandum.

The administration of President Joseph Biden began in 2021, and the head of DOJ is now Attorney General Merrick Garland. During his confirmation hearings in the Senate on February 22, 2021, Garland confirmed that he would not prioritize pursuing cannabis prosecutions in states that have legalized and that are regulating the use of cannabis, both for medical and adult use. However, he has expressed continued concern over international transport of large amounts of illicit cannabis from other nations—namely Mexico—and large-scale domestic cultivation of illicit cannabis (including the environmental impact of those operations).

On October 6, 2022, the Biden administration released a “Statement from President Biden on Marijuana Reform.” In that statement, Biden announced three planned steps: (1) federal pardons for simple possession offenses; (2) encouraging governors to enact similar State pardons; and (3) a request that the Secretary of Health and Human Services and the Attorney General “initiate the administrative process to review expeditiously how marijuana is scheduled under federal law.” Biden also expressed the view that laws concerning “trafficking, marketing, and under-age sales should stay in place.”

After approximately 11 months of review, on August 29, 2023, HHS Assistant Secretary of Health, Rachel Levine, sent a letter to U.S. Drug Enforcement Administration Administrator, Anne Milgram, in which she communicated a recommendation from FDA that cannabis be reclassified from Schedule I to Schedule III of the CSA. The U.S. Drug Enforcement Administration (“DEA”) is expected to release a final decision on whether and how it will reschedule cannabis in the coming months. If and when DEA releases a draft rule, there will be a public comment period followed by hearings before a final rule is promulgated. Any final rule could also be subject to legal challenges.

While the administration’s current position indicates that enforcement against state-legal operators will not be given priority, there is no guarantee that the position of the Department of Justice will not change. Moreover, even if cannabis is removed from a Schedule I designation, it remains to be seen whether or how it might be designated. If after administrative review cannabis remains a scheduled controlled substance, use and possession would still be subject to restriction and regulation under federal law.

The United States Congress has also made moves toward cannabis reform in recent years. In July 2022, Senator Corey Booker, along with Majority Leader Chuck Schumer, and Finance Committee Chair Ron Wyden, introduced the Cannabis Administration and Opportunity Act (the “CAOA”). That bill would remove cannabis from the list of controlled substances under the CSA, and allow states to implement their own cannabis programs subject to health and safety oversight by FDA in a manner similar to alcohol and tobacco. Among other things, the CAO A contains reforms designed to give state-legal operators better access to financial services. After its introduction in 2022 and referral to the Senate Finance Committee, there has been no further action to move the legislation forward. The 2022 midterm elections resulted in Republicans taking narrow control of the House of Representatives. Democrats maintained their already-narrow control

of the Senate. The upcoming 2024 election cycle will determine control of both Congress and the Presidency, which further increases the uncertainty of legislative or administrative reforms.

There is no guarantee that State laws legalizing and regulating the sale and use of cannabis will not be repealed or overturned, or that local governmental authorities will not limit the applicability of State laws within their respective jurisdictions. Unless and until the United States Congress amends the CSA with respect to medical and/or adult-use cannabis (and as to the timing or scope of any such potential amendments there can be no assurance), there is a risk that U.S. federal authorities may enforce current U.S. federal law. Currently, in the absence of uniform federal guidance, as had been established by the Cole Memorandum, enforcement priorities are determined by respective United States Attorneys, and notwithstanding public statements to the contrary, federal law enforcement could enforce the CSA and its criminal prohibition on commercial cannabis activity. If the U.S. federal government begins to enforce U.S. federal laws relating to cannabis in States where the sale and use of cannabis is currently legal, or if existing applicable State laws are repealed or curtailed, AYR's results of operations, financial condition and prospects would be materially adversely affected. See "U.S. Federal Enforcement Priorities" in the Company's annual information form dated March 13, 2024 (the "AIF"), incorporated by reference herein.

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In light of the political and regulatory uncertainty surrounding the treatment of U.S. cannabis-related activities, including the rescission of the Cole Memorandum discussed above, on February 8, 2018, the Canadian Securities Administrators published a staff notice 51-352 (Revised) – Issuers with U.S. Marijuana-Related Activities ("Staff Notice 51-352") setting out the Canadian Securities Administrator's disclosure expectations for specific risks facing issuers with cannabis-related activities in the United States. Staff Notice 51-352 includes additional disclosure expectations that apply to all issuers with U.S. cannabis-related activities, including those with direct and indirect involvement in the cultivation and distribution of cannabis, as well as issuers that provide goods and services to third parties involved in the U.S. cannabis industry.

AYR's involvement in the U.S. cannabis market may subject AYR to heightened scrutiny by regulators, stock exchanges, clearing agencies and other U.S. and Canadian authorities. There can be no assurance that this heightened scrutiny will not in turn lead to the imposition of certain restrictions on AYR's ability to operate in the U.S. or any other jurisdiction. There are a number of risks associated with the business of AYR. See "Cannabis Market Overview" and "Risk Factors" in the AIF, incorporated by reference herein.

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## ABOUT THIS PROSPECTUS

Readers should rely only on the information contained or incorporated by reference in this Prospectus and any applicable Prospectus Supplement in connection with an investment in the Securities. No person or entity is authorized by the Company to provide any information or to make any representation other than as contained in this Prospectus (or incorporated by reference herein) or any Prospectus Supplement in connection with the issue and sale of the Securities offered hereunder. We take no responsibility for and can provide no assurance as to the reliability of, any other information that others may give readers of this Prospectus. We are not making an offer of Securities in any jurisdiction where the offer is not permitted.

Readers should not assume that the information contained or incorporated by reference in this Prospectus is accurate as of any date other than the date of this Prospectus or the respective dates of the documents incorporated by reference herein, unless otherwise noted herein or as required by law. It should be assumed that the information appearing in this Prospectus, any Prospectus Supplement and the documents and the information contained in any document incorporated by reference is accurate only as of the date of that document unless specified otherwise. The business, financial condition, results of operations and prospects of the Company may have changed since those dates.

This Prospectus shall not be used by anyone for any purpose other than in connection with an offering of Securities in compliance with applicable securities laws. We do not undertake to update the information contained or incorporated by reference herein, including any Prospectus Supplement, except as required by applicable securities laws. Information contained on, or otherwise accessed through, our website shall not be deemed to be a part of this Prospectus and such information is not incorporated by reference herein.

## DOCUMENTS INCORPORATED BY REFERENCE

**Information has been incorporated by reference into this Prospectus from documents filed with securities commissions or similar authorities in Canada** Copies of the documents incorporated herein by reference may be obtained on request without charge from the secretary of AYR Wellness Inc. at 2601 South Bayshore Drive, 9<sup>th</sup> Floor, Miami, FL 33133, telephone: (786) 885-0397, and are also available electronically at the Canadian System for Electronic Document Analysis and Retrieval (SEDAR+) at [www.sedarplus.ca](http://www.sedarplus.ca) and the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) at <https://www.sec.gov/edgar>.

The following documents, filed by the Company with the various securities commissions or similar authorities in each of the provinces and territories of Canada, are specifically incorporated by reference into and form an integral part of this Prospectus:

- a) [the AIF](#);
- b) [the audited consolidated financial statements for the years ended December 31, 2023 and 2022](#);
- c) [the management's discussion and analysis for the years ended December 31, 2023 and 2022](#);
- d) [the material change report of the Company dated November 8, 2023 in connection with the execution of the definitive agreement in respect of the Arrangement \(as defined below\); and](#)
- e) [the material change report of the Company dated February 20, 2024 in connection with the closing of the Arrangement, a result of which \(and related, previously disclosed transactions\), the Company has retired or extended the maturity of nearly \\$400 million in debt \(see "Recent Developments – Completion of Previously Announced Debt Restructuring"\).](#)

**Any statement contained in this Prospectus or in a document incorporated or deemed to be incorporated by reference in this Prospectus will be deemed to be modified or superseded for purposes of this Prospectus to the extent that a statement contained in this Prospectus or in any other subsequently filed document which also is, or is deemed to be, incorporated by reference into this Prospectus modifies or supersedes that statement. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes. The making of a modifying or superseding statement shall not be deemed an admission for any purposes that the modified or superseded statement when made, constituted a misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to prevent a statement that is made from being false or misleading in the circumstances in which it was made. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute part of this Prospectus.**

Any document of the type required by National Instrument 44-101 –*Short Form Prospectus Distributions* to be incorporated by reference into a short form prospectus, including any annual information forms, material change reports (except confidential material change reports), business acquisition reports, interim financial statements, annual financial statements (in each case, including any applicable exhibits containing updated earnings coverage information) and the independent auditor's report thereon, management's discussion and analysis and information circulars of the Company filed by the Company with securities commissions or similar authorities in Canada after the date of this Prospectus and prior to the completion or withdrawal of any offering under this Prospectus shall be deemed to be incorporated by reference into this Prospectus. The documents incorporated or deemed to be incorporated herein by reference contain meaningful and material information relating to the Company and readers should review all information contained in this Prospectus, the applicable Prospectus Supplement and the documents incorporated or deemed to be incorporated by reference herein and therein.

To the extent that any document or information incorporated by reference into this Prospectus is included in any report on Form 6-K, Form 8-K, Form 40-F or Form 20-F (or any respective successor form) that is filed with or furnished to the SEC after the date of this Prospectus, such document or information shall be deemed to be incorporated by reference as an exhibit to the registration statement on Form F-10 of which this Prospectus forms a part. In addition, the Company may incorporate by reference into this Prospectus, or the registration statement on Form F-10 of which it forms part, other information from documents that the Company will file with or furnish to the SEC pursuant to Section 13(a) or 15(d) of the U.S. Securities Exchange Act of 1934, as amended (the "1934 Act") if and to the extent expressly provided therein.

Upon a new annual information form and annual consolidated financial statements being filed by the Company with the applicable Canadian securities commissions or similar regulatory authorities in Canada during the period that this Prospectus is effective, the previous annual information form, the previous annual consolidated financial statements and all interim unaudited consolidated financial statements and in each case the accompanying management's discussion and analysis of financial condition and results of operations, and material change reports filed prior to the commencement of the financial year of the Company in which the new annual information form is filed shall be

deemed to no longer be incorporated into this Prospectus for purpose of future offers and sales of Securities under this Prospectus. Upon interim unaudited consolidated financial statements and the accompanying management's discussion and analysis of financial condition and results of operations being filed by the Company with the applicable Canadian securities commissions or similar regulatory authorities during the period that this Prospectus is effective, all interim unaudited consolidated financial statements and the accompanying management's discussion and analysis of financial condition and results of operations filed prior to such new interim unaudited consolidated financial statements and management's discussion and analysis of financial condition and results of operations shall be deemed to no longer be incorporated into this Prospectus for purposes of future offers and sales of Securities under this Prospectus. In addition, upon a new management information circular for an annual (or annual and special) meeting of shareholders being filed by the Company with the applicable Canadian securities commissions or similar regulatory authorities during the period that this Prospectus is effective, the previous management information circular filed in respect of the prior annual (or annual and special) meeting of shareholders shall no longer be deemed to be incorporated into this Prospectus for purposes of future offers and sales of Securities under this Prospectus.

References to our website in any documents that are incorporated by reference into this Prospectus and any Prospectus Supplement do not incorporate by reference the information on such website into this Prospectus or any Prospectus Supplement, and we disclaim any such incorporation by reference.

Any "template version" of "marketing materials" (as those terms are defined in National Instrument 41-101 – *General Prospectus Requirements* ("NI 41-101")) pertaining to a distribution of Securities filed after the date of a Prospectus Supplement and before termination of the distribution of Securities offered pursuant to such Prospectus Supplement will be deemed to be incorporated by reference into the Prospectus Supplement for the purposes of the distribution of the Securities to which the Prospectus Supplement pertains.

A Prospectus Supplement containing the specific terms of an offering of Securities and other information in relation to the Securities will be delivered to prospective purchasers of such Securities together with this Prospectus and shall be deemed to be incorporated by reference into this Prospectus as of the date of such Prospectus Supplement but only for the purposes of the distribution of the Securities to which that Prospectus Supplement pertains.

## DOCUMENTS FILED AS PART OF THE REGISTRATION STATEMENT

The following documents have been or will be filed with the SEC as part of the registration statement of which this Prospectus forms a part: (i) the documents referred to in "*Documents Incorporated by Reference*"; (ii) the consents of auditors, counsel and any experts identified herein, if applicable; (iii) powers of attorney of the directors and officers of the Company; and (iv) a copy of the form of indenture for Debt Securities. A copy of the form of any applicable warrant agreement, warrant indenture, subscription receipt agreement, convertible securities agreement or statement of eligibility of trustee on Form T-1, as applicable, will be filed by post-effective amendment or by incorporation by reference to documents filed or furnished with the SEC under the 1934 Act.

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Prospectus and the documents incorporated by reference herein contain certain "forward-looking statements" and "forward-looking information" within the meaning of applicable securities laws, including Canadian securities laws and United States securities laws (collectively, "**forward-looking statements**"). All information, other than statements of historical facts, included in this Prospectus and the documents incorporated by reference herein, including estimates, plans, expectations, opinions, forecasts, projections, targets and guidance, constitutes forward-looking information. Forward-looking information is often identified by the words "may", "would", "could", "should", "will", "intend", "plan", "anticipate", "believe", "estimate", "project", "expect", "target", "continue", "forecast", "design", "goal" or similar expressions and includes, among others, information regarding:

- laws and regulations and any amendments thereto applicable to our business and the impact thereof, including uncertainty regarding the application of U.S. State and federal law to U.S. cannabis products and the scope of any regulations by the U.S. Food and Drug Administration, DEA, the U.S. Federal Trade Commission, the U.S. Patent and Trademark Office, the U.S. Department of Agriculture and any State equivalent regulatory agencies over U.S. cannabis products;
- climate change impacting economic factors such as prices and supply chain disruption, as well as governmental response through laws or regulations regarding greenhouse gas emissions;
- assumptions and expectations described in the Company's critical accounting policies and estimates;
- changes in U.S. generally accepted accounting principles or their interpretation and the adoption and impact of certain accounting pronouncements;
- the number of users of cannabis or the size of the regulated cannabis market in the United States;
- the potential time frame for the implementation of legislation to legalize and regulate medical or adult-use cannabis (and the consumer products derived from each of the foregoing) in the United States, and the potential form the legislation and regulations will take;
- the Company's future financial and operating performance and anticipated profitability;
- future performance, results and terms of strategic initiatives, strategic agreements, and supply agreements;
- the market for the Company's current and proposed products and services, as well as the Company's ability to capture market share;
- the benefits and applications of the Company's products and services and expected sales thereof;
- development of affiliated brands, product diversification and future corporate development;
- anticipated investment in and results of research and development;
- inventory and production capacity, including discussions of plans or potential for expansion of capacity at existing or new facilities;
- future expenditures, strategic investments, and capital activities;
- the competitive landscape in which the Company operates and the Company's market expertise;
- the Company's ability to comply with its debt covenants;
- the Company's ability to secure further equity or debt financing, if required;
- the Company's ability to refinance its indebtedness and the terms of any such financing;
- the risk of significant dilution from the issuances of equity or convertible debt securities and settlement of contingent consideration;
- the level of demand for cannabis products, including the Company's product and third-party products sold by the Company;
- the Company's ability to mitigate risks relating to the cannabis industry, the larger economy such as inflation or fluctuations in interest rates, breaches of and unauthorized access to the Company's systems and related cybersecurity risks, money laundering, litigation, and health pandemics;
- risks related to maintaining cash deposits in excess of federally insured limits;
- the ability to gain appropriate regulatory approvals including for announced acquisitions in the timeframe anticipated;

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- the application for additional licenses and the grant of licenses or renewals of existing licenses that have been applied for;
- the rollout of new dispensaries, including the number of planned dispensaries to be opened in the future and the timing and location in respect of the same, and related forecasts;
- the Company's ability to hit anticipated development targets of cultivation and production projects;
- the Company's ability to mitigate the risk of contamination and other risks inherent in the agricultural sector;



- the ability to successfully integrate and maintain employees from recent acquisitions;
- risks related to the Company's liquidity;
- the ability to develop the Company's brands and meet growth objectives;
- risks related to limited market data and difficulty to forecast results;
- the concentrated voting control of the Company;
- market volatility and the risks associated with selling of a substantial amount of Restricted Shares;
- the risk of natural hazards related to severe and extreme weather and climate events;
- product liability claims related to the products the Company cultivates, produces, and sells;
- the risk of significant pricing pressures which are often market specific and can be caused by an oversupply of cannabis in the market and may be transitory from period to period; and
- other events or conditions that may occur in the future.

Prospective investors and other readers are cautioned that the forward-looking information contained in this Prospectus and the documents incorporated herein by reference is based on the assumptions and estimates of management of the Company at the time they were provided or made and involve known and unknown risks, uncertainties and other factors which may cause the actual results, level of activity, performance or achievements of the Company, as applicable, to be materially different from any future results, performance or achievements expressed or implied by such forward-looking information. Although the Company believes that the expectations reflected in such forward-looking information are reasonable, it can give no assurance that such expectations will prove to have been correct. The Company's forward-looking information is expressly qualified in its entirety by this cautionary statement.

A number of factors could cause actual events, performance or results to differ materially from what is projected in the forward-looking information. See "Risk Factors" for further details. Although the Company has attempted to identify important factors that could cause actual results to differ materially, there may be other factors that cause results not to be as anticipated, estimated or intended. In formulating the forward-looking information contained herein, the Company has assumed, without limitation, receipt of requisite regulatory approvals on a timely basis, receipt and/or maintenance of required licenses and third-party consents in a timely manner, successful integration of the Company's and its subsidiaries' operations, and no unplanned materially adverse changes to its facilities, assets, customer base and the economic conditions affecting the Company's current and proposed operations. These assumptions, although considered reasonable by the Company at the time of preparation, may prove to be incorrect. In addition, the Company has assumed that there will be no material adverse change to the current regulatory landscape affecting the cannabis industry and has also assumed that the Company will remain compliant in the future with all laws, regulations and rules imposed upon it by law.

There can be no assurance that such forward-looking information will prove to be accurate as actual results and future events could differ materially from those anticipated in such forward-looking information. Accordingly, readers should not place undue reliance on forward-looking information. Forward-looking information is provided and made as of the date of this Prospectus and the Company does not undertake any obligation to revise or update any forward-looking information or statements other than as expressly required by applicable law. The Company's forward-looking information is expressly qualified in its entirety by this cautionary statement.

#### **CURRENCY PRESENTATION AND EXCHANGE RATE INFORMATION**

Unless the context otherwise requires, all references to "\$", "US\$" and "dollars" mean references to the lawful money of the United States. All references to "C\$" refer to Canadian dollars. On March 20, 2024, the Bank of Canada daily average rate of exchange was US\$1.00 = C\$1.3559 or C\$1.00 = US\$0.7375.

#### **MARKET AND INDUSTRY DATA**

This Prospectus includes market and industry data that has been obtained from third-party sources, including industry publications. The Company believes that the industry data is accurate and that its estimates and assumptions are reasonable, but there is no assurance as to the accuracy or completeness of this data. Third party sources generally state that the information contained therein has been obtained from sources believed to be reliable, but there is no assurance as to the accuracy or completeness of included information. Although the data is believed to be reliable, the Company has not independently verified any of the data from third-party sources referred to in this Prospectus or ascertained the underlying economic assumptions relied upon by such sources.

For the avoidance of doubt, nothing stated in this paragraph operates to relieve the Company or any underwriter from liability for any misrepresentation contained in this base shelf prospectus and any prospectus supplement under applicable Canadian securities laws.

#### **WHERE YOU CAN FIND MORE INFORMATION**

The Company is subject to the informational requirements of the securities commissions in all provinces and territories of Canada. The Company is also an SEC registrant subject to the informational requirements of the 1934 Act, and, accordingly, file with, or furnish to, the SEC certain reports and other information. Under the MJDS adopted by the United States and Canada, these reports and other information (including financial information) may be prepared in accordance with the disclosure requirements of Canada, which differ from those of the United States. The Company is exempt from the rules under the 1934 Act prescribing the furnishing and content of proxy statements, and its officers, directors and principal shareholders are exempt from the reporting and short swing profit recovery provisions contained in Section 16 of the 1934 Act.

You are invited to read and copy any reports, statements or other information, other than confidential filings, that we have filed or intend to file with the Canadian provincial securities commissions. These filings are electronically available from SEDAR+ at [www.sedarplus.ca](http://www.sedarplus.ca) and EDGAR at <https://www.sec.gov/edgar>. Except as expressly provided herein, documents filed on SEDAR and EDGAR are not, and should not be considered, part of this Prospectus.

#### **AYR WELLNESS INC.**

AYR Wellness Inc. is a U.S. national cannabis consumer packaged goods company and retailer. Founded in 2019 and headquartered in Miami, Florida, the Company is focused on delivering the highest quality cannabis products and customer experience throughout its footprint. As of March 13, 2024 (the date of the AIF), the Company employed approximately 2,300 personnel. The Company, through its subsidiaries and affiliates, holds, operates, and manages licenses and permits in the States of Florida, Massachusetts, Nevada, New Jersey, Ohio, Pennsylvania, Illinois, and Connecticut.

The Company's strategy is to vertically integrate through the consolidation of cultivating, producing, distributing, and dispensing cannabis brands and products at scale. The Company's portfolio of consumer-packaged goods brands includes Kynd, Origyn Extracts, Levia, STiX Preroll Co., Secret Orchard, Lost in Translation, HAZE, Road Tripper, Wicked, CannaPunch and Entourage, among others. The Company distributes and markets its products to AYR-owned retail stores and to third-party licensed retail cannabis stores throughout AYR's operating footprint.

The Company owns and operates a chain of cannabis retail stores under brand names including AYR, Liberty Health Sciences, and The Dispensary. AYR owns stores under other names, primarily where stores acquired still retain their pre-acquisition branding, though the Company intends to unify its retail footprint under the AYR retail brand name over time. The revenue of AYR's retail stores derives primarily from the sale of cannabis products, with an immaterial portion of income resulting from the sale of other merchandise (such as cannabis accessories). As of the date hereof, AYR operates 91 retail stores, located across AYR's portfolio.

The Company does not currently accept payment for products or services online.

See “Description of the Business” in the AIF, incorporated herein by reference.

**Licenses**

The following table provides a list of the licenses granted to companies and facilities operated by, or to which operational support is provided by, the Company as of the date hereof. Licenses which individually account for 10% or more of the consolidated revenue of the Company for the year ended December 31, 2023 (which are indicated in the chart below) are indicated with an asterisk.

Licensed Entity	d/b/a	Licensed Address	Type	Title	Cert.   Lic. Number	Exp. Date	Function	Class		
LivFree Wellness LLC		3900 Ponderosa Way, Las Vegas, NV 89118	Certificate	Cannabis Compliance Board – Medical Marijuana Cultivation	74378723704914675084	6/30/2024	Cultivation	M		
			License	Cannabis Compliance Board – Adult-Use Marijuana Cultivation	68096361433916615303	10/31/2024	Cultivation	AU		
			Certificate	Cannabis Compliance Board – Medical Marijuana Production	52864127312203226338	6/30/2024	Production	M		
			License	Cannabis Compliance Board – Adult-Use Marijuana Production	59998657224967428496	10/31/2024	Production	AU		
	The Dispensary	8605 S Eastern Ave Las Vegas, NV 89123	License	Cannabis Compliance Board – Adult-Use Retail Store	64345737726226352455	11/30/2024	Retail	AU		
		5347 S. Decatur, Las Vegas, NV 89118	Certificate	Cannabis Compliance Board – Medical Marijuana Dispensary	60215712221216816750	6/30/2024	Retail	M		
			License	Cannabis Compliance Board – Adult-Use Retail Store	71224329369156133247	6/30/2024	Retail	AU		
			License	Cannabis Compliance Board – Adult-Use Distribution	14504799651148975256	6/30/2024	Distribution	AU		
		50 N. Gibson, Henderson, NV 89014	Certificate	Cannabis Compliance Board – Medical Marijuana Dispensary	54403159919762505142	6/30/2024	Retail	M		
			License	Cannabis Compliance Board – Adult-Use Retail Store	08792343110299625005	9/30/2024	Retail	AU		
		100 W. Plumb Lane, Reno, NV 89509	Certificate	Cannabis Compliance Board – Medical Marijuana Dispensary	04186481440349513323	6/30/2024	Retail	M		
			License	Cannabis Compliance Board – Adult-Use Retail Store	71702389611437559364	6/30/2024	Retail	AU		
		435 Eureka Avenue, Reno, NV 89512	Certificate	Cannabis Compliance Board – Medical Marijuana Cultivation	96804690721657828547	6/30/2024	Cultivation	M		
			License	Cannabis Compliance Board – Adult-Use Marijuana Cultivation	94104154254817748080	11/30/2024	Cultivation	AU		
			License	Cannabis Compliance Board – Medical Marijuana Production	56693629355290417097	11/30/2024	Production	AU		
			Certificate	Cannabis Compliance Board – Medical Marijuana Production	18668881888004789228	6/30/2024	Production	M		
		Tahoe-Reno Botanicals LLC		1645 Crane Way, Sparks, NV 89431	Certificate	Cannabis Compliance Board – Medical Marijuana Cultivation	82842542964915513809	6/30/2024	Cultivation	M
					License	Cannabis Compliance Board – Adult-Use Marijuana Cultivation	20856188563796491040	6/30/2024	Cultivation	AU
		Tahoe-Reno Extractions LLC	Kynd Cannabis Company	1645 Crane Way, Sparks, NV 89431	Certificate	Cannabis Compliance Board – Medical Marijuana Production	12078072637090304628	6/30/2024	Production	M
					License	Cannabis Compliance Board – Adult-Use Production	76163748746660781629	6/30/2024	Production	AU
License	Cannabis Compliance Board – Adult-Use Distribution				77027711033924812731	6/30/2024	Distribution	AU		
Kynd-Strainz LLC	MYNT Cannabis Dispensary	132 E. Second St., Reno, NV 89501	Certificate	Cannabis Compliance Board – Medical Marijuana Dispensary	97519348303293892007	6/30/2024	Retail	M		
			License	Cannabis Compliance Board – Adult-Use Retail Store	46934338604709544132	6/30/2024	Retail	AU		
Lemon Aide, LLC		340 Lemmon Drive, Reno, NV 89506	Certificate	Cannabis Compliance Board – Medical Marijuana Dispensary	80994578239784321818	6/30/2024	Retail	M		
			License	Cannabis Compliance Board – Adult-Use Retail Store	13244303247046007918	6/30/2024	Retail	AU		
NV Green Inc.		1475 Hymer Ave Suite A, Sparks, NV 89431	License	Cannabis Compliance Board – Adult-Use Marijuana Cultivation	80476394983467584488	8/31/2024	Cultivation	AU		
			License	Cannabis Compliance Board – Adult-Use Marijuana Production	08300436904530710396	8/31/2024	Production	AU		
			Certificate	Cannabis Compliance Board – Medical Marijuana Cultivation	33102338992967161675	6/30/2024	Cultivation	M		
			Certificate	Cannabis Compliance Board – Medical Marijuana Production	51157511271279283787	6/30/2024	Production	M		
Tahoe Hydroponics Company LLC		3535 Arrowhead Dr Ste B, Carson City, NV 89706	Certificate	Cannabis Compliance Board – Medical Marijuana Cultivation	97712183133535367749	6/30/2024	Cultivation	M		
			License	Cannabis Compliance Board – Adult-Use Marijuana Cultivation	15066280419696569275	6/30/2024	Cultivation	AU		
			License	Cannabis Compliance Board – Adult-Use Distribution	33766980341791854561	6/30/2024	Distribution	AU		

Ayr Wellness NJ, LLC	950 US Highway 1, Woodbridge, NJ 07095	License	CRC – Cultivate and Process Medicinal Marijuana	MC000067	12/31/2024	Cultivation and Production	M
		License	CRC – Dispense Medicinal Marijuana	MRE000018	12/31/2024	Retail	M
		License	CRC – Class 1 Cultivator	C000067	10/11/2024	Cultivation	AU
		License	CRC – Class 5 Retailer	RE000018	6/5/2024	Retail	AU

		2536 Rt. 22, Union, NJ 07083	License	CRC – Class 5 Retailer	RE000017	6/5/2024	Retail	AU
		2000 East Park Blvd Suite 2002, South Brunswick, NJ 08512	License	CRC – Dispense Medicinal Marijuana	MRE000017	12/31/2024	Retail	M
			License	CRC – Class 2 Manufacturer	MM000033	12/31/2024	Production	AU
		1719 Oak Street Lakewood NJ 08701	License	CRC – Cultivate and Process Medicinal Marijuana	MC000200	12/31/2024	Cultivation and Production	M
	59 NJ-35, Eatontown, NJ 07724	License	CRC – Dispense Medicinal Marijuana	MRE000016	12/31/2024	Retail	M	
		License	CRC – Class 5 Retailer	RE000016	6/5/2024	Retail	AU	
Sira Naturals, Inc.	AYR Cannabis Dispensary	48 North Beacon Street, Watertown, MA 02472	License	CCC – Registered Marijuana Dispensary	MTC325	9/18/2024	Retail	M
			License	CCC – Marijuana Establishment License (Retailer)	MR283886	9/18/2024	Retail	AU
		827-829 Boylston Street Boston, MA 02116	License	CCC – Marijuana Establishment License (Retailer)	MR283946	9/18/2024	Retail	AU
			License	CCC – Registered Marijuana Dispensary	MTC245	9/18/2024	Retail	M
		240 Elm Street, Somerville, MA 02144	License	CCC – Marijuana Establishment License (Retailer)	MR282672	9/18/2024	Retail	AU
			License	CCC – Registered Marijuana Dispensary	MTC625	9/18/2024	Retail	M
		29 Franklin Street, Needham, MA 02492	License	CCC – Marijuana Establishment License (Cultivation/Tier 3 – Indoor)	MC281252	9/30/2024	Cultivation	AU
			License	CCC – Marijuana Establishment License (Product Manufacturer)	MP281303	10/12/2024	Production	AU
			License	CCC – Marijuana Establishment License (Transporter)	MX281310	10/12/2024	Distribution	AU
			License	CCC – Marijuana Establishment License (Cultivation)	MTC245-C	9/18/2024	Cultivation	M
			License	CCC – Marijuana Establishment License (Product Manufacturer)	MTC245-P	9/18/2024	Production	M
		1 Industrial Way, Milford MA 01751	License	CCC – Marijuana Establishment License (Cultivation/Tier 3 – Indoor)	MC282015	9/16/2024	Cultivation	AU
5-7 Industrial Way, Milford, MA 01757	License	CCC – Marijuana Establishment License (Cultivation/Tier 8 – Indoor)	MC283066	9/18/2024	Cultivation	AU		
	License	CCC – Marijuana Establishment License (Product Manufacturer)	MP281613	9/18/2024	Production	AU		
Cultivauna, LLC	Ayr Wellness	68 Tenney Street, Georgetown, MA 01833	License	CCC – Marijuana Establishment License (Product Manufacturer)	MP281871	1/16/2025	Production	AU
CSAC Ohio LLC		844 East Tallmadge Avenue, Akron, Ohio, 44310	License	OH Department of Commerce – Medical Marijuana Processor Operating License	MMCPP00102	12/1/2024	Production	M
Parma Wellness Center, LLC		12795 Corporate Drive, Parma, Ohio 44130	License	OH Department of Commerce – Medical Marijuana Cultivator Operating License	MMPCPC00025	10/3/2024	Cultivation	M
Daily Releaf, LLC <sup>(1)</sup>	AYR Dispensary	4918 Airway Road, Riverside, Ohio 45431	License	OH Department of Commerce – Medical Marijuana Dispensary	MMD.0700145	6/30/2025	Retail	M
Twice the Wellness LLC <sup>(1)</sup>		27900 Chagrin Boulevard, Suites 900B and 900C, Woodmere, Ohio 44122	License	OH Department of Commerce – Medical Marijuana Dispensary	MMD.0700158	6/30/2025	Retail	M
Heaven Wellness, LLC <sup>(1)</sup>		6722 State Route 132, Goshen, Ohio 45122	License	OH Department of Commerce – Medical Marijuana Dispensary	MMD.0700138	6/30/2025	Retail	M
DFMMJ Investments, LLC	AYR Cannabis Dispensary	18770 N County Road 225, Gainesville, Florida, 32609	License	OMMU – Medical Marijuana Treatment Center	MMTC-2015-0002*	7/31/2024	Cultivate, Process, Transport, Retail	M
CannTech PA, LLC	AYR Wellness	535 Keystone Drive, Warrendale, PA 15086	Permit	PA Department of Health Office of Medical Marijuana – Grower/Processor Facility	CR04-GP20-5701	2/20/2025	Cultivation	M
		809 Sampson Street, New Castle, PA 16101	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	CR04-D20-6701 A	2/20/2025	Retail	M
		505 W. Germantown Pike, Plymouth Meeting, PA 19462	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	CR04-D20-6701 B	2/20/2025	Retail	M
		112 Northtowne Square, Gibsonia PA 15044	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	CR04-D20-6701 C	2/20/2025	Retail	M
		712 Lancaster Ave., Bryn Mawr, PA 19010	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	CR04-D20-6701 D	2/20/2025	Retail	M
		801 Horsham Rd, Montgomeryville, PA 18936	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	CR04-D20-6701 E	2/20/2025	Retail	M
		2244 Oakland Ave, Indiana, PA 15701	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	CR04-D20-6701 F	2/20/2025	Retail	M

DocHouse LLC		740 Ann St Pottsville, PA 17901	Permit	PA Department of Health Office of Medical Marijuana – Grower/Processor Facility	GP18-1002	7/31/2024	Cultivation	M
PA Natural Medicine LLC		261-269 Columbia Mall Dr., Bloomsburg, PA 17815	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	D-4007-17 A	6/29/2024	Retail	M
		1420 N. Susquehanna Trail, Selinsgrove, PA 17870	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	D-4007-17 B	6/29/2024	Retail	M
		2105 N. Atherton St., State College, PA 16803	Permit	PA Department of Health Office of Medical Marijuana – Dispensary Facility	D-4007-17 C	6/29/2024	Retail	M
Herbal Remedies Dispensaries, LLC	AYR Cannabis Dispensary	4440 Broadway Street Suite 1 Quincy, IL 62305	License	IDFPR – Registered Medical Cannabis Dispensing Organization	280.000004	9/24/2024	Retail	M
		4440 Broadway Street Suite 1 Quincy, IL 62305	License	IDFPR – Adult Use Dispensing Organization	284.000137	3/31/2026	Retail	AU
		1837 Broadway Street Quincy, IL 62301	License	IDFPR – Adult Use Dispensing Organization	284.000138	3/31/2026	Retail	AU

**Note:**

- (1) Entered into an Option Agreement and Support Services Agreement with AYR Ohio LLC pending regulatory approval for the license transfers by the Ohio Department of Commerce.

## RECENT DEVELOPMENTS

### Completion of Previously Announced Debt Restructuring

On February 7, 2024, the Company announced that it completed the previously announced plan of arrangement (the “**Arrangement**”) under Section 192 of the *Canada Business Corporations Act* involving the Company and AYR Wellness Canada Holdings Inc. (“**AYR Wellness Canada**”), pursuant to which:

- 100% of the issued and outstanding 12.50% senior secured notes due December 10, 2024 of the Company (the “**Senior Notes**”), in an aggregate principal amount of \$243.25 million, were assigned by the holders thereof (the “**Senior Noteholders**”) to AYR Wellness Canada, a wholly owned subsidiary of the Company, in exchange for an equivalent aggregate principal amount of new 13.0% senior secured notes due December 10, 2026 of AYR Wellness Canada (the “**2026 Exchange Notes**”), which obligations are guaranteed by the Company and each of the Company’s other direct and indirect subsidiaries and secured by all or substantially all of the assets and properties of AYR Wellness Canada, the Company and each guaranteeing subsidiary, subject to certain exemptions;
- 29,040,140 Restricted Shares (the “**New Exchange Shares**”) were issued to the Senior Noteholders (being equal to approximately 24.9% of the issued and outstanding shares of the Company on closing of the Arrangement (excluding the Mercer Warrants, the Anti-Dilutive Warrants and certain treasury shares);
- a Senior Noteholder (i) subscribed for \$50 million aggregate principal amount of additional 13.0% senior secured notes due December 10, 2026 of AYR Wellness Canada (the “**Additional 2026 Notes**”, and together with the 2026 Exchange Notes, the “**2026 Notes**”), issued at a 20% original issue discount (resulting in \$40 million of gross proceeds to the Company), and (ii) was issued 5,947,980 Restricted Shares (the “**Backstop Premium**”, and together with the New AYR Exchange Shares, the “**New Shares**”) in consideration for the commitment to purchase the Additional 2026 Notes pursuant to a backstop commitment letter in favour of the Company dated October 31, 2023;
- in order to reduce the dilutive effect of the New Exchange Shares and the Backstop Premium on existing shareholders, the existing shareholders of the Company as of the close of business on February 5, 2024 (i.e., including the holders of the Multiple Voting Shares and Exchangeable Shares (as defined below) but excluding the recipients of the New Exchange Shares and the Backstop Premium) were issued 23,046,067 Restricted Share purchase warrants to acquire approximately 16.5% of the outstanding shares of the Company (including the New Exchange Shares and the Backstop Premium, but excluding the Mercer Warrants and certain treasury shares) on a fully-diluted and pro-forma basis (assuming their exercise in full) (the “**Anti-Dilutive Warrants**”). If fully exercised, the Anti-Dilutive Warrants will dilute the New Exchange Shares and the Backstop Premium from approximately 30% to approximately 24.9% of the fully diluted outstanding shares of the Company. The Anti-Dilutive Warrants are exercisable at US\$2.12 per share until February 7, 2026 and are only exercisable by non-U.S. persons and accredited investors as such terms are defined under applicable United States securities laws; and
- certain Senior Noteholders (the “**Majority Senior Noteholders**”) were granted (i) the right to appoint one independent director (with no affiliation to competitors of the Company) to the Company’s board of directors, (ii) the right to continue to nominate one independent director at each annual meeting of the Company until the earlier of the repayment or refinancing of the 2026 Exchange Notes or the Majority Senior Noteholders cease to hold a majority of the 2026 Exchange Notes held as of closing of the Arrangement, and (iii) customary pre-emptive rights to acquire additional equity of the Company to maintain their respective proportionate equity interests. The Majority Senior Noteholders chose Jared Cohen as their nominee, who was appointed to the Board effective March 15, 2024.

The Company intends to wind-up AYR Wellness Canada in the near future, pursuant to which all of the assets and liabilities of AYR Wellness Canada, including the 2026 Notes, will become the assets and liabilities of the Company. Upon completion of same, the Senior Notes will be cancelled and the 2026 Notes will become direct obligations of the Company.

As a result of the Arrangement and related, previously disclosed transactions, the Company has retired or extended the maturity of nearly \$400 million in debt (including the debt described under “*Recent Developments – LivFree Amendment*” below) in the past year and now has limited debt maturities until 2026.

### LivFree Amendment

On November 1, 2023, the Company announced that on October 31, 2023 it had entered into an agreement with LivFree Wellness, LLC (“**LivFree**”) to amend certain terms of the promissory note dated May 24, 2019 (the “**LivFree Note**”) executed in connection with the Company’s acquisition of LivFree. The amendments to the LivFree Note:

- provide an extension of two years from the initial maturity date, resulting in a maturity date of May 24, 2026;
- defer repayment of approximately \$5 million of accrued PIK interest until May 24, 2026;

- convert interest on the LivFree Note from PIK to monthly cash interest;
- increase the interest rate on the LivFree Note to 10.0% per annum; and
- require a \$3 million payment to LivFree on closing of the Arrangement, which payment has been made and applied to the outstanding principal amount due under the LivFree Note.

As a result of the amendments to the LivFree Note, as of November 1, 2023, the Company announced that it reached contingent agreements to defer principal, amortization or accrued interest payments for two years on an aggregate amount, net of payments, of approximately \$87 million of debt obligations, including contingent agreements with holders of approximately \$73.3 million aggregate principal amount of vendor take-back promissory notes (“Vendor Notes”), representing 86.5% of the outstanding principal amount of all Vendor Notes maturing before 2027. Upon completion of the Arrangement on February 7, 2024, the conditions to each of the Vendor Note amendments were fulfilled.

#### LEGAL AND REGULATORY MATTERS

On February 8, 2018, the Canadian Securities Administrators revised their previously released Staff Notice 51-352, which provides specific disclosure expectations for issuers that currently have, or are in the process of developing, cannabis-related activities in the United States as permitted within a particular State’s regulatory framework. All issuers with U.S. cannabis-related activities are expected to clearly and prominently disclose certain prescribed information in disclosure documents. As a result of the Company’s existing cannabis operations and/or assets in Massachusetts, Nevada, Pennsylvania, Florida, New Jersey, Ohio, Illinois and Connecticut (not yet in operation as at the date hereof), AYR provides the following disclosure:

The legalization and regulation of marijuana for medical and recreational use is implemented at the State level in the United States. **State laws regulating cannabis are in direct conflict with the CSA, which makes cannabis use and possession federally illegal. Although certain States and territories of the United States authorize medical or adult-use cannabis production and distribution by licensed or registered entities, under United States federal law, the possession, use, cultivation, and transfer of cannabis and any related drug paraphernalia is illegal and any such acts are criminal acts under federal law under any and all circumstances under the CSA. Although the Company’s business activities are believed to be compliant with applicable U.S. State and local law in the jurisdictions where AYR operates, strict compliance with State and local laws with respect to cannabis may neither absolve AYR of liability under United States federal law, nor may it provide a defense to any federal proceeding which may be brought against AYR.**

The following table is intended to assist readers in identifying those parts of this Prospectus and the documents incorporated by reference therein that address the disclosure expectations outlined in Staff Notice 51-352.

Industry Involvement	Specific Disclosure Necessary to Fairly Present all Material Facts, Risks and Uncertainties	Prospectus Cross-Reference
<b>All Issuers with U.S. Marijuana- Related Activities</b>	Describe the nature of the issuer’s involvement in the U.S. marijuana industry and include the disclosures indicated for at least one of the direct, indirect and ancillary industry involvement types noted in this table.	- Description of the Business
	Prominently State that marijuana is illegal under U.S. federal law and that enforcement of relevant laws is a significant risk.	- Cover page (disclosure in bold typeface) - Cannabis Market Overview (disclosure in bold typeface)
	Discuss any statements and other available guidance made by federal authorities or prosecutors regarding the risk of enforcement action in any jurisdiction where the issuer conducts U.S. marijuana-related activities.	- Cover page (disclosure in bold typeface) - Federal Regulatory Environment - U.S. Federal Enforcement Priorities - Risk Factors – While legal under applicable U.S. State law, AYR’s business activities are illegal under U.S. federal law - See “Risk Factors – The approach to the enforcement of cannabis laws may be subject to change or may not proceed as previously outlined” in the AIF, incorporated by reference herein
	Outline related risks including, among others, the risk that third-party service providers could suspend or withdraw services and the risk that regulatory bodies could impose certain restrictions on the issuer’s ability to operate in the U.S.	- See “Risk Factors – Service providers could suspend or withdraw service” in the AIF, incorporated by reference herein - See “Risk Factors - While legal under applicable U.S. State law, AYR’s business activities are illegal under U.S. federal law” in the AIF, incorporated by reference herein
	Given the illegality of marijuana under U.S. federal law, discuss the issuer’s ability to access both public and private capital and indicate what financing options are / are not available in order to support continuing operations.	- Ability to Access Public and Private Capital - See “Risk Factors – AYR may be subject to restricted access to banking in the United States and Canada” in the AIF, incorporated by reference herein - See “Risk Factors – AYR’s investments in the U.S. are subject to applicable anti-money laundering laws and regulations” in the AIF, incorporated by reference herein
	Quantify the issuer’s balance sheet and operating statement exposure to U.S. marijuana related activities.	- Exposure to U.S. Marijuana Related Activities

<p>Disclose if legal advice has not been obtained, either in the form of a legal opinion or otherwise, regarding (a) compliance with applicable State regulatory frameworks and (b) potential exposure and implications arising from U.S. federal law.</p>	<ul style="list-style-type: none"> <li>- The Company has received and continues to receive legal input regarding (a) compliance with applicable State regulatory frameworks and (b) potential exposure and implications arising from U.S. federal law in certain respects. The Company receives such advice on an ongoing basis but does not have a formal legal opinion on such matters.</li> </ul>
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Industry Involvement	Specific Disclosure Necessary to Fairly Present all Material Facts, Risks and Uncertainties	Prospectus Cross-Reference
<p><b>U.S. Marijuana Issuers with direct involvement in cultivation or distribution</b></p>	<p>Outline the regulations for U.S. States in which the issuer operates and confirm how the issuer complies with applicable licensing requirements and the regulatory framework enacted by the applicable U.S. State.</p>	<ul style="list-style-type: none"> <li>- Cannabis Market Overview – Nevada</li> <li>- Cannabis Market Overview –Massachusetts</li> <li>- Cannabis Market Overview –Pennsylvania</li> <li>- Cannabis Market Overview – Florida</li> <li>- Cannabis Market Overview – Ohio</li> <li>- Cannabis Market Overview – New Jersey</li> <li>- Cannabis Market Overview – Illinois</li> <li>- Cannabis Market Overview – Connecticut</li> <li>- State Regulatory Landscapes</li> </ul>
	<p>Discuss the issuer’s program for monitoring compliance with U.S. State law on an ongoing basis, outline internal compliance procedures and provide a positive statement indicating that the issuer is in compliance with U.S. State law and the related licensing framework. Promptly disclose any non-compliance, citations or notices of violation which may have an impact on the issuer’s license, business activities or operations.</p>	<ul style="list-style-type: none"> <li>- Cannabis Market Overview – Compliance with State Regulatory Frameworks</li> </ul>

In accordance with Staff Notice 51-352, below is a discussion of the federal and State-level U.S. regulatory regimes in those jurisdictions where AYR is directly or indirectly involved through its subsidiaries. AYR is currently indirectly engaged in the manufacture, possession, use, sale or distribution of cannabis and/or holds licenses in the adult-use and/or medicinal cannabis marketplace in the States of Massachusetts, Nevada, Pennsylvania, Florida, New Jersey, Ohio, Illinois and Connecticut. In accordance with Staff Notice 51-352, AYR will evaluate, monitor and reassess this disclosure, and any related risks, on an ongoing basis and the same will be supplemented and amended to investors in public filings, including in the event of government policy changes or the introduction of new or amended guidance, laws or regulations regarding cannabis regulation. As noted under “*Non-Compliance with State and Local Cannabis Laws*” below, AYR intends to cause its businesses to promptly remedy any known occurrences of non-compliance with applicable State and local cannabis rules and regulations, and AYR intends to publicly disclose any non-compliance, citations or notices of violation which may have an impact on its licenses, business activities or operations.

**Exposure to U.S. Marijuana Related Activities**

As of December 31, 2023, 100% of the businesses was directly derived from United States cannabis-related activities. As such, the Company’s exposure to United States cannabis related activities is 100%.

**U.S. Federal Regulatory Environment**

The federal government of the United States regulates controlled substances through the Controlled Substances Act (CSA), which places controlled substances on one of five schedules. Currently, marijuana is classified as a Schedule I controlled substance. A Schedule I controlled substance means the U.S. Drug Enforcement Administration considers it to have a high potential for abuse, no accepted medical treatment, and a lack of accepted safety for the use of it even under medical supervision. Overall, the United States federal government has specifically reserved the right to enforce federal law regarding the sale and disbursement of medical or adult-use marijuana even if such sale and disbursement is sanctioned by State law. **Accordingly, there are a number of significant risks associated with the business of the Company and unless and until the United States Congress amends the CSA with respect to medical and/or adult-use cannabis (and as to the timing or scope of any such potential amendments there can be no assurance), there is a significant risk that federal authorities may enforce current federal law, and the business of the Company may be deemed to be producing, cultivating, extracting, or dispensing cannabis or aiding or abetting or otherwise engaging in a conspiracy to commit such acts in violation of federal law in the United States.**

The Company’s operations, to the Company’s knowledge, are in compliance with applicable State laws, regulations and licensing requirements in the jurisdictions where the Company operates. Additionally, the Company uses the same proprietary, best-practices policies and procedures in its managed facilities as in its owned facilities in order to ensure systematic operations and, as such, to the Company’s knowledge, the facilities that the Company operates are in compliance with applicable State laws, regulations and licensing requirements. Nonetheless, for the reasons described above and risks described under the “*Cautionary Note Regarding Forward-Looking Information*”, but not limited to these reasons, there are significant risks associated with the business of the Company. Readers are strongly encouraged to carefully read all the risk factors contained in this Prospectus and the documents incorporated herein by reference.

The following sections describe the legal and regulatory landscape in respect of the States in which the Company currently operates. As discussed above, State laws in the U.S. regulating cannabis are in direct conflict with the CSA. Although certain States and territories of the U.S. authorize medical and/or recreational cannabis cultivation, manufacturing, production, distribution and sales by licensed or registered entities, under U.S. federal law, the cultivation, manufacture, distribution, possession, use, and transfer of cannabis and any related drug paraphernalia, unless specifically exempt, is illegal and any such acts are criminal acts under the CSA. Even though the Company’s activities may be compliant with applicable State laws, strict compliance with State laws with respect to cannabis may neither absolve the Company of liability under U.S. federal law, nor may it provide a defense to any federal proceeding which may be brought against the Company.

While the Company’s compliance controls have been developed to mitigate the risk of violations of a license arising, there is no assurance that the Company’s licenses will be renewed in the future in a timely manner. Any unexpected delays or costs associated with the licensing renewal process could impede the ongoing or planned operations of the Company and have a material adverse effect on the Company’s business, financial condition, results of operations or prospects.

As a result of the November 2020 U.S. federal election, President Joseph R. Biden is now in office. There can be no assurance as to the position any administration may take on marijuana and the Biden administration could decide to enforce the federal laws strongly. Any enforcement of current federal laws could cause significant financial damage to

the Company and its shareholders. Further, future presidential administrations may want to treat marijuana differently and potentially enforce the federal laws more aggressively. Further, control of the United States federal government is now divided between the Democratic Party, which holds control of the Presidency and the Senate, and the Republican Party, which holds control of the House of Representatives; given the state of such divided government, the prospects of federal marijuana legalization remain unclear.

## **U.S. Federal Enforcement Priorities**

Due to the current federal regulatory environment in the United States, as further described herein, AYR may become the subject of heightened scrutiny by regulators, stock exchanges and other authorities in Canada and the U.S. As a result, AYR may be subject to significant direct and indirect interaction with public officials. There can be no assurance that this heightened scrutiny will not in turn lead to the imposition of certain restrictions on AYR's ability to invest in the U.S. or any other jurisdiction. See "*Risk Factors – While legal under applicable U.S. State law, AYR's business activities are illegal under U.S. federal law*" and "*Risk Factors – The approach to the enforcement of cannabis laws may be subject to change or may not proceed as previously outlined*" in the AIF, incorporated herein by reference.

Changes in government policy or public opinion can significantly influence the regulation of the cannabis industry in Canada, the United States and elsewhere. A negative shift in the public's perception of cannabis in the U.S. or any other applicable jurisdiction could affect future legislation or regulation. Among other things, such a shift could cause State jurisdictions to abandon initiatives or proposals to legalize cannabis, thereby limiting the number of new State jurisdictions into which AYR could expand. Any inability to fully implement AYR's expansion strategy may have a material adverse effect on AYR's business, financial condition and results of operations. See "*Risk Factors*" in the AIF, incorporated herein by reference.

Further, violations of any U.S. federal laws and regulations could result in significant fines, penalties, administrative sanctions, convictions or settlements arising from criminal charges or civil proceedings conducted by either the U.S. federal government or private citizens (who have the right to seek private relief for AYR's "aiding and abetting" activities that violate U.S. federal law), including, but not limited to, disgorgement of profits, cessation of business activities or divestiture. This could have a material adverse effect on AYR, including on its reputation and ability to conduct business, its holding (directly or indirectly) of cannabis licenses in the U.S., the listing of its securities on various stock exchanges, its financial position, operating results, profitability or liquidity, or the market price of its publicly-traded shares. In addition, it is difficult for AYR to estimate the time or resources that would be needed for the investigation or final resolution of any such matters because, in part, the time and resources that may be needed are dependent on the nature and extent of any information requested by the applicable authorities involved, and such time or resources could be substantial. See "*Risk Factors – Risks Related to Legality of Cannabis*" in the AIF, incorporated herein by reference.

## **State Regulatory Environment**

### ***Nevada***

#### *Nevada Regulatory Landscape*

In November 2000, Nevada voters passed the "Medical Marijuana Act" (Question 9) for the second time, which is mandated for any ballot measures that seek to amend the State's constitution. Medical use was officially made exempt from prosecution in June 2001 with the passage of Assembly Bill 453, which took effect in October later that year, however personal cultivation of marijuana for private medical use was the only available means of acquisition.

In June 2013, the Nevada legislature passed Senate Bill 374, "An Act Relating to Medical Marijuana," providing for the licensing of medical cannabis business establishments for commercial operations.

In November 2016, Nevada voters passed the "Initiative to Regulate and Tax Marijuana" (Question 2), allowing licensed cannabis establishments to engage in the sale of adult-use cannabis in the State beginning July 2017. As of July 2020, the Nevada Cannabis Compliance Board (the "CCB") governs and administers regulatory oversight for the medical and adult-use cannabis programs.

In June 2021, the Nevada legislature passed Assembly Bill 341, "An Act Relating to Cannabis," authorizing the CCB to implement regulations and issue licenses for the operation of alcohol-free consumption lounges where adults may purchase and consume cannabis products on-site, whether at stand-alone businesses or attached to existing retail stores. In June 2023, Governor Lombardo signed into law a bill that more than doubled the personal possession limit, consolidated licensing rules, and broadened eligibility for participation in the market by those with prior felony convictions.

Cities and counties in Nevada are allowed to determine the number of local cannabis licenses they will issue, up to the maximum number as allocated by the statute.

#### *Licenses and Regulations*

The CCB licenses and regulates five types of cannabis establishments: cultivation, production, independent testing, distribution, and retail stores. Cultivation establishments may sell usable cannabis to retail stores, production establishments, and to other cultivation establishments, but not directly to customers. Production establishments are authorized to make products such as concentrates, edibles, ointments and tinctures, and likewise sell to other production establishments and retail stores,

AYR, through its owned and managed entities, operates four cultivation facilities, three production facilities, six dispensaries, and two distribution facilities in the State of Nevada. Under applicable laws, the licenses issued for these facilities permit the businesses to cultivate, manufacture, process, package, sell, purchase, and transport cannabis pursuant to the license types and Nevada regulations.

CCB regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and establishment agent card requirements; cannabis inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company is not aware of any specific risks associated with providing administrative, consulting and operations services to licensed cannabis establishments in Nevada such as are provided to the Nevada Managed Entities by the Company. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of Nevada. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see, without limitation, "*Risk Factors – Risks Related to Legality of Cannabis*" in the AIF.

### ***Massachusetts***

## Massachusetts Regulatory Landscape

In November 2008, Massachusetts voters approved the Massachusetts “Sensible Marijuana Policy Initiative,” known as “Question 2,” which decriminalized the possession of small amounts of cannabis punishable by a reduced fine and eliminated reporting of the offense to the state’s criminal history board.

In November 2012, voters approved the Massachusetts “Medical Marijuana Initiative,” known as “Question 3”. That same year, the legislature passed “An Act for the Humanitarian Medical Use of Marijuana” within Chapter 369 of the Acts of 2012 which thereby established the Medical Use of Marijuana Program (“**MUMP**”) for the registration and authorization of qualifying patients, personal caregivers, Medical Marijuana Treatment Centers (“**MMTCs**”), and authorized MMTC agents to engage in the cultivation, production, and commercial sale of medical marijuana. MMTC licenses are vertically integrated licenses and authorize each MMTC to operate one cultivation facility, one processing facility and three dispensary locations.

In November 2016, Massachusetts voters approved the Massachusetts “Legalization, Regulation and Taxation of Marijuana Initiative,” known as “Question 4,” which legalized the licensed recreational or “adult-use” distribution and sale of cannabis in the Commonwealth. In December 2016, then-Governor Baker signed omnibus legislation amending the initiative to clarify municipal land-use regulations and extend the commencement date for legal licensed recreational cannabis sales by six months, to July 2018.

In July 2017, the Massachusetts legislature approved House Bill 3818, “An Act to Ensure Safe Access to Marijuana,” which became Chapter 55 of the Acts of 2017, and, among other things, established the Cannabis Control Commission (“**CCC**”) to implement and administer laws enabling access to medical and adult-use cannabis. Among its oversight and regulatory duties, the CCC issues licensure for the adult-use cultivation, processing and dispensary facilities (collectively, “**Marijuana Establishments**”), and MMTCs.

In November 2018, after further extensions, the CCC issued the first notices for marijuana retail establishments to commence adult-use operations in the Commonwealth.

In August 2022, the Massachusetts legislature passed S. 3096, “An Act Relative to Equity in the Cannabis Industry,” which became Chapter 180 of the Acts of 2022, that clarifies and limits the authority of municipalities to request percentage-based annual Community Impact Fees and other donations or fees under the statutorily required Host Community Agreements with those municipalities.

## Licenses and Regulations

The CCC oversees the issuance and annual renewal of licensure for both medical and adult-use marijuana businesses within the Commonwealth. MMTCs are vertically integrated businesses that cultivate, process, and retail marijuana and marijuana products for medical use. MMTCs may also deliver products to registered qualifying patients.

The CCC categorizes all adult-use cannabis businesses as Marijuana Establishments (“**ME**”), which include craft marijuana cooperatives, cultivators (indoor and outdoor), independent testing laboratories, couriers, delivery operators, research facilities, microbusinesses, product manufacturers, retailers, standards laboratories, and transporters.

The Company holds three adult-use cultivator licenses, three adult-use product manufacturer licenses, three adult-use marijuana retailer licenses and one adult-use transportation license in the Commonwealth. In addition, the Company owns three MMTC licenses in the Commonwealth, which authorizes the cultivation and product manufacturing of medical-use cannabis and dispensing to qualifying patients at three dispensary locations. Under its various MMTC and ME licenses, the Company currently operates one medical cannabis only, two co-located adult-use and medical cannabis stores, and one adult-use only store in the Commonwealth.

CCC regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company also maintains municipal permits and statutorily required Host Community Agreements in the cities and towns in which it operates in the Commonwealth.

In 2018, then Massachusetts US Attorney Andrew Lelling indicated that the US Attorney’s resources regarding prosecuting marijuana would be focused on overproduction, targeted sales to minors and organized crime and interstate transportation of drug proceeds. In October 2023, President Biden appointed Joshua Levy as Massachusetts U.S. Attorney. She has not issued guidance on priorities for marijuana prosecution. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see, without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

## **Pennsylvania**

### Pennsylvania Regulatory Landscape

In April 2016, then-Governor Wolf signed into law Senate Bill 3, the “Medical Marijuana Act” (“**Act 16**”), providing access for State residents with one of 17 qualifying conditions, including epilepsy, chronic pain, and post-traumatic stress disorder to purchase, possess, and consume medical cannabis. Under the implementing regulations set by the Pennsylvania Department of Health (“**DOH**”), which administers all aspects of the Commonwealth’s medical marijuana program, retail sales began in February 2018. Later in April 2018, the DOH authorized dry flower as an approved product for sale and consumption (in addition to the already approved product forms of concentrates, pills and tinctures) and expanded the list of eligible qualifying conditions to include cancer remission therapy, opioid-addiction therapy, neurodegenerative disorders and spastic movement disorders.

In July 2019, the DOH further expanded the list of qualifying medical conditions to include anxiety disorders and Tourette’s syndrome, increasing the total number of qualifying conditions to 23.

In June 2021, then-Governor Wolf signed into law House Bill 1024, “An Act Amending the Act of April 17, 2016 (P.L.84, No.16)” (“**Act 44**”), further expanding the definition of serious medical condition to include other conditions as recommended by the Medical Marijuana Advisory Board and approved by the Secretary of Health. The changes also permit dispensaries greater operational flexibility, including providing limited, on-site outdoor order pickups, remote patient consultations, and increasing the allowed medical dosages from a 30 to 90 days’ supply.

In July 2022, then-Governor Wolf signed House Bill 331, “An Act... Providing for Legitimate Cannabis-Related Business and Incentive-Based Savings Program” (“**Act 52**”), which authorizes and grants protections under Pennsylvania law for financial institutions and insurers to provide services to, or for the benefit of a “legitimate cannabis-related business.” Act 52 states that financial institutions and insurers are not obligated to provide services to marijuana businesses within the Commonwealth and requires that any marijuana businesses receiving financial or insurance services from a provider within Pennsylvania must disclose any suspension or revocation of marijuana-related permits, registrations, or certifications to the financial institution and/or insurer within five business days.

In October 2022, the DOH finalized and republished its medical marijuana regulations, which thereafter became effective in March 2023. These final regulations mirror the temporary regulations and reflect the DOH’s focus on addressing the growth and evolution of the medical marijuana program, specifically regarding changes in ownership, packaging and labeling requirements, signage and security, and product testing.



### Licenses and Regulations

Program rules require all participants in the supply chain – referred to as “Medical Marijuana Organizations” or “**MMOs**” – to be licensed by the DOH. There are two permit types: Grower/Processor permits, which authorize plant cultivation, manufacturing, packaging, and transportation of finished products, and Dispensary permits, which authorize acquisition of finished products from Grower/Processor permit holders and the retail sale of same to registered patients. Permits are subject to an annual renewal process, which includes fees and compliance requirements for MMOs. Act 16 established a marijuana research program whereby accredited medical schools may partner with an acute care hospital licensed in the Commonwealth that has been approved and certified by the DOH to enter a contract with a clinical registrant (“**CR**”) for the purpose of designing and conducting studies through marijuana research. CRs hold a permit as both a grower/processor and a dispensary, and through the dispensary permit are authorized to operate dispensaries at up to six locations in any region of the Commonwealth.

Through its subsidiaries, AYR holds a CR permit authorizing growing/processing and dispensing at six locations, a second grower/processor permit authorizing operations at a separate facility, and a dispensary permit that authorizes three additional locations to conduct the sale of medical marijuana to registered patients.

DOH regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company is not aware of any specific risks associated with operating in Pennsylvania. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of Pennsylvania. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see, without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

### **Florida**

#### Florida Regulatory Landscape

In June 2014, the Florida Legislature passed Senate Bill 1030, the “Compassionate Medical Cannabis Act” (“**CMCA**”), which authorized dispensing organizations (“**DO**”) approved by the Department of Health (“**DOH**”) to manufacture, possess, sell, and dispense low-THC cannabis oil for medical use by patients suffering from epilepsy, cancer, and ALS.

In March 2016, then-Governor Scott signed into law House Bill 307, “An Act Relating to the Medical Use of Cannabis,” which expanded upon the previously enacted Senate Bill 1052, the “Right to Try Act,” by allowing an eligible patient with a terminal condition to use full potency medical cannabis without cannabinoid composition requirements or THC limits. The bill amended the CMCA to increase regulatory oversight by the ODH and created new standards for DOs, including for growing, processing, testing, packaging, labeling, dispensing, distributing, and transporting of cannabis.

In November 2016, the Florida “Medical Marijuana Legalization Initiative,” also known as Amendment 2 (“**Medical Initiative**”), was introduced by citizen referendum and passed with a 71.3% majority. This initiative amended the State’s constitution to legalize the medical use of cannabis with a doctor’s recommendation for treatment of 11 listed debilitating medical conditions, including chronic nonmalignant pain. The Medical Initiative and the expanded qualifying medical conditions became effective January 2017.

In June 2017, the Florida House of Representatives and Florida Senate passed respective legislation to implement the expanded program by replacing large portions of the existing CMCA. As amended, §381.986 provided licenses to operate as Medical Marijuana Treatment Centers (“**MMTCs**”) to all entities that held an active, unrestricted licenses to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis before July 1, 2017, as well as an additional 10 entities. The law also provides for another four licenses to be issued for every 100,000 patients added to the state’s medical marijuana registry and allows MMTCs to open an unlimited number of dispensaries. Furthermore, the amendment renamed the Office of Compassionate Use, which was previously administering the state’s medicinal cannabis program, to the Office of Medical Marijuana Use (“**OMMU**”) which currently regulates MMTCs and testing laboratories, issues patient registration cards, and promulgates guidance for businesses and individuals partaking in the Florida medical cannabis industry.

As of February 2024, there are 25 licensed MMTCs in Florida. The OMMU is currently scoring the applications for an additional 22 MMTC licenses. Additionally, the Florida Supreme Court is considering a proposed amendment to the Florida Constitution that would authorize the use of recreational marijuana for adults 21 and older. If the Court rules in favor of the initiative, it will appear on the ballot in Florida in November 2024. A proposed amendment requires the approval of 60% of voters to pass.

### Licenses and Regulations

Subsection 381.986(8)(a) of the Florida Statutes provides a vertically-integrated regulatory framework that requires each MMTC to cultivate, process, dispense, and deliver their own medical cannabis through directly held facilities, retail storefronts and delivery vehicles. There is no state-imposed limitation on the permitted size, or number, of cultivation, processing, or retail facilities, nor is there a limit on the number of plants that may be grown. Dispensaries may be located in any appropriately zoned location throughout Florida as long as the local government has not prohibited MMTC dispensaries in their respective municipality. Provided there is not a ban, a dispensary may locate in any site that meets the applicable municipal zoning requirements, and such zoning requirements cannot be stricter than the requirements applicable to a pharmacy. Additionally, the location must be at least 500 feet from public or private elementary, middle, and secondary schools pursuant to State law, and some municipalities impose additional distance separation requirements.

Licenses issued by the OMMU are renewed biennially so long as the licensee continues to meet the requirements of the law, submits the renewal application in a timely and complete manner, and pays the renewal fee in full.

AYR owns and operates an MMTC license which includes a cultivating and processing facility located in Gainesville and 63 active retail storefronts positioned throughout the State.

OMMU regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company is not aware of any specific risks associated with operating in Florida. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of Florida. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see, without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

## **Ohio**

### Ohio Regulatory Landscape

In June 2016, then-Governor Kasich signed into law House Bill 523 which legalized medical marijuana in Ohio and was later made effective in September 2016 with the establishment of the Ohio Medical Marijuana Control Program (“**MMCP**”). The MMCP has been amended over the years with the last change in House Bill 33 in 2023 which moved the regulation of dispensaries and oversight of the Patient & Caregiver Registry to the Department of Commerce effective January 2024. Under current law, regulatory oversight is shared by two State departments: (a) the Ohio Department of Commerce (“**Department**”) with respect to overseeing and licensing cultivators, processors, dispensaries and testing laboratories; and (b) the State Medical Board of Ohio with respect to the certifying of physicians to recommend medical marijuana and adding to the list of qualifying conditions for which it could be recommended. The MMCP is governed by Chapter 3796 of the Ohio Revised Code and sales of medical marijuana began in January 2019.

Several forms of medical marijuana are legal in Ohio, these include: inhalation of plant material by vaporization (combustion is prohibited), oils, tinctures, edibles, patches, lotions, creams, or ointments for topical administration. In September 2021, the Board voted to approve sublingual products (including strips, sprays, salves, dissolving tablets, lozenges, and films).

In November 2023, Ohio voters approved Issue 2, the “Marijuana Legalization Initiative,” making Ohio the twenty-fourth State in the United States to legalize the adult-use of marijuana. The initiated statute is found in Ohio Revised Code Chapter 3780 and is subject to amendment by the Ohio General Assembly. Issue 2 went into effect in December 2023. Issue 2 created the Ohio Division of Cannabis Control (“**DCC**”) with sole regulatory and enforcement jurisdiction over Ohio cannabis license holders, operators, employees, patients and caregivers. The DCC is charged with publishing and implementing rules and processes for existing licensees to expand into the adult-use market in or around September 2024, and thereafter establish mechanisms by which new licenses will be issued to prospective qualifying candidates.

### Licenses and Regulations

The DCC regulates and licenses cultivators, processors, dispensaries, patients & caregivers, and testing laboratories. Cultivators can grow, harvest, package, and transport medical marijuana currently. Dispensaries can currently sell medical marijuana to qualifying patients and caregivers. Processors can currently manufacture medical marijuana products. Cultivator and processor license must be renewed annually at least 30 days prior to the expiration date listed on the Certificate of Operation issued by the State. Dispensary licenses are renewed every two years. The Ohio medical licensing structure permits, but does not require, vertical integration.

AYR owns and operates an active licensed processor facility; and owns a 49% share with full management services rights to an active licensed Level I cultivation facility. AYR (through one of its wholly owned subsidiaries) also provides support services to three active dispensaries, but does not hold any ownership or control in those licensed dispensaries.

DCC regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

See “*Ayr Wellness Inc. – Recent Developments – Acquisition of Option to Purchase Ohio Licenses*”.

The Company is not aware of any specific risks associated with operating in Ohio though there are several bills pending in the Ohio General Assembly which if passed could amend the laws either related to the medical marijuana or adult use program. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of Ohio. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see, without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

## **New Jersey**

### New Jersey Regulatory Landscape

In January 2010, then-Governor Corzine signed into law the “Compassionate Use Medical Marijuana Act” (“**CUMMA**”), which legalized medical marijuana and allowed qualified patients with debilitating conditions to access medical marijuana products at alternative treatment centers (“**ATC**”) with a recommendation written by a registered physician.

In September 2013, then-Governor Christie signed into law amendments to CUMMA which modified the certification process for qualifying patients and expanded the available means of packaging and distributing medical cannabis.

In March 2018, in response to then-Governor Murphy’s Executive Order No. 6, the New Jersey Department of Health (“**DOH**”) proposed to expand the medical marijuana program through the adoption of over 20 reform measures. These included the addition of chronic pain and anxiety to the list of debilitating conditions, a reduction of patient registration fees, and authorization for ATCs to apply, permit, and operate up to two additional dispensaries.

In July 2019, then-Governor Murphy signed the “Jake Honig Compassionate Use Medical Cannabis Act” (“**Jake Honig Act**”), which reformed the medical program by (1) establishing a new regulatory body that took over responsibility from the DOH, the Cannabis Regulatory Commission (“**CRC**”), (2) increasing the monthly amount that patients may purchase, (3) authorizing the production and sale of additional edible forms of cannabis, (4) instituting employment protections for registered patients, (5) providing reciprocity for patients registered with other State medical programs, and (6) authorizing home delivery to patients.

In November 2020, New Jersey voters approved New Jersey Public Question 1, which amended the State’s constitution to legalize the recreational use of cannabis by people ages 21 and older.

In February 2021, then-Governor Murphy signed into law the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (“**CREAMM**”) legalizing personal-use cannabis for adults 21 years and older and authorizing the CRC to design, implement, and promulgate rules and activities for a safe, robust industry, as well as to continue development of the medical program in furtherance of improved patient access.

In August 2021, the CRC specially adopted the first set of rules and regulations governing the adult use cannabis program. In November 2021, the Executive Director issued guidance to ATCs on the steps and required items to submit applications for expansion into the adult-use market. In April 2022, the first adult-use sales began in the State.

In February 2023, the initial set of rules regulating the adult-use cannabis market were amended and readopted by the CRC. These rules introduced three new classes of licenses to the adult-use program: wholesalers, distributors, and delivery services.

#### Licenses and Regulations

ATCs are permitted to operate vertically integrated cannabis businesses which allows the licensee to obtain individual permits for the cultivation, manufacture, and retail sale of medical cannabis to registered qualifying patients. ATCs are permitted to operate a maximum of three dispensary facilities. The CRC, which now governs both the medical and personal-use programs, regulates seven kinds of licenses in the personal-use program: cultivator, manufacturer, wholesaler, distributor, retailer, delivery service, and testing laboratory. Qualifying businesses may apply as Social Equity, Diversely-Owned, and Impact Zone applicants. Personal-use businesses may integrate vertically by holding any combination of a cultivator, manufacturer, retailer, and delivery service license simultaneously or hold a wholesale and a distributor license; however, all personal-use license holders can only have one business in each class. The CRC also permits the operation of cultivator, manufacturer, distributor, retailer, or delivery service microbusinesses meeting certain specific criteria regarding number of employees, total canopy size, and amount of cannabis plants and usable cannabis held each month.

AYR currently holds a license to operate as an Expanded Alternative Treatment Center, inclusive of one adult-use/medical cultivation facility, one adult-use/medical product manufacturing facility, one medical cultivation facility, and three adult-use/medical retail dispensaries in the State of New Jersey.

CRC regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company is not aware of any specific risks associated with operating in New Jersey. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of New Jersey. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see, without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

### **Connecticut**

#### Connecticut Regulatory Landscape

In June 2012, then-Governor Malloy signed into law House Bill 5389, “An Act Concerning the Palliative Use of Marijuana” (“**Medical Act**”), providing for the use of marijuana in the State by qualified registered patients and to be administered by the Department of Consumer Protection (“**DCP**”). The DCP adopted formal rules for the medical program in September 2013 with under advisement from the Board of Physicians which reviews petitions to add and remove qualifying conditions.

In May 2016, then-Governor Malloy signed House Bill 5450 which provided authorization for patients 18 years or younger to qualify for certain types of medical marijuana with written consent by doctors, specialists, and parents or guardians. The bill also expanded the list of debilitating conditions in the Medical Act for which a patient could register.

Signed into law by then-Governor Lamont in June 2021 and effective as of July 2021, Senate Bill 1201, “Responsible and Equitable Regulation of Adult-Use Cannabis Act” (“**Adult Use Act**”) legalized cannabis for adults 21 and older, implemented a regulated system of licensed cultivators, manufacturers, retailers, and delivery services, and expunged thousands of past records. The first adult-use sales in the State began in January 2023.

#### Licenses and Regulations

The Adult Use Act established a limited licensing process for specific license types, including cultivation, micro-cultivation, product manufacturing, food and beverage manufacturing, product packaging, transportation, delivery, and retail. It also established licensing priority and other benefits for Social Equity Applicants, which are defined as businesses that are at least 65% owned and controlled by an individual or individuals who meet certain residency and income requirements. The Adult Use Act created a cannabis cultivation license for Social Equity Applicants who locate the cultivation facility in one of the designated areas of the State disproportionately affected by cannabis prohibition. This license is known as a Section 149 Cultivator license.

AYR and its Social Equity partner hold a provisional Section 149 Cultivator license. The Section 149 Cultivator license allows for the creation of two Equity Joint Ventures, which can be in any license type other than cultivation, including but not limited to retail, manufacturing, and delivery. The Section 149 Cultivator license is the only adult-use license type in Connecticut that allows for vertical operations. AYR and its Social Equity partner hold two provisional retail licenses pursuant to the Section 149 classification. AYR also holds a provisional delivery service license.

DCP regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company is not aware of any specific risks associated with operating in Connecticut. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of Connecticut. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

### **Illinois**

#### Illinois Regulatory Landscape

In August 2013, then-Governor Quinn signed into law the “Compassionate Use of Medical Cannabis Pilot Program Act” (“**Compassionate Use Act**”), which went into effect in January 2014 and legalized the use of medical cannabis in Illinois under the joint oversight of the Illinois Department of Financial and Professional Regulation (“**IDFPR**”) and Illinois Department of Agriculture (“**ILDOA**”). The Compassionate Use Act took effect as a four-year pilot program in which qualifying patients, caregivers, growers, and vendors could apply for access and licensure to operate.

In August 2018, then-Governor Rauner signed into law Senate Bill 336, the “Alternatives to Opioids Act,” adding those who might otherwise seek opioids for pain management to the list of those eligible for medical marijuana.

In August 2019, Governor Pritzker signed into law Senate Bill 2023, “An Act Concerning Regulation,” legislation that expanded and made permanent Illinois’ medical cannabis program. The law eliminated the sunset provision to the Compassionate Use Act, adds to the list of more than 50 qualifying medical conditions, and expands the range of medical professionals who can certify eligibility of applicants to the program.

In June 2019, Governor Pritzker signed into law House Bill 1438, the “Cannabis Regulation and Tax Act” (“CRTA”), legalizing the sale, possession, and consumption of adult use of cannabis. Existing cultivation centers were permitted to begin producing cannabis for adult use. Each existing medical dispensary was permitted to sell adult-use cannabis as well, and each existing dispensary received a “plus one” adult use dispensary. Sales of adult-use cannabis began in January 2020. The CRTA also authorized automatic expungements of convictions involving up to 30 grams and established a social equity licensing program whereby qualified business applicants can garner additional points towards their application for new licenses made available by the CRTA and access financial resources for start-up costs.

#### Licensing and Regulations

There are five categories of cannabis licenses in Illinois: (i) cultivation center/processing; (ii) dispensary; (iii) craft grower/processing; (iv) infuser; and (v) transporting. Cultivation center/processing and dispensary licenses can be for medical or adult-use cannabis, which must be licensed separately. All dispensaries are licensed by the IDFPR. The remaining categories are licensed by the ILDOA. Licenses are valid for a period of one year and must be renewed annually.

AYR owns and operates one medical dispensary license and two active adult-use dispensary licenses. Under this license structure, one retail store has both medical and adult-use, and the second retail store is adult-use only.

AYR also holds provisional licenses for two adult-use dispensaries, both of which are currently in development towards final licensure.

IDFPR regulations apply to all aspects of cannabis seed-to-sale operations including record keeping; employee and principal officer background checks and badging requirements; inventory labeling, quality and tracking; safe and secure storage practices; audio/visual and physical security at licensed facilities; secure product transportation measures; and financial, labor and governance reporting of the licensee and its affiliates. Regulators may conduct announced or unannounced inspections of licensees to assess compliance with applicable laws and regulations.

The Company is not aware of any specific risks associated with operating in Illinois. To the knowledge of management of the Company, there have not been any statements or guidance made by federal authorities or prosecutors regarding the risk of enforcement action specific to the State of Illinois. For more information on federal enforcement and the risks associated with the U.S. cannabis regulatory environment generally, see without limitation, “*Risk Factors – Risks Related to Legality of Cannabis*” in the AIF.

#### **Compliance with State Regulatory Frameworks**

Each of the cannabis establishments of the Company possess licenses and operates cannabis facilities in compliance with applicable licensing requirements and the regulatory framework enacted by each State, and maintains the appropriate licenses for the cultivation, manufacture, production, distribution, operation of dispensaries, and/or transport of medical cannabis, as applicable.

As noted under “*Non-Compliance with State and Local Cannabis Laws*” below, AYR intends to promptly remedy any known occurrences of non-compliance with applicable State and local cannabis rules and regulations and, on behalf of businesses for which it provides operational support, AYR intends to publicly disclose any non-compliance, citations or notices of violation which may have an impact on its licenses, business activities or operations.

Each of the cannabis businesses use a seed-to-sale-capable control system for tracking and tracing cannabis plants and products. These solutions have been specifically designed to satisfy the applicable reporting requirements associated with regulated cannabis activities. In addition to the software-based control systems, each licensed cannabis establishment has designated a set of operating procedures, including employee training in respect of such procedures, to secure compliance.

Standard operating procedures in respect of regulatory compliance were developed by each licensed cannabis establishment and reviewed with the applicable regulators during each of the establishment’s initial licensing processes and are reviewed on a continuous basis by virtue of ongoing inspections and reviews by the applicable regulatory authorities. Managers and employees at each of the licensed cannabis establishment are empowered to identify key business processes that should be formally documented to seek to assure safety and regulatory compliance.

Each of the licensed cannabis establishments have detailed standard operating procedures in respect of building security, cash management, security of financial instruments, security monitoring systems, security of information, and general security and safety.

Each of the licensed cannabis establishments utilizes a security system around the perimeter of each dispensary designed to prevent and detect diversion, theft or loss of marijuana, utilizing commercial grade security and surveillance equipment in compliance with State regulatory requirements.

Additionally, each of the licensed cannabis establishments have detailed standard operating procedures and protocols for inventory and storage processes, including responsibility for management, inventory limits, inventory counts and reviews, facility reporting, cannabis inventory receipts, a waste disposal plan, salvage and solid waste disposal.

**Inventory Management Requirements:** Each of the licensed cannabis establishments maintains policies and procedures and employs industry-specific software to track inventory and to seek to ensure strict regulatory compliance at both the retail and wholesale levels, as applicable. These processes include, as applicable:

- wholesale transfer;
- inventory intake;
- inventory management;
- retail transactions; and
- sales data tracking and reporting.

Procedures exist to ensure each of the applicable licensed cannabis establishments tracks its cumulative inventory of seeds, plants, and usable marijuana. Generally, these

inventory control systems are designed to:

- establish and maintain a perpetual inventory system which adequately documents the flow of materials through the manufacturing process;
- establish procedures which reconcile the raw material used to the finished product on the basis of each job; and
- seek to ensure the absence of significant variances between system outputs and physical inventory counts.

For cultivation and production facilities, for each lot received at a facility, such inventory control systems are designed to document:

- the batch or lot number, as applicable;
- the strain of the marijuana seeds or marijuana cuttings planted;
- the number of marijuana seeds or marijuana cuttings planted;
- the date on which the marijuana seeds or cuttings were planted;
- a log or schedule of chemical additives used in the cultivation, including nonorganic pesticides, herbicides and fertilizers;
- the number of marijuana plants grown to maturity;
- harvest information, including:
  - o the date of harvest;

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- o the final yield weight of processed usable marijuana; and
- o the name and agent registration card number of the agents responsible for the harvest;
- marijuana flowers in process in all locations;
- marijuana in storage by location;
- marijuana in locked containers awaiting disposal; and
- an audit trail of all material inventory adjustments.

Retail dispensaries maintain current and complete books and records and sales reports, including invoices that reflect all purchases and sales of marijuana made to and by the applicable dispensary, that are available from electronic verification systems, point of sale systems, and/or inventory control systems (which may be separate systems or functionalities combined into a single system) and are stored in secure safe rooms. Such records include:

- in respect of dispensary inventory:
  - o the date and time of delivery of each purchase or transfer from a cultivation or production facility;
  - o the quantity, type and form and price of marijuana and infused or edible products purchased from a cultivation or production facility in each purchase as well as related products;
  - o invoices and delivery documents, showing entry into the inventory control system; and
  - o the quantity of marijuana still available for sale at the dispensary; and
- in respect of dispensary retail sales:
  - o the date and time of each retail sale;
  - o the quantity, type, form, and price of marijuana distributed or dispensed;
  - o the price paid or consideration given for the marijuana;
  - o identifying information of the purchaser (i.e., name and address, and card number in the case of medical marijuana transactions); and
  - o identifying information of the employee conducting the transaction (i.e., the name, initials, or employee identification number of the person who dispensed or sold the marijuana).

All invoices and delivery documents must be systematically filed and maintained for a period of five years from date of delivery and must show a legible and complete statement of terms and conditions for each purchase.

Sales records must be compliant with all of the applicable policies and procedures according to applicable documented plans of the licensed cannabis establishments, State laws and regulations, and must include for regulatory authority reporting and internal tracking purposes:

- the date and time of each sale;
- the method of distribution (on-site or delivery);
- the quantity, form, and price marijuana and any other products dispensed;
- the consideration given;
- the name, address, and identification number of the marijuana as recorded on the electronic verification system; and
- the names, initials, or employee identification numbers of the individuals who packaged, dispensed, delivered, and sold the marijuana.

**Disposal of Inventory:** All marijuana waste, including waste composed of or containing finished marijuana, must be stored, secured, and managed in accordance with applicable State and local statutes, ordinances, and regulations. All waste disposed by the applicable licensed cannabis establishments is recorded in the relevant inventory control system, including:

- a description of and reason for the marijuana being disposed of, including, if applicable, the number of failed or other unusable marijuana plants;
- the date of disposal;
- confirmation that the marijuana was rendered unusable before disposal;
- the method of disposal; and
- the name and card number of the agents responsible for the disposal.

Only specifically authorized employees can destroy product. A list of authorized employees that may destroy product is required to be maintained at each business facility. Permissions are defined by agent and password protected. The destroyed weight and the reason for destruction is required and recorded. The inventory control systems of the licensed cannabis establishments can generate reports on destroyed material at any point in the destruction process.

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In addition to controls over inventory, State regulatory frameworks specify guidelines in respect of general security.

**General Security Guidelines:** The applicable business' general security guidelines include:

- background checks for current/new employees, particularly if the employee is to be accessing restricted areas;
- maintaining video surveillance of facilities;
- maintaining visitor logs;
- providing for and maintaining secure perimeters for facilities;
- requesting employees to watch for suspicious activities;
- keeping all access system credentials, access codes, access cards, passwords, etc., in a way that is designed to be secure and accessible only to specifically authorized personnel;
- retrieving keys and employment identification cards from an employee and changing computer access passwords when their employment ends;
- arranging for prompt and safe disposal of materials;
- all employees being required to be trained on emergency procedures; and
- posting emergency response numbers, including fire, law enforcement, and executive team in several locations in each facility.

**Cash Management:** As noted above, the licensed cannabis establishments have detailed standard operating procedures and protocols for cash management, including internal controls and cash security procedures. Examples of such standard operating procedures and protocols used by certain of the dispensaries of the licensed cannabis establishments to which the Company provides operational support include, without limitation:

- random review of cash register drawers by dispensary supervisors;
- random removal of cash from cash register drawers by dispensary supervisors and placement of such cash into a secure vault;
- insertion of all cash from cash registers drawers into a secure vault at the end of each day;
- recording of daily cash intake by supervisors on a “Register Close” sheet and daily reconciliation of such values against daily sales reports and the prior day’s recording of total cash on-hand;
- recording of all disbursements on a disbursement form; and
- daily audits of total cash on hand and investigations in respect of any noted variances.

The licensed cannabis establishments have worked with internal personnel and advisors to help prescribe and/or implement measures designed to seek to ensure compliance with applicable State laws on an ongoing basis, including:

- correspondence and updates with regulators;
- ongoing monitoring of compliance with operating procedures and regulations by on-site management; and
- appropriate employee training for all standard operating procedures.

The licensed cannabis establishments enlist their internal compliance personnel, whose responsibilities include monitoring the day-to-day activities, ensuring that the established standard operating procedures are being adhered to, identifying any non-compliance matters and putting into place the necessary modifications to seek to ensure compliance.

While the licensed cannabis establishments are compliant with State and local cannabis laws, their cannabis-related activities remain illegal under United States federal law. See “*Risk Factors*” below and in the AIF, incorporated herein by reference.

#### **Non-Compliance with State and Local Cannabis Laws**

From time to time, as with all businesses and all rules, it is anticipated that the Company, through its subsidiaries and establishments to which the Company provides operational support, may experience incidences of non-compliance with applicable rules and regulations, which may include minor matters such as:

- staying open slightly too late due to an excess of customers at stated closing time;
- minor inventory discrepancies with regulatory reporting software;
- missing fields in regulatory reports;
- improper illumination of exterior of facilities;
- packaging and labels out of compliance with most recent regulatory guidelines; and
- partial obstruction of camera views.

Except as disclosed below, none of the cannabis businesses of the Company have experienced any instances of non-compliance which may have an impact on its licenses, business activities or operations which has not been remedied, nor are such businesses subject to any outstanding notices of violation by any State which may have a material impact on such businesses’ licenses, business activities or operations:

- In late February 2024, a Notice of Violation (the “Notice”) was issued to the Company by the Florida Department of Health pertaining to the Company’s Florida operations. The Notice alleges that the Company dispensed approximately 24,000 units of whole flower products containing cannabis seeds, which the Department alleges is not permitted under Florida regulations. The Department proposed a fine of approximately \$2.4 million, or \$100.00 per unit allegedly dispensed, and ordered the Company to submit a written corrective action plan. The Company timely submitted a written corrective action plan. Additionally, the Company has filed a request for a formal administrative hearing with respect to the Notice, disputing the Department’s allegations.
- Separately, the Company has self-reported to the Florida Department of Health an incident involving the inadvertent consumption of THC-infused gelatins by certain staff members. Again, the Company has disciplined responsible staff members and has supplemented its employee educational compliance efforts and enhanced its operating procedures. It is possible that the Department may seek to assess fines or other penalties based on this incident.

During the year ended December 31, 2021, AYR’s Massachusetts-based subsidiary, Sira Naturals, entered into a settlement with the Massachusetts Cannabis Control Commission relating to allegedly transporting cannabis under a Medical versus Adult-Use license number during Q3 2020. Sira neither admitted nor denied the alleged activities and settled the matter without a finding of liability by paying a fine of \$295,000 to the regulator.

In addition, either on an inspection basis or in response to complaints, such as from neighbours, customers or former employees, State or local regulators may among other things issue “Notice of Violation” letters. Such regulatory actions could lead to the requirement to submit a corrective action plan, or, in more serious cases, lead to penalties and/or amendments, suspensions or revocations of licenses or otherwise have an impact on AYR’s licenses, business activities, operational support activities or operations.

AYR has implemented regular compliance reviews to seek to ensure compliance with applicable State and local cannabis rules and regulations. AYR intends to promptly remedy known occurrences of non-compliance with applicable State and local cannabis rules and regulations and AYR intends to publicly disclose non-compliance, citations or notices of violation which may have an impact on its licenses, business activities, operational support activities or operations.

#### **Material Legal Proceedings**

*Dispute with FTI*

In June 2020, the Company signed an engagement letter with FTI Capital Advisors – Canada ULC (“**FTI**”) to assist the Company with raising debt or equity capital in the estimated amount of \$50 to 60 million and agreed to pay a fee of between 2.5% to 6% of the capital raised by FTI. Although one (1) opportunity that was presented by FTI was pursued, no financing transactions were completed with FTI and the engagement agreement was ultimately terminated by the Company in December 2020.

In early 2021, FTI commenced a claim against the Company in the Ontario Superior Court of Justice seeking fees in respect of a number of financing transactions in respect of which FTI had no involvement, including a \$110 million debt offering and approximately \$41 million of warrant exercises. FTI has not specified the amount of damages claimed. The Company is strenuously defending the proceedings vigorously and has denied liability to FTI. The ultimate resolution of the proceedings is uncertain at this time.

## SECONDARY SALES

Securities may be sold under this Prospectus, other than pursuant to an “at-the-market distribution”, by way of secondary offering by or for the account of certain of our securityholders. The Prospectus Supplement that we will file in connection with any offering of Securities by selling securityholders will include the following information:

- the names of the selling securityholders;
- the number or amount of Securities owned, controlled or directed of the class being distributed by each selling securityholder;
- the number or amount of Securities of the class being distributed for the account of each selling securityholder;
- the number or amount of Securities of any class to be owned, controlled or directed by the selling securityholders after the distribution and the percentage that number, or amount represents of the total number of our outstanding Securities;
- whether the Securities are owned by the selling securityholders both of record and beneficially, of record only, or beneficially only;
- the Prospectus Supplement will contain, if applicable, the disclosure required by Item 1.11 of Form 44-101F1 – *Short Form Prospectus* (“**Form 41-101F1**”), and, if applicable, the selling securityholders will file a non-issuer’s submission to jurisdiction form with the corresponding Prospectus Supplement; and
- all other information that is required to be included in the applicable Prospectus Supplement.

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## USE OF PROCEEDS

The net proceeds to the Company from any offering of Securities and the proposed use of those proceeds will be set forth in the applicable Prospectus Supplement relating to that offering of Securities. Among other potential uses, the Company may use the net proceeds from the sale of Securities for general corporate purposes, capital projects and potential future acquisitions and internal expansion. In addition, the Securities may be offered and issued in consideration for the acquisition of other businesses, assets or securities by the Company or one of its subsidiaries. The consideration for any such acquisition may consist of the Securities separately, a combination of Securities or any combination of, among other things, Securities, cash and assumption of liabilities. All expenses relating to an offering of Securities and any compensation paid to underwriters, dealers or agents, as the case may be, will be paid out of the proceeds from the sale of Securities, unless otherwise stated in the applicable Prospectus Supplement, provided that certain expenses in any secondary offering may be paid by the Company. The Company will not receive any proceeds from any sale of any Securities by selling securityholders.

The allocation of the net proceeds of any offering will vary depending on future developments in the Company’s business operations or unforeseen events, including those listed under the “*Risk Factors*” section of this Prospectus and in the documents incorporated herein by reference. The Company cannot guarantee that it will maintain positive operating cash flow in the future. To the extent the Company has negative cash flows in future periods, certain of the proceeds of any offering may be used to fund such negative operating cash flow in these periods. Management of the Company will retain broad discretion in allocating the net proceeds of any offering of Securities by the Company under this Prospectus and the Company’s actual use of the net proceeds will vary depending on the availability and suitability of investment opportunities and its operating and capital needs from time to time. See “*Risk Factors – Discretion in the use of proceeds*”.

The Company may, from time to time, issue securities (including Securities) other than pursuant to this Prospectus.

## DESCRIPTION OF SECURITIES

The following describes the material terms of the Company’s share capital and a brief summary of certain general terms and provisions of the Securities as at the date of this Prospectus. The summary does not purport to be complete, is indicative only and is qualified in its entirety by reference to the terms and provisions of our notice of articles and Articles, as amended. The specific terms of any Securities to be offered under this Prospectus, and the extent to which the general terms described in this Prospectus apply to such Securities, will be set forth in the applicable Prospectus Supplement. Moreover, a Prospectus Supplement relating to a particular offering of Securities may include terms pertaining to the Securities being offered thereunder that are not within the terms and parameters described in this Prospectus. The Securities will not include any novel derivatives or asset-backed securities as discussed under Part 4 of National Instrument 44-102 – *Shelf Distributions*.

The Company is currently authorized to issue an unlimited number of Restricted Shares and Multiple Voting Shares. The Restricted Shares are “restricted securities” within the meaning of such term under applicable Canadian securities laws.

Previously, the Company amended its constating documents (the “**Capital Structure Amendments**”) to, among other things, (i) create and set the terms of the Restricted Voting Shares and Limited Voting Shares, including applying coattail terms to such shares similar to those applicable to the Subordinate Voting Shares as more particularly described below, and (ii) amend the terms of the existing Multiple Voting Shares and Subordinate Voting Shares, including by amending the requirements in respect of who may hold Subordinate Voting Shares. The Company implemented the Capital Structure Amendments in order to seek to maintain its “foreign private issuer” status under U.S. securities laws and thereby avoid a commensurate material increase in its ongoing costs. This has been accomplished by implementing a mandatory conversion mechanism in the Company’s share capital to decrease the number of shares eligible to be voted for directors of the Company if the Company’s FPI Threshold (as defined below) is exceeded. Each of the classes of Restricted Shares is, as further described below, economically identical and mandatorily inter-convertible (continuously and without formality) based on (i) the holder’s status as a U.S. Person or Non-U.S. Person (each as defined below), and (ii) the status of the Company’s FPI Threshold. The Capital Structure Amendments were approved at the Company’s annual general and special meetings of shareholders on November 4, 2020 by, *inter alia*, a majority of the minority holders of Subordinate Voting Shares (i.e., other than those held by holders of Multiple Voting Shares and other persons not permitted to vote thereon under Ontario Securities Commission Rule 56-501 – *Restricted Shares*).

On June 24, 2021, at the annual and special meetings of the shareholders of the Company, a special resolution of all of the holders of the Restricted Shares and Multiple Voting Shares, voting together as if they were a single class of shares, was passed to amend and restate the Articles in order to revise certain defined terms to better reflect applicable statutory provisions and to make certain other administrative changes.

The Company has received exemptive relief from the Canadian securities regulatory authorities such that, *inter alia*, each class of Restricted Shares may be aggregated for the purposes of certain securities law reporting thresholds, including in respect of certain take-over bid and issuer bid rules and the early warning requirements under National Instrument 62-104 – *Take-Over Bid and Issuer Bids* (“**NI 62-104**”). See “*Exemptions*”,

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The following description summarizes the material terms of AYR's share capital. For a more detailed summary, see "*Description of Share Capital, Market for Securities*", and "*Securities Subject to Contractual Restriction on Transfer*" in the AIF, incorporated by reference herein.

As of February 7, 2024, the closing date of the Arrangement, the Company has the following Restricted Shares, or securities convertible, exercisable or exchangeable into Restricted Shares, outstanding:

Restricted Shares	99,621,543 <sup>1</sup>
Multiple Voting Shares	3,696,486
Exchangeable Shares <sup>2</sup>	9,638,486
Restricted Share Units <sup>3</sup>	5,232,428
Mercer Warrants <sup>4</sup>	2,874,058
Anti-Dilutive Warrants	23,045,965

### Restricted Shares

The following is a brief summary of certain general terms and provisions of the Restricted Shares that may be offered pursuant to this Prospectus. This summary does not purport to be complete.

#### Exercise of Voting Rights

The holders of each class of Restricted Shares will be entitled to receive notice of, to attend (if applicable, virtually) and to vote at all meetings of shareholders of the Company, except that they will not be able to vote (but will be entitled to receive notice of, to attend (if applicable, virtually) and to speak) at those meetings at which the holders of a specific class are entitled to vote separately as a class under the *Business Corporations Act* (British Columbia) ("**BCBCA**"), and except that holders of Limited Voting Shares will not be entitled to vote for the election of directors. The Subordinate Voting Shares and Restricted Voting Shares carry one vote per share on all matters. The Limited Voting Shares carry one vote per share on all matters except the election of directors, as the holders of Limited Voting Shares do not have any entitlement to vote in respect of the election for directors of the Company. The Restricted Shares are "restricted securities" within the meaning of such term under applicable Canadian securities laws.

In connection with any Change of Control Transaction (as defined below) requiring approval of all classes of Shares under the BCBCA, holders of the Shares shall be treated equally and identically, on a per share basis, unless different treatment of the shares of each such class is approved by a majority of the votes cast by the holders of outstanding Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable, in respect of a resolution approving such Change of Control Transaction, voting separately as a class at a meeting of the holders of that class called and held for such purpose.

For purposes herein, a "**Change of Control Transaction**" means an amalgamation, arrangement, recapitalization, business combination or similar transaction of the Company, other than an amalgamation, arrangement, recapitalization, business combination or similar transaction that would result in (i) the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the continuing entity or its direct or indirect parent) more than fifty percent (50%) of the total voting power of the voting securities of the Company, the continuing entity or its direct or indirect parent, and more than fifty percent (50%) of the total number of outstanding shares of the Company, the continuing entity or its direct or indirect parent, in each case as outstanding immediately after such transaction, and (ii) the shareholders of the Company immediately prior to the transaction owning voting securities of the Company, the continuing entity or its direct or indirect parent immediately following the transaction in substantially the same proportions (vis-a-vis each other) as such shareholders owned the voting securities of the Company immediately prior to the transaction (provided that in neither event shall the exercise of any exchangeable shares of a subsidiary of the Company that are exchangeable into shares of the Company be taken into account in such determination).

<sup>1</sup> Includes 645,298 Restricted Shares that are held by the Company in treasury (under applicable corporate law, such shares are not entitled to be voted or receive dividends).

<sup>2</sup> "**Exchangeable Shares**" means non-voting exchangeable shares of a subsidiary of the Company which are exchangeable, on a one-for-one basis, into Restricted Shares, at the option of the holder, and are designed to be economically equivalent (without taking into account tax consequences) to the Restricted Shares.

<sup>3</sup> Exercisable for Restricted Shares for no consideration upon vesting in accordance with their terms.

<sup>4</sup> See "*Promoter*".

Notwithstanding the foregoing, the holders of Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, as applicable, are each entitled to vote as a separate class, in addition to any other vote of shareholders that may be required, in respect of any alteration, repeal or amendment of the Articles, which would: (i) adversely affect the rights or special rights of the holders of Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable (including an amendment to the terms of the Articles which provide that any Multiple Voting Shares sold or transferred to a person that is not a Permitted Holder (as defined in the Articles) shall be automatically converted into Subordinate Voting Shares and/or Restricted Voting Shares, as applicable); (ii) affect the holders of the Shares differently, on a per share basis; or (iii) except as otherwise set forth in the Articles, as amended, create any class or series of shares ranking equal to or senior to the Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable; and in each case such alteration, repeal or amendment shall not be effective unless a resolution in respect thereof is approved by a majority of the votes cast by holders of outstanding Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable.

#### Dividends

Holders of Restricted Shares are entitled to receive, as and when declared by the board of directors of the Company (the "**Board**"), dividends in cash or property of the Company. No dividend will be declared or paid on any class of Shares unless the Company simultaneously declares or pays, as applicable, equivalent dividends (on a per share basis) on all classes of Shares then issued and outstanding. Each class of Restricted Shares shall rank equally with the other classes of Shares as to dividends on a share-for-share basis, without preference or distinction. In the event of the payment of a dividend in the form of shares, holders of Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares shall receive Subordinate Voting Shares, Restricted Voting Shares and Limited Voting Shares, respectively, unless otherwise determined by the Board, provided an equal number of shares is declared as a dividend or distribution on a per-share basis, without preference or distinction, in each case.

#### Subdivision or Consolidation

No subdivision or consolidation of any class of Restricted Shares shall occur unless simultaneously, all other classes of Shares are subdivided or consolidated or otherwise adjusted in the same manner so as to maintain and preserve the relative rights of the holders of each of the classes of Shares.

#### Liquidation, Dissolution or Winding-Up

In the case of liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary, or in the event of any other distribution of assets of the Company for the purposes of a dissolution or winding-up of the Company, the holders of Restricted Shares are entitled, subject to the prior rights of the holders of any shares of the Company ranking in priority to the Restricted Shares, to receive the Company's remaining property and are entitled to share equally, on a share for share basis, with all other classes of



Shares in all distributions of such assets.

#### Rights to Subscribe; Pre-Emptive Rights

The holders of Restricted Shares are not entitled to a right of first refusal to subscribe for, purchase or receive any part of any issue of shares, or bonds, debentures or other securities of the Company now or in the future.

#### Conversion

For the purposes of the Restricted Shares, (i) a “**U.S. Person**” means resident of the United States, and a “**Non-U.S. Person**” is any person who is not a U.S. Person, and (ii) “**held of record**” has the meaning set forth in Rule 12g5-1 of the 1934 Act. Person. Under the Articles, where Subordinate Voting Shares are held of record, directly or indirectly, or jointly by (i) one or more U.S. Persons, and (ii) one or more Non-U.S. Persons, such Subordinate Voting Shares shall be deemed to be held of record by a U.S. Person. At the request of the Company, beneficial shareholders and actual or proposed transferees are required to respond to enquiries regarding their status as U.S. Persons or Non-U.S. Persons, and are required to provide declarations or other documents with respect thereto, as may be necessary or desirable, in the discretion of the Company, failing which they would, in the Company’s discretion, be deemed to be U.S. Persons.

If, at any given time, the Subordinate Voting Shares are held of record by U.S. Persons, they will be automatically converted, without further act or formality, on a one-for-one basis into Restricted Voting Shares. If, at any given time, the Restricted Voting Shares or the Limited Voting Shares are held of record by Non-U.S. Persons, they will be automatically converted, without further act or formality, on a one-for-one basis into Subordinate Voting Shares.

Notwithstanding the foregoing, if, at any given time, the total number of Restricted Voting Shares represents a number equal to or in excess of the formulaic threshold set forth below (the “**FPI Threshold**”), then the minimum number of Restricted Voting Shares required to stay within the FPI Threshold will be automatically converted, without further act or formality, on a *pro rata* basis across all registered holders of Restricted Voting Shares (rounded up to the next nearest whole number of shares), on a one-for-one basis, into Limited Voting Shares:

$$(0.50 \times \text{Aggregate Number of Multiple Voting Shares, Subordinate Voting Shares and Restricted Voting Shares}) - (\text{Aggregate Number of Multiple Voting Shares held, beneficially owned or controlled by U.S. Persons})$$

If, at any given time, the total number of Restricted Voting Shares represents a number below the FPI Threshold, then a number of Limited Voting Shares will be automatically converted, without further act or formality, on a *pro rata* basis across all registered holders of Limited Voting Shares (rounded down to the next nearest whole number of shares), on a one-for-one basis, into Restricted Voting Shares, to the maximum extent possible such that the Restricted Voting Shares then represent a number of Shares that is one share less than the FPI Threshold.

The Company has received exemptive relief from the Canadian securities regulatory authorities such that, *inter alia*, each class of Restricted Shares may be aggregated for the purposes of certain securities law reporting thresholds, including in respect of certain take-over bid and issuer bid rules and the early warning requirements under NI 62-104. See “*Exemptions*”,

If an offer is made to purchase any class of Shares (other than a class of Restricted Shares) and such offer is one which is required, pursuant to applicable securities legislation or the rules of a stock exchange on which such Shares that are subject to the offer are then listed, to be made to all or substantially all the holders of such Shares in a given province of Canada to which these requirements apply (assuming that the offeree was a resident in Ontario), each Subordinate Voting Share, Restricted Voting Share and/or Limited Voting Share shall become convertible, at the option of the holder, on a one-for-one basis, into such class of Shares that are subject to the offer, at any time while such offer is in effect until the date prescribed by applicable securities legislation for the offeror to take up and pay for such shares as are to be acquired pursuant to such offer. The conversion right may only be exercised in respect of Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable, for the purpose of depositing the resulting Shares pursuant to the offer, and for no other reason, including with respect to voting rights attached thereto, which are deemed to remain subject to the provisions concerning voting rights for Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable, notwithstanding their conversion. The transfer agent is required to deposit the resulting Shares pursuant to such offer on behalf of such holder.

Should the applicable Shares issued upon such conversion and tendered in response to such offer be withdrawn by shareholders of the Company or not taken up by the offeror, or should the offer be abandoned or withdrawn, then each Share resulting from such conversion shall be automatically reconverted, without any further act on the part of the Company or on the part of the holder, into one Subordinate Voting Share, Restricted Voting Share or Limited Voting Share, as applicable.

#### Constraints on Share Ownership

Subject to certain specified exceptions set out in the Articles, as amended, the Subordinate Voting Shares may only be owned or controlled by Non-U.S. Persons.

#### Renamed as Common Shares

At the effective time that there are no Multiple Voting Shares issued and outstanding (by the conversion of all Multiple Voting Shares, in accordance with their terms, into Restricted Shares, as applicable), the Subordinate Voting Shares will henceforth be named and referred to as “Common Shares”.

#### **Multiple Voting Shares**

##### Exercise of Voting Rights

The holders of Multiple Voting Shares will be entitled to receive notice of, to attend (if applicable, virtually) and to vote at all meetings of shareholders of the Company, except that they will not be able to vote (but will be entitled to receive notice of, to attend (if applicable, virtually) and to speak) at those meetings at which the holders of a specific class are entitled to vote separately as a class under the BCBCA. The Multiple Voting Shares carry 25 votes per share.

In connection with any Change of Control Transaction requiring approval of the holders of all classes of Shares under the BCBCA, holders of the Shares shall be treated equally and identically, on a per share basis, unless different treatment of the shares of each such class is approved by a majority of the votes cast by the holders of outstanding Multiple Voting Shares or their proxyholders in respect of a resolution approving such Change of Control Transaction, voting separately as a class at a meeting of the holders of that class called and held for such purpose.

Notwithstanding the foregoing, the holders of Multiple Voting Shares shall be entitled to vote as a separate class, in addition to any other vote of shareholders that may be required, in respect of any alteration, repeal or amendment of the Articles which would: (i) adversely affect the rights or special rights of the holders of Multiple Voting Shares (including an amendment to the terms of the Company's which provide that any Multiple Voting Shares sold or transferred to a person that is not a Permitted Holder (as defined in the Articles) shall be automatically converted into Subordinate Voting Shares or Restricted Voting Shares); or (ii) affect the holders of the Multiple Voting Shares and Subordinate Voting Shares, Restricted Voting Shares and/or Limited Voting Shares, as applicable, differently, on a per share basis; or (iii) except as otherwise set forth in the Company's, create any class or series of shares ranking equal to or senior to the Multiple Voting Shares; and in each case such alteration, repeal or amendment shall not be effective unless a resolution in respect thereof is approved by a majority of the votes cast by holders of outstanding Multiple Voting Shares.

#### Dividends

Holders of Multiple Voting Shares shall be entitled to receive, as and when declared by the Board, dividends in cash or property of the Company. No dividend will be declared or paid on any class of Restricted Shares unless the Company simultaneously declares or pays, as applicable, equivalent dividends (on a per share basis) on the Multiple Voting Shares. The Multiple Voting Shares shall rank equally with the Restricted Shares as to dividends on a share-for-share basis, without preference or distinction. In the event of the payment of a dividend in the form of shares, Multiple Voting Shares shall receive Multiple Voting Shares, unless otherwise determined by the Board, provided an equal number of shares is declared as a dividend or distribution on a per-share basis, without preference or distinction, in each case.

#### Subdivision or Consolidation

No subdivision or consolidation of the Multiple Voting Shares shall occur unless simultaneously each class of Restricted Shares is subdivided or consolidated or otherwise adjusted in the same manner so as to maintain and preserve the relative rights of the holders of the Multiple Voting Shares and the Restricted Shares.

#### Liquidation, Dissolution or Winding-Up

In the case of liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary, or in the event of any other distribution of assets of the Company for the purposes of a dissolution or winding-up of the Company, the holders of Multiple Voting Shares are entitled, subject to the prior rights of the holders of any shares of the Company ranking in priority to the Multiple Voting Shares, to receive the Company's remaining property and are entitled to share equally, on a share for share basis, with the Subordinate Voting Shares in all distributions of such assets.

#### Rights to Subscribe; Pre-Emptive Rights

The holders of Multiple Voting Shares are not entitled to a right of first refusal to subscribe for, purchase or receive any part of any issue of shares, or bonds, debentures or other securities of the Company now or in the future.

#### Conversion

At the holder's option, the Multiple Voting Shares are convertible, on a one-for-one basis, into Subordinate Voting Shares or Restricted Voting Shares, as applicable. In addition, the Multiple Voting Shares will be automatically converted, without further act or formality, into Subordinate Voting Shares or Restricted Voting Shares, as applicable, on the earliest of (i) the fifth anniversary of May 24, 2019, (ii) the date on which such Multiple Voting Shares are held or controlled by a person who is not a Permitted Holder (as defined in the Articles) under the Articles, and (iii) the date on which the aggregate number of Multiple Voting Shares issued and outstanding represents less than one-third of the number of Multiple Voting Shares issued and outstanding at the close of business on the first date of issuance, being May 24, 2019. The Multiple Voting Shares are currently expected to convert automatically into Restricted Shares on May 24, 2024.

The Multiple Voting Shares are subject to coat-tail provisions, as set forth in the Articles.

#### Compliance Provisions

The Company's notice of articles and articles contain, in respect of the Restricted Shares and Multiple Voting Shares, certain provisions to facilitate compliance with applicable regulatory and/or licensing regulations (the "**Compliance Provisions**"). The Compliance Provisions include a combination of certain remedies such as an automatic suspension of voting and/or dividend rights, a discretionary right to force a share transfer to a third party and/or a discretionary redemption right in favour of AYR, in each case to seek to ensure that AYR and its subsidiaries are able to comply with applicable regulatory and licensing regulations. The purpose of the Compliance Provisions is to provide AYR with a means of protecting itself from having a shareholder, or as determined by the Board, a group of shareholders acting jointly or in concert, with an ownership interest of, whether of record or beneficially (or having the power to exercise control or direction over) ("**Owning or Controlling**"), five percent (5%) or more of the issued and outstanding Shares, or such other number as is determined by the Board from time to time, and: (i) who a governmental authority granting licenses to, or otherwise governing the operations of, AYR or its subsidiaries has determined to be unsuitable to own Shares; (ii) whose ownership of Shares may reasonably result in the loss, suspension or revocation (or similar action) with respect to any licenses or permits relating to AYR's or its subsidiaries' conduct of business (being the conduct of any activities relating to the cultivation, manufacturing and dispensing of cannabis and cannabis-derived products in the United States, which include the owning and operating of cannabis licenses) or in AYR being unable to obtain any new licenses or permits in the normal course, all as determined by the Board; or (iii) who have not been determined by the applicable regulatory authority to be an acceptable person or otherwise have not received the requisite consent of such regulatory authority to own the Shares, in each case within a reasonable time period acceptable to the Board or prior to acquiring any Shares (in each case, an "**Unsuitable Person**"). The ownership restrictions in AYR's notice of articles and articles are also subject to an exemption for applicable depositaries and clearing houses as well as underwriters (as defined in the *Securities Act* (Ontario)) in the course of a distribution of securities of AYR.

Notwithstanding the foregoing, the Compliance Provisions provide that any shareholder (or group of shareholders acting jointly or in concert) proposing to Own or Control five percent (5%) or more of the issued and outstanding Shares (or such other number as is determined by the Board from time to time) will be required to provide not less than 30 days' advance written notice to AYR by mail sent to AYR's registered office to the attention of the Jonathan Sandelman, the Company's corporate secretary (the "**Corporate Secretary**"), and to obtain all necessary regulatory approvals. Upon any such shareholder(s) Owning or Controlling five percent (5%) or more of the issued and outstanding Shares (or such other number as is determined by the Board from time to time), and having not received the requisite approval of any applicable regulatory authority to own the Shares, the Compliance Provisions will provide: (i) that such shareholder(s) may, in the discretion of the Board, be prohibited from exercising any voting rights and/or receiving any dividends from AYR, unless and until all requisite regulatory approvals are obtained; and (ii) AYR with a right, but not the obligation, at its option, upon notice to the Unsuitable Person, to: (A) redeem any or all Shares directly or indirectly held by an Unsuitable Person; and/or (B) forcibly transfer any or all Shares directly or indirectly held directly or indirectly by an Unsuitable Person to a third party. Such rights are required in order for AYR to comply with regulations in various jurisdictions where AYR or its subsidiaries conduct business or are expected to conduct business.

Upon receipt by the holder of a notice to redeem or to transfer any or all of its Shares, the holder will be entitled to receive, as consideration therefor, no less than 95% of the lesser of: (i) the closing price of the Restricted Shares on the CSE (or the then principal exchange on which AYR's securities are quoted for trading) on the trading day immediately prior to the closing of the redemption or transfer (or the average of the last bid and last asking prices if there was no trading on the specified date); and (ii) the five-day volume weighted average price of the Restricted Shares on the CSE (or the then principal exchange on which CSAC's securities are quoted for trading) for the five trading days immediately prior to the closing of the redemption or transfer (or the average of the last bid and last asking prices if there was no trading on the specified dates).

Further, a holder of Shares is prohibited from acquiring five percent (5%) or more of the issued and outstanding Shares, directly or indirectly, in one or more transactions, without providing 30 days' advance written notice to AYR by mail sent to AYR's registered office to the attention of the Corporate Secretary. The foregoing restriction will not apply to the ownership, acquisition or disposition of Shares as a result of: (i) transfer of Shares occurring by operation of law including, *inter alia*, the transfer of Shares to a trustee in bankruptcy, (ii) an acquisition or proposed acquisition by one or more underwriters who hold Shares for the purposes of distribution to the public or for the benefit of a third party provided that such third party is in compliance with the foregoing restriction, or (iii) conversion, exchange or exercise of securities issued by AYR or a subsidiary into or for Shares in accordance with their respective terms. If the Board reasonably believes that any such holder of the Shares may have failed to comply with the foregoing restrictions, AYR may apply to the Supreme Court of British Columbia, or any other court of competent jurisdiction, for an order directing that such shareholder disclose the number of Shares directly or indirectly held.

AYR may not be able to exercise such rights in full or at all, including its redemption rights. Under the BCBCA, a corporation may not make any payment to redeem shares if there are reasonable grounds for believing that the company is unable to pay its liabilities as they become due in the ordinary course of its business or if making the payment of the redemption price or providing the consideration would cause the company to be unable to pay its liabilities as they become due in the ordinary course of its business. Furthermore, AYR may become subject to contractual restrictions on its ability to redeem its Shares by, for example, entering into a secured credit facility subject to such restrictions. In the event that restrictions prohibit AYR from exercising its redemption rights in part or in full, AYR will not be able to exercise its redemption rights absent a waiver of such restrictions, which AYR may not be able to obtain on acceptable terms or at all.

## Warrants

There were 23,045,965 Anti-Dilutive Warrants to purchase the same number of Restricted Shares issued and outstanding as of February 7, 2024. The Anti-Dilutive Warrants were issued in connection with the Arrangement and are listed on the CSE under the trading symbol "AYR.WT.U". The Anti-Dilutive Warrants are exercisable at US\$2.12 per share until February 7, 2026 and are only exercisable by non-U.S. persons and accredited investors as such terms are defined under applicable United States securities laws. See "*AYR Wellness Inc. – Recent Developments – Completion of Previously Announced Debt Restructuring*". In addition, there were 2,874,058 Mercer Warrants (as defined below) to purchase the same number of Restricted Shares issued and outstanding as of February 7, 2024. The Mercer Warrants were issued in connection with the qualifying transaction of the Company, and are exercisable at US\$9.07 per share until May 24, 2024. See "*Promoter*".

While the Anti-Dilutive Warrants are capped, the Company may issue other Warrants, separately or together with Restricted Shares, Subscription Receipts, Debt Securities, Convertible Securities or Units, or any combination thereof, as the case may be.

The following is a brief summary of certain general terms and provisions of the Warrants that may be offered pursuant to this Prospectus. This summary does not purport to be complete.

The Warrants may be issued under a warrant agreement. The applicable Prospectus Supplement will include details of the warrant agreement, if any, governing the Warrants being offered. The Company will file a copy of the warrant agreement, if any, relating to an offering of Warrants with the relevant securities regulatory authorities in Canada after it has been entered into by the Company.

The specific terms and provisions that will apply to any Warrants that may be offered by us pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement. This description will include, where applicable:

- the number of Warrants offered;
- the price or prices, if any, at which the Warrants will be issued;

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- the currency at which the Warrants will be offered and in which the exercise price under the Warrants may be payable;
  - upon exercise of the Warrant, the events or conditions under which the amount of Securities may be subject to adjustment;
  - the date on which the right to exercise such Warrants shall commence and the date on which such right shall expire;
  - if applicable, the identity of the Warrant agent;
  - whether the Warrants will be listed on any securities exchange;
  - whether the Warrants will be issued with any other Securities and, if so, the amount and terms of these Securities;
  - any minimum or maximum subscription amount;
  - whether the Warrants are to be issued in registered form, "book-entry only" form, non-certificated inventory system form, bearer form or in the form of temporary or permanent global securities and the basis of exchange, transfer and ownership thereof;
  - any material risk factors relating to such Warrants and any other Securities to be issued upon exercise of the Warrants;
  - any other rights, privileges, restrictions and conditions attaching to the Warrants and the Securities to be issued upon exercise of the Warrants; and
  - any other material terms or conditions of the Warrants and the Securities to be issued upon exercise of the Warrants.

The terms and provisions of any Warrants offered under a Prospectus Supplement may differ from the terms described above and may not be subject to or contain any or all of the terms described above.

Prior to the exercise of any Warrants, holders of such Warrants will not have any of the rights of holders of the Securities purchasable upon such exercise, including the right to receive payments of dividends or the right to vote such underlying securities.

## Subscription Receipts

As of the date of this Prospectus, the Company has no Subscription Receipts outstanding. The Company may issue Subscription Receipts, separately or together, with Restricted Shares, Warrants, Debt Securities, Convertible Securities or Units or any combination thereof, as the case may be. The particular terms and provisions of the Subscription Receipts as may be offered pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement pertaining to such offering of Subscription Receipts, and the extent to which the general terms and provisions described below may apply to such Subscription Receipts will be described in the applicable Prospectus Supplement.

The following is a brief summary of certain general terms and provisions of the Subscription Receipts that may be offered pursuant to this Prospectus. This summary does not purport to be complete.

The Subscription Receipts may be issued under a subscription receipt agreement. The applicable Prospectus Supplement will include details of the subscription receipt agreement, if any, governing the Subscription Receipts being offered. The Company will file a copy of the subscription receipt agreement, if any, relating to an offering of Subscription Receipts with the relevant securities regulatory authorities in Canada after it has been entered into by the Company.

The specific terms and provisions that will apply to any Subscription Receipts that may be offered by us pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement. This description will include, where applicable:

- the number of Subscription Receipts offered;
- the price or prices, if any, at which the Subscription Receipts will be issued;
- the manner of determining the offering price(s);
- the currency at which the Subscription Receipts will be offered;
- the Securities into which the Subscription Receipts may be exchanged;
- conditions to the exchange of Subscription Receipts into other Securities and the consequences of such conditions not being satisfied;
- the number of Securities that may be issued upon the exchange of each Subscription Receipt and the price per Security or the aggregate principal amount and the events or conditions under which the amount of Securities may be subject to adjustment;
- the dates or periods during which the Subscription Receipts may be exchanged;

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- the circumstances, if any, which will cause the Subscription Receipts to be deemed to be automatically exchanged;
- provisions applicable to any escrow of the gross or net proceeds from the sale of the Subscription Receipts plus any interest or income earned thereon, and for the release of such proceeds from such escrow;
- if applicable, the identity of the Subscription Receipt agent;
- whether the Subscription Receipts will be listed on any securities exchange;
- whether the Subscription Receipts will be issued with any other Securities and, if so, the amount and terms of these Securities;
- any minimum or maximum subscription amount;
- whether the Subscription Receipts are to be issued in registered form, “book-entry only” form, non-certificated inventory system form, bearer form or in the form of temporary or permanent global securities and the basis of exchange, transfer and ownership thereof;
- any material risk factors relating to such Subscription Receipts and the Securities to be issued upon exchange of the Subscription Receipts;
- any other rights, privileges, restrictions and conditions attaching to the Subscription Receipts and the Securities to be issued upon exchange of the Subscription Receipts; and
- any other material terms or conditions of the Subscription Receipts and the Securities to be issued upon exchange of the Subscription Receipts.

The terms and provisions of any Subscription Receipts offered under a Prospectus Supplement may differ from the terms described above and may not be subject to or contain any or all of the terms described above.

Prior to the exchange of any Subscription Receipts, holders of such Subscription Receipts will not have any of the rights of holders of the Securities for which the Subscription Receipts may be exchanged, including the right to receive payments of dividends or the right to vote such underlying securities.

#### **Debt Securities**

Pursuant to the Arrangement, 100% of the Senior Notes, in an aggregate principal amount of \$243.25 million, were assigned by the Senior Noteholders to AYR Wellness Canada, a wholly owned subsidiary of the Company, in exchange for the 2026 Exchange Notes of AYR Wellness Canada, which obligations are guaranteed by the Company and each of the Company’s other direct and indirect subsidiaries and secured by all or substantially all of the assets and properties of AYR Wellness Canada, the Company and each guaranteeing subsidiary, subject to certain exemptions. In addition, a Senior Noteholder, *inter alia*, subscribed for \$50 million aggregate principal amount of Additional 2026 Notes, issued at a 20% original issue discount (resulting in \$40 million of gross proceeds to the Company). The 2026 Notes pay interest of 13.0% per annum (semi-annually) and mature on December 10, 2026. The Company intends to wind-up AYR Wellness Canada in the near future, pursuant to which all of the assets and liabilities of AYR Wellness Canada, including the 2026 Notes will become the assets and liabilities of the Company. Upon completion of same, the Senior Notes will be cancelled. See “AYR Wellness Inc. – Recent Developments – Completion of Previously Announced Debt Restructuring”.

The Company may issue additional Debt Securities, separately or together with Restricted Shares, Warrants, Subscription Receipts, Convertible Securities or Units, or any combination thereof, as the case may be.

The particular terms and provisions of the Debt Securities as may be offered pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement pertaining to such offering of Debt Securities, and the extent to which the general terms and provisions described below may apply to such Debt Securities will be described in the applicable Prospectus Supplement.

The following is a brief summary of certain general terms and provisions of the Debt Securities that may be offered pursuant to this Prospectus. This summary does not purport to be complete.

Debt Securities may be offered separately or in combination with one or more other Securities. The Company may, from time to time, issue debt securities and incur additional indebtedness other than through the issuance of Debt Securities pursuant to this Prospectus.

Except as otherwise specified in the applicable Prospectus Supplement, the Debt Securities will constitute the direct, unconditional and unsecured obligations of the Company and shall rank *pari passu* and ratably without preference among themselves and *pari passu* with all other unsecured and unsubordinated obligations of the Company.

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The Debt Securities may be issued in one or more series under one or more indentures or other agreements between the Company and one or more counterparties. The Company will file a copy of the trust indenture or any other applicable agreement relating to an offering of Debt Securities with the relevant securities regulatory authorities in Canada after it has been entered into by the Company. To the extent applicable, the trust indenture will also be subject to and governed by the United States Trust Indenture Act of 1939, as amended. A copy of the form of the trust indenture to be entered into has been or will be filed with the SEC as an exhibit to the registration statement and will be filed with the securities commissions or similar authorities in Canada when it is entered into.

The specific terms and provisions that will apply to any Debt Securities that may be offered by us pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement. This description will include, where applicable:

- the title of the Debt Securities;
- any limit on the aggregate principal amount of the Debt Securities and, if no limit is specified, the Company will have the right to re-open such series for the issuance of additional Debt Securities from time to time;

- the date or dates, or the method by which such date or dates will be determined or extended, on which the principal (and premium, if any) of the Debt Securities of the series is payable;
- the rate or rates at which the Debt Securities of the series will bear interest, if any, or the method by which such rate or rates will be determined, whether such interest will be payable in cash or additional Debt Securities of the same series or will accrue and increase the aggregate principal, as well as the date(s) on which such interest shall be due and payable;
- amount outstanding of such series, the date or dates from which such interest will accrue, or the method by which such date or dates will be determined;
- the place or places the Company will pay principal, premium and interest, if any, and the place or places where Debt Securities can be presented for registration of transfer, exchange or conversion;
- the period or periods within which, the price or prices at which, the currency in which, and other terms and conditions upon which Debt Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option;
- whether the Company will be obligated to redeem, repay or repurchase the Debt Securities pursuant to any sinking or other provision, or at the option of a holder and the terms and conditions of such redemption, repayment or repurchase;
- the denominations in which the Company will issue any Debt Securities;
- the applicability of, and any changes or additions to, the provisions for defeasance;
- whether the holders of any series of Debt Securities have special rights if specified events occur;
- any deletions from, modifications of or additions to the events of default or covenants;
- whether the Company will issue the Debt Securities as unregistered securities, registered securities or both;
- the terms, if any, for any conversion or exchange of the Debt Securities for any other securities of the Company;
- whether payment of the Debt Securities will be guaranteed by any affiliates or associates of the Company;
- whether the payment of principal, interest and premium, if any, on the Debt Securities will be the Company's senior, senior subordinated or subordinated obligations; and
- any other terms, conditions, rights and preferences (or limitations on such rights and preferences).

For greater certainty, Debt Securities may be secured, in which case the applicable security provided by the Company in connection therewith will be described in the applicable Prospectus Supplement.

### **Convertible Securities**

The Company may issue Convertible Securities, separately or together, with Restricted Shares, Warrants, Subscription Receipts, Debt Securities or Units or any combination thereof, as the case may be. The particular terms and provisions of the Convertible Securities as may be offered pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement pertaining to such offering of Convertible Securities, and the extent to which the general terms and provisions described below may apply to such Convertible Securities will be described in the applicable Prospectus Supplement.

The following is a brief summary of certain general terms and provisions of the Convertible Securities that may be offered pursuant to this Prospectus. This summary does not purport to be complete.

The Convertible Securities will be convertible, exercisable or exchangeable into Subordinate Voting Shares, Restricted Voting Shares or Limited Voting Shares, as applicable, and/or other Securities. The Convertible Securities convertible, exercisable or exchangeable into Restricted Shares and/or other Securities may be offered separately or together with other Securities, as the case may be. The applicable Prospectus Supplement will include details of the agreement, indenture or other instrument to which such Convertible Securities will be created and issued. The Company will file a copy of any applicable agreement relating to an offering of Convertible Securities with the relevant securities regulatory authorities in Canada after it has been entered into by the Company, and the applicable Prospectus Supplement will include details of any such agreement governing the Convertible Securities being offered.

The specific terms and provisions that will apply to any Convertible Securities that may be offered by us pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement. This description will include, where applicable:

- the number of such Convertible Securities offered;
- the price at which such Convertible Securities will be offered;
- the procedures for the conversion or exchange of such Convertible Securities into or for Restricted Shares and/or other Securities;
- the number of Restricted Shares and/or other Securities that may be issued upon the conversion or exchange of such Convertible Securities;
- the period or periods during which any conversion or exchange may or must occur;
- the designation and terms of any other Convertible Securities with which such Convertible Securities will be offered, if any;
- the gross proceeds from the sale of such Convertible Securities;
- whether the Convertible Securities will be listed on any securities exchange;
- whether the Convertible Securities are to be issued in registered form, "book-entry only" form, bearer form or in the form of temporary or permanent global securities and the basis of exchange, transfer and ownership thereof;
- certain material Canadian tax consequences of owning the Convertible Securities; and
- any other material terms and conditions of the Convertible Securities.

### **Units**

As of the date of this Prospectus, the Company has no Units outstanding. The Company may issue Units, separately or together, with Restricted Shares, Warrants, Subscription Receipts, Debt Securities or Convertible Securities or any combination thereof, as the case may be. Each Unit would be issued so that the holder of the Unit is also the holder of each Security comprising the Unit. Thus, the holder of a Unit will have the rights and obligations of a holder of each applicable Security. The Company will file a copy of any applicable agreement relating to an offering of Units with the relevant securities regulatory authorities in Canada after it has been entered into by the Company, and the applicable Prospectus Supplement will include details of any such agreement governing the Units being offered.

The specific terms and provisions that will apply to any Units that may be offered by us pursuant to this Prospectus will be set forth in the applicable Prospectus Supplement. This description will include, where applicable:

- the number of Units offered;
- the price or prices, if any, at which the Units will be issued;
- the manner of determining the offering price(s);
- the currency at which the Units will be offered;
- the Securities comprising the Units and whether such Securities (or the Units themselves) will be listed and/or quoted on a stock exchange;
- whether the Units will be issued with any other Securities and, if so, the amount and terms of these Securities;
- any minimum or maximum subscription amount;
- whether the Units and the Securities comprising the Units are to be issued in registered form, "book-entry only" form, non-certificated inventory system form, bearer form or in the form of temporary or permanent global securities and the basis of exchange, transfer and ownership thereof;

- any material risk factors relating to such Units or the Securities comprising the Units;
- any other rights, privileges, restrictions and conditions attaching to the Units or the Securities comprising the Units; and
- any other material terms or conditions of the Units or the Securities comprising the Units, including whether and under what circumstances the Securities comprising the Units may be held or transferred separately.

The terms and provisions of any Units offered under a Prospectus Supplement may differ from the terms described above and may not be subject to or contain any or all of the terms described above.

#### MATERIAL CONTRACTS

As of the date hereof, the following are the material contracts of AYR, other than contracts entered into in the ordinary course of business:

- (a) the amended and restated trust indenture dated February 7, 2024 among the Company, as issuer, AYR Wellness Canada, as substituted issuer, and Odyssey Trust Company, as trustee, in respect of the 2026 Notes;
- (b) the Exchange Rights Agreements (as defined in the AIF);
- (c) the warrant agency agreement dated December 21, 2017 between the Company, as issuer, and Odyssey Trust Company (“Odyssey”), as warrant agent, as amended in respect of the Mercer Warrants;
- (d) the warrant agency agreement dated February 7, 2024 between the Company, as issuer, and Odyssey, as warrant agent, in respect of the Anti-Dilutive Warrants;
- (e) the pre-emptive rights agreements dated February 7, 2024 between the Company and the Majority Noteholders; and
- (f) the OMMU – Medical Marijuana Treatment Center License #MMTC-2015-002 held by the Company’s subsidiary DFMMJ Investments, LLC, which license individually accounts for at least 10% of the consolidated revenue of the Company for the year ended December 31, 2023.

Copies of these agreements are available for inspection at our offices, during ordinary business hours and are available under the Company’s profile on the Canadian System for Electronic Document Analysis and Retrieval (SEDAR+) at [www.sedarplus.ca](http://www.sedarplus.ca) and the Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) at <https://www.sec.gov/edgar>. See the AIF for additional information in respect of these agreements.

#### CONSOLIDATED CAPITALIZATION

Other than the following, there have been no material changes to the Company’s share and loan capitalization on a consolidated basis as of the date hereof since December 31, 2023:

- the assignment of the Senior Notes to AYR Wellness Canada, a wholly owned subsidiary of the Company, on February 7, 2024 pursuant to the Arrangement;
- the issuance by AYR Wellness Canada (and the guarantee by the Company) of the 2026 Notes on February 7, 2024 pursuant to the Arrangement;
- the issuance of the New Exchange Shares on February 7, 2024 pursuant to the Arrangement;
- the issuance of the Backstop Premium on February 7, 2024 pursuant to the Arrangement;
- the issuance of the Anti-Dilutive Warrants on February 7, 2024 pursuant to the Arrangement;
- the receipt of \$40 million of gross proceeds on February 7, 2024 from the issuance of the Additional 2026 Notes pursuant to the Arrangement and the use in part thereof to pay expenses and repay certain debt;
- the principal payment of \$3.0 million in accordance with the amendment to the Livfree Note pursuant to the closing of the Arrangement; and
- the deferred cash payment of \$10.9 million in accordance with the settlement of certain contingent consideration on February 7, 2024 pursuant to the closing of the Arrangement.

The applicable Prospectus Supplement will describe any material change, and the effect of such material change, on the share and loan capitalization of the Company that will result from the issuance of Securities pursuant to such Prospectus Supplement.

#### EARNINGS COVERAGE RATIOS

The applicable Prospectus Supplement will provide, if required, the earnings coverage ratios with respect to the issuance of Securities pursuant to such Prospectus Supplement.

#### PLAN OF DISTRIBUTION

We may offer and sell Securities directly to one or more purchasers through agents or through underwriters or dealers designated by us from time to time. We may distribute the Securities from time to time in one or more transactions at fixed prices (which may be changed from time to time), at market prices prevailing at the times of sale, at varying prices determined at the time of sale, at prices related to prevailing market prices or at negotiated prices, including sales in transactions that are an “at-the-market distribution” as defined in NI 44-102, including sales made directly on the CSE or other existing trading markets for the Securities. A description of such pricing will be disclosed in the applicable Prospectus Supplement. We may offer Securities in the same offering, or we may offer Securities in separate offerings. The prices at which Securities may be offered may vary as between purchasers and during the period of distribution of the Securities.

This Prospectus may also, from time to time, relate to the offering of our Securities by certain selling securityholders. The selling securityholders may sell all or a portion of our Securities beneficially owned by them and offered thereby from time to time directly or through one or more underwriters, broker-dealers or agents. Our Securities may be sold by the selling securityholders in one or more transactions at fixed prices (which may be changed from time to time), at market prices prevailing at the time of the sale, at varying prices determined at the time of sale, at prices related to prevailing market prices or at negotiated prices.

A Prospectus Supplement will describe the terms of each specific offering of Securities, including: (i) the terms of the Securities to which the Prospectus Supplement relates, including the type of Security being offered; (ii) the name or names of any agents, underwriters or dealers involved in such offering of Securities; (iii) the name or names of any selling securityholders; (iv) the purchase price of the Securities offered thereby and the proceeds to, and the portion of expenses borne by, the Company from the sale of such Securities; (v) any agents’ commission, underwriting discounts and other items constituting compensation payable to agents, underwriters or dealers; and (vi) any discounts or

concessions allowed or re-allowed or paid to agents, underwriters or dealers. The Securities may be offered and issued in consideration for the acquisition of other businesses, assets or securities by the Company or one of its subsidiaries. The consideration for any such acquisition may consist of the Securities separately, a combination of Securities or any combination of, among other things, Securities, cash and assumption of liabilities.

If underwriters are used in an offering, the Securities offered thereby may be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The obligations of the underwriters to purchase Securities, if applicable, will be subject to the conditions precedent agreed upon by the parties.

The Securities may also be sold (i) directly by the Company or the selling securityholders at such prices and upon such terms as agreed to, or (ii) through agents designated by the Company or the selling securityholders from time to time. Any agent involved in the offering and sale of the Securities in respect of which this Prospectus is delivered will be named, and any commissions payable by the Company and/or selling securityholder to such agent will be set forth, in the Prospectus Supplement. Unless otherwise indicated in the Prospectus Supplement, any agent is acting on a “best efforts” basis for the period of its appointment.

We and/or the selling securityholders may agree to pay the underwriters, broker-dealers or agents a commission for various services relating to the issue and sale of any Securities offered under any Prospectus Supplement. Underwriters, broker-dealers or agents who participate in the distribution of the Securities may be entitled under agreements to be entered into with the Company and/or the selling securityholders to indemnification by the Company and/or the selling securityholders against certain liabilities, including liabilities under securities legislation, or to contribution with respect to payments which such underwriters, dealers or agents may be required to make in respect thereof. Any public offering price and any discounts or concessions allowed or re-allowed or paid to underwriters, broker-dealers or agents may be changed from time to time.

Each class or series of Warrants (other than Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities and Units will be, unless specified in the applicable Prospectus Supplement, a new issue of Securities with no established trading market and, unless otherwise specified in the applicable Prospectus Supplement, none of the Warrants (other than the Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities or Units will be listed on any securities or stock exchange. Unless otherwise specified in the applicable Prospectus Supplement, there is no market through which the Warrants (other than the Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities or Units (other than constituent Restricted Shares and/or Anti-Dilutive Warrants) may be sold and purchasers may not be able to resell Warrants (other than Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities or Units (other than constituent Restricted Shares and/or Anti-Dilutive Warrants) purchased under this Prospectus or any Prospectus Supplement. This may affect the pricing of the Warrants (other than the Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities or Units in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation. Subject to applicable laws, certain dealers may make a market in the Warrants, Subscription Receipts, Debt Securities, Convertible Securities or Units, as applicable, but will not be obligated to do so and may discontinue any market making at any time without notice. No assurance can be given that any dealer will make a market in the Warrants, Subscription Receipts, Debt Securities, Convertible Securities or Units or as to the liquidity of the trading market, if any, for the Warrants, Subscription Receipts, Debt Securities, Convertible Securities or Units.

In connection with any offering of Securities, unless otherwise specified in a Prospectus Supplement or pursuant to an “at-the-market distribution”, underwriters, broker-dealers or agents may over-allot or effect transactions which stabilize, maintain or otherwise affect the market price of Securities offered at levels other than those which might otherwise prevail on the open market; provided that no underwriter or dealer involved in an at-the-market distribution, no affiliate of thereof and no person or company and jointly or in concert with such underwriters, broker-dealers or agents has over-allotted, or will over-allot, securities in connection with an at-the-market distribution or effect any other transactions intended to stabilize or maintain the market price of the Securities. Such transactions may be commenced, interrupted or discontinued at any time. A purchaser who acquires Securities forming part of the underwriters’, dealers’ or agents’ over-allocation position acquires those Securities under this Prospectus and the Prospectus Supplement relating to the particular offering of Securities, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases. No underwriter, dealer or agent involved in an “at-the-market distribution”, no affiliate of such an underwriter, dealer or agent and no person or company acting jointly or in concert with such an underwriter, dealer or agent may over-allot Securities in connection with the distribution or may effect any other transactions that are intended to stabilize or maintain the market price of the Securities in connection with an “at-the-market distribution”.

Unless stated to the contrary in any Prospectus Supplement, the Securities have not been and will not be registered under the United States Securities Act of 1933, as amended (the “1933 Act”) or any State securities laws and may not be offered, sold or delivered within the United States or to U.S. persons within the meaning of Regulation S under the 1933 Act, except in certain transactions that are exempt from the registration requirements of the 1933 Act. In addition, until 40 days after the commencement of an offering of Securities, an offer or sale of the Securities within the United States or to U.S. persons by any dealer, whether or not participating in the offering, may violate the registration requirements of the 1933 Act if such offer or sale is made otherwise than in accordance with an exemption from the registration requirements of the 1933 Act.

#### **PRIOR SALES**

Information in respect of prior sales of Restricted Shares or other Securities distributed under this Prospectus and for securities that are convertible, exercisable or exchangeable into Restricted Shares or such other Securities within the previous 12-month period will be provided, as required, in a Prospectus Supplement with respect to the issuance of Restricted Shares or other Securities pursuant to such Prospectus Supplement.

#### **TRADING PRICE AND VOLUME**

The Restricted Shares and Anti-Dilutive Warrants are currently listed on the CSE under the trading symbols “AYR.A” and “AYR.WT.U”, respectively. The Restricted Shares are quoted on the OTCQX under the symbol “AYRWF”. Trading prices and volumes in respect of the Restricted Shares and Anti-Dilutive Warrants will be provided, as required, in each Prospectus Supplement.

#### **DIVIDENDS**

The Company has no dividend record and does not currently anticipate paying any dividends in the foreseeable future. Dividends paid by the Company would be subject to tax and, potentially, withholdings.

#### **TAX CONSIDERATIONS**

Owning any of the Securities may subject holders to tax consequences. The applicable Prospectus Supplement may describe certain Canadian federal income tax considerations generally applicable to an investor acquiring, owning and disposing of any of the Securities offered thereunder, including, in the case of an investor who is not a resident of Canada, Canadian non-resident withholding tax considerations. The applicable Prospectus Supplement may describe certain United States federal income tax considerations generally applicable to investors described therein of the acquisition, ownership and disposition of any Securities offered thereunder by an investor who is a U.S. person (within

the meaning of the United States *Internal Revenue Code of 1986*, as amended). Prospective investors should consult their own tax advisors prior to deciding to purchase any of the Securities.

## RISK FACTORS

Before making an investment decision, prospective purchasers of Securities should carefully consider the information described in this Prospectus and the documents incorporated by reference herein, including the AIF and any applicable Prospectus Supplement. Additional risk factors relating to a specific offering of Securities may be described in the applicable Prospectus Supplement. Some of the risk factors described herein and in the documents incorporated by reference herein, including the applicable Prospectus Supplement, are interrelated and, consequently, investors should treat such risk factors as a whole. If any event arising from these risks occurs, our business, prospects, financial condition, results of operations and cash flows, and your investment in the Securities could be materially adversely affected. Additional risks and uncertainties of which we currently are unaware or that are unknown or that we currently deem to be immaterial could have a material adverse effect on our business, financial condition and results of operation. We cannot assure you that we will successfully address any or all of these risks.

In addition to the risk factors described elsewhere herein and in the documents incorporated by reference herein, prospective investors should carefully consider the risks below together with the other information provided elsewhere in this Prospectus and the applicable Prospectus Supplement. Prospective investors should consult with their professional advisors to assess any investment in the Company.

### ***Return on Securities is not guaranteed***

There is no guarantee that the Securities will earn any positive return in the short-term or long-term. A holding of Securities is speculative and involves a high degree of risk and should be undertaken only by holders whose financial resources are sufficient to enable them to assume such risks and who have no need for immediate liquidity in their investment. A holding of Securities is appropriate only for holders who have the capacity to absorb a loss of some or all of their holdings.

### ***Discretion in the use of proceeds***

Management of the Company will have broad discretion with respect to the timing and application of net proceeds received by the Company from the sale of Securities under this Prospectus or a future Prospectus Supplement and may spend such proceeds in ways that do not improve the Company's results of operations or enhance the value of the Restricted Shares or its other securities issued and outstanding from time to time. As a result, purchasers will be relying on the ongoing judgment of management as determined from time to time for the application of the proceeds of any such offering. The results and the effectiveness of the application of the net proceeds are uncertain. Any failure by management to apply these funds effectively could result in financial losses that could have a material adverse effect on the Company's business or cause the price of the securities of the Company issued and outstanding from time to time to decline. The Company will not receive any proceeds from any sale of any Securities by selling securityholders in a secondary offering.

### ***Dilution***

The offering price of Restricted Shares or other Securities that are convertible, exercisable or exchangeable into Restricted Shares may significantly exceed the net tangible book value per share of the Restricted Shares. Accordingly, a purchaser of Restricted Shares or other Securities that are convertible, exercisable or exchangeable into Restricted Shares may incur immediate and substantial dilution of his, her or its investment. If outstanding options and warrants to purchase Restricted Shares are exercised or securities convertible into Restricted Shares are converted, additional dilution will occur. The Company may sell additional Restricted Shares or other securities that are convertible, exercisable or exchangeable into Restricted Shares in subsequent offerings or may issue additional Restricted Shares or other securities to finance future acquisitions. The Company cannot predict the size or nature of future sales or issuances of securities or the effect, if any, that such future sales and issuances will have on the market price of the Restricted Shares. Sales or issuances of substantial numbers of Restricted Shares or other securities that are convertible, exercisable or exchangeable into Restricted Shares, or the perception that such sales or issuances could occur, may adversely affect prevailing market prices of the Restricted Shares. With any additional sale or issuance of Restricted Shares or other securities that are convertible, exercisable or exchangeable into Restricted Shares, investors will suffer dilution to their voting power and economic interest in the Company. Furthermore, to the extent holders of the Company's stock options or other convertible securities convert or exercise their securities and sell the Restricted Shares they receive, the trading price of the Restricted Shares on the CSE and OTCQX may decrease due to the additional amount of Restricted Shares available in the market. In addition, earn-out rights that are payable in Exchangeable Shares or Restricted Shares may also lead to material dilution, see "*Description of Securities*".

### ***Leverage***

AYR utilizes leverage in connection with AYR's investments in the form of secured or unsecured indebtedness (including the 2026 Notes). Although AYR seeks to use leverage in a manner it believes is prudent, such leverage increases the exposure of an investment to adverse economic factors such as downturns in the economy or deterioration in the condition of the investment. If AYR defaults on secured indebtedness (including the 2026 Notes), the lender may foreclose and AYR could lose its entire investment in the security for such loan. If AYR defaults on unsecured indebtedness, the terms of the loan may require AYR to repay the principal amount of the loan and any interest accrued thereon in addition to heavy penalties that may be imposed. Because AYR may engage in financings where several investments are cross-collateralized, multiple investments may be subject to the risk of loss. As a result, AYR could lose its interest in performing investments in the event such investments are cross-collateralized with poorly performing or non-performing investments. In addition to leveraging AYR's investments, AYR may borrow funds in its own name for various purposes, and may withhold or apply from distributions amounts necessary to repay such borrowings. The interest expense and such other costs incurred in connection with such borrowings may not be recovered by income from investments purchased by AYR. If investments fail to cover the cost of such borrowings, the value of the investments held by AYR would decrease faster than if there had been no such borrowings. Additionally, if the investments fail to perform to expectation, the interests of investors in AYR could be subordinated to such leverage, which will compound any such adverse consequences.

### ***Liquidity***

There is currently no market through which the Securities, other than the Restricted Shares and the Anti-Dilutive Warrants, may be sold and, unless otherwise specified in the applicable Prospectus Supplement, none of the Warrants (other than the Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities or Units (other than in respect of constituent Restricted Shares and/or Anti-Dilutive Warrants) will be listed on any securities or stock exchange or any automated dealer quotation system. As a consequence, purchasers may not be able to resell Warrants (other than Anti-Dilutive Warrants), Subscription Receipts, Debt Securities, Convertible Securities or Units purchased under this Prospectus or any Prospectus Supplement. This may affect the pricing of the Securities, other than the Restricted Shares and the Anti-Dilutive Warrants, in the secondary market, the transparency and availability of trading prices, the liquidity of these securities and the extent of issuer regulation. There can be no assurance that an active trading market for the Securities, other than the Restricted Shares and the Anti-Dilutive Warrants, will develop or, if developed, that any such market, including for the Restricted Shares and the Anti-Dilutive Warrants, will be sustained.

As reflected in the audited consolidated financial statements of the Company for the year ended December 31, 2023 and related management's discussion and analysis, the Company had consolidated negative working capital of \$6,058,000 as of December 31, 2023 and has incurred net losses from continuing operations for years ended December 31, 2023 and December 31, 2022. The Company's approach to managing its liquidity risk is to seek to ensure that it will have sufficient liquidity to meet its liabilities as they come due. The Company's short-term liquidity requirements consist primarily of funds necessary to maintain operations, repay borrowings and other general business needs. The Company plans to use existing funds, as well as funds from the future sale of products, to fund short-term working capital needs for at least the next 12 months.



In addition, the Company continues to take actions designed to improve the Company's operations and cash position, including but not limited to: (i) targeting continued growth of sales from our consolidated operations; (ii) continued cost-savings and efficiency optimization efforts; (iii) utilizing the future proceeds from an employee retention credit up to \$12,354,000; (iv) addressing its debt maturity profile pursuant to the Arrangement and related Vendor Note deferral transactions (see "*Recent Developments – Completion of Previously Announced Debt Restructuring*" and "*– LivFree Amendment*"); (v) managing the timing and amount of certain expenses as well as capital expenditures; and (vi) seeking to take advantage of future potential financing (equity and/or debt) opportunities, including additional gross cash proceeds of \$40,000,000 related to the issuance of the Additional 2026 Notes. The extension related to the Arrangement and the deferral of certain current debts payable are each classified as a non-current liability on the balance sheet as of December 31, 2023. The \$40,000,000 of gross cash proceeds received after year-end are not reflected in the balance sheet as of December 31, 2023. While the contemplated debt restructuring transactions in respect of the Arrangement and the Vendor Notes have been completed, management cannot provide any assurances that the Company will continue to be successful in accomplishing its business plans; if it is not, the Company may be forced to take other steps, including among others decelerating its growth or curtailing certain of its operations pending obtaining additional capital.

### **Taxation**

As the Company operates in the cannabis industry, the Company is subject to the limits of Section 280E of the United States Internal Revenue Code ("Section 280E"), under which the Company is generally only allowed to deduct expenses directly related to the cost of goods sold. The U.S. Internal Revenue Service ("IRS") has applied Section 280E broadly in tax audits against various cannabis businesses in the U.S. that are permitted under applicable state laws, seeking substantial sums in tax liabilities, interest and penalties resulting from underpayment of taxes due to the lack of deductibility of otherwise ordinary business expenses, the deduction of which is prohibited by Section 280E. Therefore, businesses in the state-legal cannabis industry are subject to higher effective tax rates and thus may be less profitable than they would be otherwise. This would change if cannabis were to be rescheduled under Schedule III of the CSA. In addition, certain states, including Illinois, Massachusetts and New Jersey, do not conform to Section 280E and, accordingly, the Company generally deducts all operating expenses on its income tax returns in these states.

### **AYR may be subject to restricted access to banking services in the United States and Canada**

In February 2014, FinCEN issued guidance through the FinCEN Memorandum (which is not law) with respect to financial institutions providing banking services to cannabis businesses. This guidance includes burdensome due diligence expectations and reporting requirements and does not provide any safe harbors or legal defenses from examination or regulatory or criminal enforcement actions by the U.S. Department of Justice, FinCEN or other federal regulators. Thus, many banks and other financial institutions in the United States choose not to provide banking services to cannabis-related businesses or rely on this guidance, which can be amended or revoked at any time by the sitting presidential administration and/or agency head. In addition to the foregoing, banks may refuse to process debit card payments, and credit card companies generally refuse to process credit card payments for cannabis-related businesses. This has led cannabis businesses to rely on cash transactions with consumers and restricts access to other financial services such as insurance products or financing. Lack of access to financial services increases the cost of doing business. Reliance on large amounts of cash transactions at dispensaries also presents an increased risk of crime such as robbery or burglary. While alternative solutions such as cashless ATMs have emerged to allow cashless transactions at dispensaries, some have noted that they are not popular with consumers. In general, AYR may have limited or no access to banking or other financial services in the United States. The inability, or limitation of AYR's ability, to open and maintain bank accounts, obtain other banking services and/or accept credit card and debit card payments may make it difficult for AYR to operate and conduct its business as planned or to operate efficiently. AYR does not consider this to be a risk at the current time in Nevada.

The United States Congress has on several occasions considered legislation titled the *Secure and Fair Enforcement Banking Act* (the "**Safe Banking Act**"). That legislation would preclude federal regulators from punishing financial services providers for doing business with state-legal cannabis businesses. It would also establish that funds obtained from otherwise state-regulated and compliant businesses are not proceeds of illegal activity, and provide other protections for banks, insurers, and other financial institutions serving state-legal cannabis businesses. Critics of the legislation argue that financial institutions are already banking cannabis businesses, and passage would merely formalize existing relationships without assuaging the concerns of traditional financial institutions or alleviating existing problems. The United States House of Representatives has passed the SAFE Banking Act on several occasions, most recently in 2022. However, the United States Senate has not yet allowed the SAFE Banking Act to proceed to the Senate floor for a vote. While it is expected that the SAFE Banking Act will be introduced again in 2023, its prospects for passage remains unclear. Moreover, the impact of the legislation if passed is also unclear.

Additionally, Canadian banks may potentially refuse to provide banking services to companies engaged in U.S. cannabis activities while it is illegal under U.S. federal law.

While there are increasing numbers of high net worth individuals and family offices that have made meaningful investments in companies and businesses similar to the Company, and although there has been an increase in the amount of private financing available over the last several years, there is neither a broad nor deep pool of institutional capital that is available to cannabis license holders and license applicants. There can be no assurance that additional financing, if raised privately, will be available to AYR when needed or on terms which are acceptable to AYR. AYR's inability to raise financing to fund capital expenditures or acquisitions could limit its growth and may have a material adverse effect upon future profitability.

### **INTERESTS OF EXPERTS**

The following persons or companies are named as having prepared or certified a report, valuation, statement or opinion in this Prospectus, either directly or in a document incorporated herein by reference, and whose profession or business gives authority to the report, valuation, statement or opinion made by the expert.

Marcum LLP is the independent registered public accounting firm of the Company. Marcum LLP has confirmed that it is independent of the Company within the meaning of the Rules of Professional Conduct of the Chartered Professional Accountants of Ontario (registered name of The Institute of Chartered Accountants of Ontario) and within the meaning of the U.S. Public Company Accounting Oversight Board Rule 3520, Auditor Independence.

### **ENFORCEABILITY OF CERTAIN CIVIL LIABILITIES AND AGENT FOR SERVICE OF PROCESS**

The Company is a corporation continued under and governed by the *Business Corporations Act* (British Columbia). The Company has appointed an agent for service of process in the United States, but it may be difficult for investors who reside in the United States to enforce a U.S. court judgment predicated upon the civil liability provisions of U.S. federal securities laws against the Company. There is substantial doubt whether an action could be brought in Canada in the first instance predicated solely upon U.S. federal securities laws.

### **LEGAL MATTERS**

Unless otherwise specified in a Prospectus Supplement relating to any Securities offered, certain legal matters relating to an offering of Securities will be passed upon by Stikeman Elliott LLP on behalf of the Company. As at the date hereof, the partners and associates of Stikeman Elliott LLP, as a group, beneficially own, directly or indirectly, less than 1% of the outstanding Shares.

In addition, certain legal matters in connection with any offering of Securities will be passed upon for any underwriters, dealers or agents by counsel to be designated at the time of the offering by such underwriters, dealers or agents, as the case may be.

#### AUDITORS, REGISTRAR AND TRANSFER AGENT

AYR's auditors are Marcum LLP, having an address at 730 Third Avenue, 11th Floor, New York, NY 10017, United States. Such firm is independent of the Company within the meaning of the Rules of Professional Conduct of the Chartered Professional Accountants of Ontario (registered name of The Institute of Chartered Accountants of Ontario) and within the meaning of the U.S. Public Company Accounting Oversight Board Rule 3520, Auditor Independence.

The transfer agent and registrar of the Company is Odyssey, located at 702, 67 Yonge Street, Toronto, Ontario, Canada M5E 1J8.

#### ENFORCEMENT OF JUDGMENTS AGAINST FOREIGN PERSONS

The Company's directors and officers, namely Jonathan Sandelman, David Goubert, Brad Asher, George DeNardo, Jamie Mendola, Joyce Johnson, Charles Miles, Louis F. Karger, Glenn Isaacson, Michael Warren and Jared Cohen, reside outside of Canada. Each of these persons has appointed 152928 Canada Inc., c/o Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario M5L 1B9, as agent for service of process.

Purchasers are advised that it may not be possible for investors to enforce judgments obtained in Canada against any person that resides outside of Canada, even if the party has appointed an agent for service of process.

## PART II

### INFORMATION NOT REQUIRED TO BE DELIVERED TO OFFEREEES OR PURCHASERS

#### Indemnification of Directors and Officers.

Under the *Business Corporations Act* (British Columbia) (the "BCBCA") the Registrant may indemnify a director or officer, a former director or officer, or an individual who acts or acted as a director or officer of an affiliate of the Registrant, or at the Registrant's request as a director or officer (or in a similar capacity) of another corporation or other legal entity, against all judgments, penalties or fines awarded or imposed in, or amounts paid in settlement of, any legal proceeding or investigative action, whether current, threatened, pending or completed, in which such individual or any of his or her heirs and personal or other legal representatives is or may be joined as a party, or is or may be liable for in respect of a judgment, penalty or fine in, or expenses related to such legal proceeding or investigative action because of serving in such capacity, on condition that (i) the individual acted honestly and in good faith with a view to the best interests of the Registrant or such other corporation or legal entity, and (ii) in the case of such a proceeding or investigative action other than a civil proceeding, the individual had reasonable grounds for believing that his or her conduct was lawful. The Registrant may also indemnify a person described above in respect of all costs, charges and expenses, including legal and other fees, actually and reasonably incurred by such person in respect of such a legal proceeding or investigative action, providing such person complies with (i) and (ii) above. The Registrant may provide indemnification in respect of such costs, charges and expenses after the final disposition of such legal proceeding or investigative action, and may pay such costs, charges and expenses as they are incurred in advance of such final disposition, provided it obtains a written undertaking that such person will repay the amounts advanced if it is ultimately determined that the individual did not comply with (i) and (ii) above. Under the BCBCA, an individual described above is entitled to indemnification from the Registrant in respect of such costs, charges and expenses after the final disposition of such legal proceeding or investigative action as a matter of right if the individual has not been reimbursed for such costs, charges and expenses and is wholly successful in the outcome of such legal proceeding or investigative action, or is substantially successful on the merits thereof, providing such individual complies with (i) and (ii) above. On application of the Registrant or an individual described above, the Supreme Court of British Columbia may order the Registrant to indemnify a person described above in respect of any liability incurred by such person in respect of such a legal proceeding or investigative action, and to pay some or all of the expenses incurred by such individual in respect of such legal proceeding or investigative action.

In accordance with the BCBCA, the Articles of the Registrant provide that the Registrant must indemnify a director, officer, former director or officer of the Registrant, and such person's heirs and legal personal representatives, as set out in the BCBCA, against all judgments, penalties or fines awarded or imposed in, or amounts paid in settlement of, any legal proceeding or investigative action, whether current, threatened or completed, in which such individual or any of his or her heirs and legal personal representatives is or may be joined as a party, or is or may be liable for or in respect of a judgment, penalty or fine in such legal proceeding or investigative action, by reason of that person having been a director or officer of the Registrant. The Articles of the Registrant provide that the Registrant must, after the final disposition of such legal proceeding or investigative action, pay the costs, charges and expenses, including legal and other fees, actually and reasonably incurred by such person in respect of that proceeding.

The Articles of the Registrant also provide that the Registrant must pay, as they are incurred in advance of the final disposition of a legal proceeding or investigative action, the costs, charges and expenses, including legal and other fees relating to such legal proceeding or investigative action, actually and reasonably incurred by such person in respect of a proceeding, but the Registrant must first receive from such person a written undertaking that, if it is ultimately determined that the payment of expenses is prohibited by the BCBCA, such person will repay the amounts advanced.

A policy of directors' and officers' liability insurance is maintained by the Registrant which insures directors and officers for losses as a result of claims against the directors and officers of the Registrant in their capacity as directors and officers and also reimburses the Registrant for payments made pursuant to the indemnity provisions under the Articles of the Registrant and the BCBCA.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling the Registrant pursuant to the foregoing provisions, the Registrant has been informed that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is therefore unenforceable.

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#### Exhibit Description

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| 4.1 | <a href="#"><u>The annual information form of the Registrant dated March 13, 2024 for the year ended December 31, 2023 (incorporated by reference to Exhibit 99.1 of the Registrant's Annual Report on Form 40-F for the year ended December 31, 2023, filed with the Commission on March 13, 2024)</u></a>        |
| 4.2 | <a href="#"><u>The audited consolidated financial statements of the Registrant for the years ended December 31, 2023 and 2022 (incorporated by reference to Exhibit 99.2 of the Registrant's Annual Report on Form 40-F for the year ended December 31, 2023, filed with the Commission on March 13, 2024)</u></a> |

<a href="#">4.3</a>	<a href="#">The management's discussion and analysis of the Registrant for the years ended December 31, 2023 and 2022 (incorporated by reference to Exhibit 99.3 of the Registrant's Annual Report on Form 40-F for the year ended December 31, 2023, filed with the Commission on March 13, 2024)</a>
<a href="#">4.4</a>	<a href="#">The management information circular of the Registrant in respect of the annual general meeting of the Registrant's shareholders held on June 22, 2023, dated May 18, 2023 (incorporated by reference to Exhibit 99.1 of the Registrant's Report on Form 6-K, furnished to the Commission on June 23, 2023)</a>
<a href="#">4.5</a>	<a href="#">The material change report of the Registrant dated November 8, 2023 (incorporated by reference to Exhibit 99.1 of the Registrant's Report on Form 6-K, furnished to the Commission on November 9, 2023)</a>
<a href="#">4.6</a>	<a href="#">The material change report of the Registrant dated February 20, 2024 (incorporated by reference to Exhibit 99.3 of the Registrant's Report on Form 6-K, furnished to the Commission on February 22, 2024)</a>
<a href="#">5.1</a>	<a href="#">Consent of Marcum LLP</a>
<a href="#">6.1</a>	<a href="#">Powers of Attorney (contained in the signature page hereto)</a>
<a href="#">7.1</a>	<a href="#">Form of Indenture</a>
<a href="#">107</a>	<a href="#">Filing Fee Table</a>

### PART III

#### UNDERTAKING AND CONSENT TO SERVICE OF PROCESS

##### Item 1. Undertaking.

The Registrant undertakes to make available, in person or by telephone, representatives to respond to inquiries made by the Commission staff, and to furnish promptly, when requested to do so by the Commission staff, information relating to the securities registered pursuant to this Form F-10 or to transactions in said securities.

##### Item 2. Consent to Service of Process.

- (a) Concurrently with the filing of this Registration Statement, the Registrant is filing with the Commission a written irrevocable consent and power of attorney on Form F-X.
- (b) Any change to the name or address of the Registrant's agent for service shall be communicated promptly to the Commission by amendment to Form F-X referencing the file number of this Registration Statement.

#### SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-10 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, on March 21, 2024.

**AYR WELLNESS INC.**

By: /s/ David Goubert

Name: David Goubert

Title: President and Chief Executive Officer

#### POWERS OF ATTORNEY

Each person whose signature appears below constitutes and appoints David Goubert and Brad Asher and each of them, either of whom may act without the joinder of the other, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this Registration Statement and registration statements filed pursuant to Rule 429 under the Securities Act of 1933, and to file the same, with all exhibits thereto and other documents in connection therewith, with the U.S. Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, each acting alone, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, each acting alone, or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ David Goubert</u> David Goubert	President and Chief Executive Officer	March 21, 2024
<u>/s/ Brad Asher</u> Brad Asher	Chief Financial Officer	March 21, 2024
<u>/s/ Joyce Johnson</u> Joyce Johnson	Director	March 21, 2024
<u>/s/ Charles Miles</u>	Director	March 21, 2024

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Charles Miles

/s/ Louis F. Karger Director  
Louis F. Karger

March 21, 2024

/s/ Glenn Isaacson Director  
Glenn Isaacson

March 21, 2024

/s/ Michael Warren Director  
Michael Warren

March 21, 2024

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**AUTHORIZED REPRESENTATIVE**

Pursuant to the requirements of Section 6(a) of the Securities Act of 1933, the Authorized Representative has duly caused this Registration Statement to be signed on its behalf by the undersigned, solely in its capacity as the duly authorized representative of the Registrant in the United States, on March 21, 2024.

By: /s/ Brad Asher

Name: Brad Asher

Title: Chief Financial Officer

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INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Ayr Wellness Inc. on Form F-10 of our report dated March 13, 2024 with respect to our audits of the consolidated financial statements of Ayr Wellness Inc. as of December 31, 2023 and 2022 and for each of the two years in the period ended December 31, 2023, which report is incorporated by reference to the Annual Report on Form 40-F of Ayr Wellness Inc. for the year ended December 31, 2023. We also consent to the reference to our firm under the heading "Interests of Experts" in the Preliminary Short Form Base Shelf Prospectus, which is part of this Registration Statement.

/s/ Marcum llp

Marcum llp  
New York, NY  
March 21, 2024

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**AYR WELLNESS INC.**  
as Issuer

and

[     ]  
as U.S. Trustee

and

[     ]  
as Canadian Trustee

**Indenture**

Dated as of [     ]

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CROSS-REFERENCE TABLE

TIA Section	Indenture Section
310 (a)	6.08(1)
(b)	6.09
(c)	Not Applicable
311 (a)	6.05
(b)	6.05
(c)	Not Applicable
312 (a)	7.05
(b)	7.03
(c)	7.03
313 (a)	7.04
(b)	7.04
(c)	7.04
(d)	7.05
314 (a)	7.05
(a)(4)	10.04
(b)	Not Applicable
(c)(1)	1.01
(c)(2)	1.01
(d)	Not Applicable
(e)	1.01
(f)	Not Applicable
315 (a)	6.02
(b)	6.01
(c)	6.02
(d)	6.02
(e)	5.15
316 (a)(last sentence)	1.02 ("Outstanding")
(a)(1)(A)	5.12
(a)(1)(B)	5.02, 5.13
(a)(2)	Not Applicable
(b)	5.08
(c)	1.04(e)
317 (a)(1)	5.03
(a)(2)	5.04
(b)	10.03
318 (a)	1.16

Note: This Cross-Reference Table shall not, for any purpose, be deemed to be part of this Indenture.

AYR Wellness Inc., a corporation duly continued and existing under the laws of the Province of Ontario, Canada (herein called the "**Company**"), having its principal office at 2601 South Bayshore Drive, Suite 900, Miami, FL 33133, and \_\_\_\_\_, a \_\_\_\_\_, organized under the laws of \_\_\_\_\_, as U.S. trustee (herein called the "**U.S. Trustee**"), and \_\_\_\_\_, a \_\_\_\_\_, organized under the laws of \_\_\_\_\_, as Canadian trustee (the "**Canadian Trustee**" and, together with the U.S. Trustee, the "**Trustees**").

**RECITALS**

The Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its debentures, notes, bonds or other evidences of indebtedness (herein called the "**Securities**"), which may be convertible into or exchangeable for any securities of any Person (including the Company), to be issued in one or more series as in this Indenture provided.

This Indenture is subject to the provisions of Trust Indenture Legislation that are required to be part of this Indenture and shall, to the extent applicable, be governed by



such provisions.

All things necessary to make this Indenture a valid agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders of the Securities or of series thereof, as follows:

**ARTICLE ONE  
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION**

**SECTION 1.01 Definitions.**

“**Act**,” when used with respect to any Holder, has the meaning specified in Section 1.04.

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Authenticating Agent**” means any Person authorized by the applicable Trustee pursuant to Section 6.12 to act on behalf of such Trustee to authenticate Securities.

“**Base Currency**” has the meaning specified in Section 1.14.

“**Board of Directors**” means the board of directors of the Company or any duly authorized committee thereof.

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“**Board Resolution**” means a copy of a resolution certified by the Corporate Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustees.

“**Business Day**,” when used with respect to any Place of Payment or any other particular location referred to in this Indenture or in the Securities, means, unless otherwise specified with respect to any Securities pursuant to Section 3.01, any day other than Saturday, Sunday or any other day on which commercial banking institutions in that Place of Payment or other location are permitted or required by any applicable law, regulation or executive order to close.

“**calculation period**” has the meaning specified in Section 3.11.

“**Canadian Trustee**” means the Person named as the “Canadian Trustee” in the first paragraph of this Indenture until a successor Canadian Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Canadian Trustee” shall mean or include each Person who is then a Canadian Trustee hereunder; *provided, however*, that if at any time there is more than one such Person, “Canadian Trustee” as used with respect to the Securities of any series shall mean only the Canadian Trustee with respect to Securities of that series.

“**Commission**” means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“**Company**” means the Person named as the “Company” in the first paragraph of this Indenture until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Person.

“**Company Request**” or “**Company Order**” means a written request or order signed in the name of the Company by an Officer and delivered to the Trustees.

“**Component Currency**” has the meaning specified in Section 3.12(h).

“**Conversion Date**” has the meaning specified in Section 3.12(d).

“**Conversion Event**” means the cessation of use of (i) a Foreign Currency (other than the Euro or other Currency unit) both by the government of the country which issued such Currency and by a central bank or other public institution of or within the international banking community for the settlement of transactions, (ii) the Euro or (iii) any currency unit (or composite currency) other than the Euro for the purposes for which it was established.

“**Corporate Trust Office**” means the principal corporate trust office of the U.S. Trustee or the Canadian Trustee, as applicable, at which at any particular time its corporate trust business may be administered, such an office on the date of execution of this Indenture of the U.S. Trustee is located at \_\_\_\_\_, Attention: \_\_\_\_\_, and of the Canadian Trustee is located at \_\_\_\_\_, Attention: \_\_\_\_\_, except that with respect to presentation of Securities for payment or for registration of transfer or exchange, such term shall mean the office or agency of the U.S. Trustee or the Canadian Trustee, as applicable, designated in writing to the Company at which, at any particular time, its corporate agency business shall be conducted.

“**covenant defeasance**” has the meaning specified in Section 14.03.

“**Currency**” means any currency or currencies, composite currency or currency unit or currency units, including, without limitation, the Euro, issued by the government of one or more countries or by any recognized confederation or association of such governments.

“**Default**” means any event which is, or after notice or passage of time or both would be, an Event of Default.

“**Defaulted Interest**” has the meaning specified in Section 3.07.

“**defeasance**” has the meaning specified in Section 14.02.

“**Depository**” means, with respect to the Securities of any series issuable or issued in global form, the Person designated as Depository by the Company pursuant to Section 3.05 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Depository” shall mean or include each Person who is then a Depository hereunder, and, if at any time there is more than one such Person, “Depository” as used with respect to the Securities of any such series shall mean the Depository with respect to the Securities of that series.

“**Dollar**” or “**\$**” means a dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

“**Dollar Equivalent of the Currency Unit**” has the meaning specified in Section 3.12(g).

“**Dollar Equivalent of the Foreign Currency**” has the meaning specified in Section 3.12(f).

“**Election Date**” has the meaning specified in Section 3.12(h).

“**Euro**” means the single currency of the participating member states from time to time of the European Union described in legislation of the European Council for the operation of a single unified European currency (whether known as the Euro or otherwise).

“**Event of Default**” has the meaning specified in Section 5.01.

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

“**Exchange Date**” has the meaning specified in Section 3.04.

“**Exchange Rate Agent**” means, with respect to Securities of or within any series, unless otherwise specified with respect to any Securities pursuant to Section 3.01, a New York clearing house bank, designated pursuant to Section 3.01 or Section 3.13.

“**Exchange Rate Officer’s Certificate**” means a tested telex or a certificate setting forth (i) the applicable Market Exchange Rate and (ii) the Dollar or Foreign Currency amounts of principal, premium (if any) and interest (if any) (on an aggregate basis and on the basis of a Security having the lowest denomination principal amount determined in accordance with Section 3.02 in the relevant Currency), payable with respect to a Security of any series on the basis of such Market Exchange Rate, sent (in the case of a telex) or signed (in the case of a certificate) by the Chief Executive Officer, President or Chief Financial Officer of the Company.

“**Extension Notice**” has the meaning specified in Section 3.08.

“**Extension Period**” has the meaning specified in Section 3.08.

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“**Final Maturity**” has the meaning specified in Section 3.08.

“**First Currency**” has the meaning specified in Section 1.15.

“**Foreign Currency**” means any Currency other than Currency of the United States.

“**GAAP**” means generally accepted accounting principles in Canada in effect from time to time, unless the Person’s most recent audited or quarterly financial statements are not prepared in accordance with generally accepted accounting principles in Canada, in which case “GAAP” shall mean generally accepted accounting principles in the United States in effect from time to time.

“**Government Obligations**” means, unless otherwise specified with respect to any series of Securities pursuant to Section 3.01, securities which are (i) direct obligations of the government which issued the Currency in which the Securities of a particular series are payable or (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the government which issued the Currency in which the Securities of such series are payable, the payment of which is unconditionally guaranteed by such government, which, in either case, are full faith and credit obligations of such government payable in such Currency and are not callable or redeemable at the option of the issuer thereof and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such Government Obligation or a specific payment of interest on or principal of any such Government Obligation held by such custodian for the account of the holder of a depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Obligation or the specific payment of interest or principal of the Government Obligation evidenced by such depository receipt.

“**Holder**” means the Person in whose name a Security is registered in the Security Register.

“**Indenture**” means this instrument as originally executed and as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, and shall include the terms of particular series of Securities established as contemplated by Section 3.01; *provided, however*, that, if at any time more than one Person is acting as Trustee under this instrument, “Indenture” shall mean, with respect to any one or more series of Securities for which such Person is Trustee, this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof and shall include the terms of the particular series of Securities for which such Person is Trustee established as contemplated by Section 3.01, exclusive, however, of any provisions or terms which relate solely to other series of Securities for which such Person is not Trustee, regardless of when such terms or provisions were adopted, and exclusive of any provisions or terms adopted by means of one or more indentures supplemental hereto executed and delivered after such Person had become such Trustee but to which such Person, as such Trustee, was not a party.

“**Indexed Security**” means a Security the terms of which provide that the principal amount thereof payable at Stated Maturity may be more or less than the principal face amount thereof at original issuance.

“**interest**,” when used with respect to an Original Issue Discount Security which by its terms bears interest only after Maturity, means interest payable after Maturity at the rate prescribed in such Original Issue Discount Security.

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“**Interest Payment Date**,” when used with respect to any Security, means the Stated Maturity of an installment of interest on such Security.

“**Judgment Currency**” has the meaning specified in Section 1.14.

“**Lien**” means any mortgage, pledge, hypothecation, charge, assignment, deposit arrangement, encumbrance, security interest, lien (statutory or other), or preference, priority or other security or similar agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any agreement to give or grant a Lien or any lease, conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing).

“**mandatory sinking fund payment**” has the meaning specified in Section 12.01.

“**Market Exchange Rate**” means, unless otherwise specified with respect to any Securities pursuant to Section 3.01, (i) for any conversion involving a Currency unit on the one hand and Dollars or any Foreign Currency on the other, the exchange rate between the relevant Currency unit and Dollars or such Foreign Currency calculated by the method specified pursuant to Section 3.01 for the Securities of the relevant series, (ii) for any conversion of Dollars into any Foreign Currency, the noon (New York City time) buying rate for such Foreign Currency for cable transfers quoted in New York City as certified for customs purposes by the Federal Reserve Bank of New York and (iii) for any conversion of one Foreign Currency into Dollars or another Foreign Currency, the spot rate at noon local time in the relevant market at which, in accordance with normal banking procedures, the Dollars or Foreign Currency into which conversion is being made could be purchased with the Foreign Currency from which conversion is being made from major banks located in New York City, Toronto, London or any other principal market for Dollars or such purchased Foreign Currency, in each case determined by the Exchange Rate Agent. Unless otherwise specified with respect to any Securities pursuant to Section 3.01, in the event of the unavailability of any of the exchange rates provided for in the foregoing clauses (i), (ii) and (iii), the Exchange Rate Agent shall use, in its sole discretion and without liability on its part, such quotation of the Federal Reserve Bank of New York as of the most recent available date, or quotations from one or more major banks in New York City, Toronto, London or another principal market for the Currency in question, or such other quotations as the Exchange Rate Agent shall deem appropriate. Unless otherwise specified by the Exchange Rate Agent, if there is more than one market for dealing in any Currency by reason of foreign exchange regulations or otherwise, the market to be used in respect of such Currency shall be that upon which a non-resident issuer of securities designated in such Currency would purchase such Currency in order to make payments in respect of such securities.

“**Maturity**,” when used with respect to any Security, means the date on which the principal of such Security or an installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, notice of redemption, notice of option to elect repayment or otherwise.

“**Notice of Default**” has the meaning specified in Section 6.01.

“**Officer**” means the Chair of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, the Chief Operating Officer, any Executive Vice President, any Vice President, the Treasurer or the Corporate Secretary of the Company or, in the event that the Company is a partnership or a limited liability company that has no such officers, a person duly authorized under applicable law by the general partner, managers, members or a similar body to act on behalf of the Company.

“**Officer’s Certificate**” means a certificate, which shall comply with this Indenture, signed by an Officer and delivered to the Trustees.

“**Opinion of Counsel**” means a written opinion of counsel, who may be counsel for the Company, including an employee of the Company, who shall be acceptable to the Trustees, which opinion may contain customary exceptions and qualifications as to the matters set forth therein.

“**Optional Reset Date**” has the meaning specified in Section 3.07.

“**optional sinking fund payment**” has the meaning specified in Section 12.01.

“**Original Issue Discount Security**” means any Security which provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02.

“**Original Stated Maturity**” has the meaning specified in Section 3.08.

“**Outstanding**,” when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

- (i) Securities theretofore cancelled by either Trustee or delivered to either Trustee for cancellation;
- (ii) Securities, or portions thereof, for whose payment or redemption or repayment at the option of the Holder, money in the necessary amount has been theretofore deposited with either Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; *provided that*, if such Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustees has been made;
- (iii) Securities, except to the extent provided in Section 14.02 and Section 14.03, with respect to which the Company has effected defeasance and/or covenant defeasance as provided in Article Fourteen; and
- (iv) Securities which have been paid pursuant to Section 3.06 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to the Trustees proof satisfactory to them that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

*provided, however*, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, and for the purpose of making the calculations required by TIA Section 313, (i) the principal amount of an Original Issue Discount Security that may be counted in making such determination or calculation and that shall be deemed to be Outstanding for such purpose shall be equal to the amount of principal thereof that would be (or shall have been declared to be) due and payable, at the time of such determination, upon a declaration of acceleration of the maturity thereof pursuant to Section 5.02, (ii) the principal amount of any Security denominated in a Foreign Currency that may be counted in making such determination or calculation and that shall be deemed Outstanding for such purpose shall be equal to the Dollar equivalent, determined as of the date such Security is originally issued by the Company as set forth in an Exchange Rate Officer’s Certificate delivered to the Trustees, of the principal amount (or, in the case of an Original Issue Discount Security, the Dollar equivalent as of such date of original issuance of the amount determined as provided in clause (i) above) of such Security, (iii) the principal amount of any Indexed Security that may be counted in making such determination or calculation and that shall be deemed outstanding for such purpose shall be equal to the principal face amount of such Indexed Security at original issuance, unless otherwise provided with respect to such Security pursuant to Section 3.01, and (iv) Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustees shall be protected in making such calculation or in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Securities which the Trustees know to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustees the pledgee’s right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or such other obligor.

“**Paying Agent**” means any Person (including the Company acting as Paying Agent) authorized by the Company to pay the principal of, premium (if any) or interest (if any) on any Securities on behalf of the Company. Such Person must be capable of making payment in the Currency of the issued Security.

“**Person**” means any individual, corporation, body corporate, partnership, limited partnership, limited liability partnership, joint venture, limited liability company, unlimited liability company, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“**Place of Payment**” means, when used with respect to the Securities of or within any series, each place where the principal of, premium (if any) and interest (if any) on such Securities are payable as specified as contemplated by Sections 3.01 and 10.02.

“**Predecessor Security**” of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 3.06 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

“**Privacy Laws**” has the meaning specified in Section 6.14.

“**rate(s) of exchange**” has the meaning specified in Section 1.14.

“**Redemption Date**,” when used with respect to any Security to be redeemed, in whole or in part, means the date fixed for such redemption by or pursuant to this Indenture.

“**Redemption Price**,” when used with respect to any Security to be redeemed, in whole or in part, means the price at which it is to be redeemed pursuant to this Indenture, plus accrued and unpaid interest thereon to the Redemption Date.

“**Regular Record Date**” for the interest payable on any Interest Payment Date on the Securities of or within any series means the date specified for that purpose as contemplated by Section 3.01.

“**Repayment Date**” means, when used with respect to any Security to be repaid at the option of the Holder, the date fixed for such repayment pursuant to this Indenture.

“**Reset Notice**” has the meaning specified in Section 3.07.

“**Responsible Officer**,” when used with respect to a Trustee, means any vice president, secretary, any assistant secretary, treasurer, any assistant treasurer, any senior trust officer, any trust officer, the controller within the corporate trust administration division of a Trustee or any other officer of a Trustee customarily performing functions similar to those performed by any of the above-designated officers, and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“**Securities**” has the meaning stated in the first recital of this Indenture and more particularly means any Securities authenticated and delivered under this Indenture; *provided, however*, that if at any time there is more than one Person acting as Trustee under this Indenture, “Securities” with respect to the Indenture as to which such Person is Trustee shall have the meaning stated in the first recital of this Indenture and shall more particularly mean Securities authenticated and delivered under this Indenture, exclusive, however, of Securities of any series as to which such Person is not Trustee.

“**Security Register**” and “**Security Registrar**” have the respective meanings specified in Section 3.05.

“**Special Record Date**” for the payment of any Defaulted Interest on the Securities of or within any series means a date fixed by the Trustees pursuant to Section 3.07.

“**Specified Amount**” has the meaning specified in Section 3.12(h).

“**Stated Maturity**,” when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable, as such date may be extended pursuant to the provisions of Section 3.08 (if applicable).

“**Subsequent Interest Period**” has the meaning specified in Section 3.07.

“**Trust Indenture Act**” or “**TIA**” means the United States Trust Indenture Act of 1939, as amended, as in force at the date as of which this Indenture was executed, except as provided in Section 9.05.

“**Trust Indenture Legislation**” means, at any time, the provisions of (i) any applicable statute of Canada or any province or territory thereof and the regulations thereunder as amended or re-enacted from time to time, but only to the extent applicable, or (iii) the Trust Indenture Act and regulations thereunder, but only to the extent applicable, in each case relating to trust indentures and to the rights, duties and obligations of trustees under trust indentures and of corporations issuing debt obligations under trust indentures, to the extent that such provisions are at such time in force and applicable to this Indenture or the Company or the Trustees.

“**Trustee**” or “**Trustees**” means the U.S. Trustee and the Canadian Trustee. If a Canadian Trustee is not appointed under this Indenture, or resigns or is removed and, pursuant to Section 6.09, the Company is not required to appoint a successor Trustee to the Canadian Trustee, “Trustee,” “Trustees” and any reference to “either Trustee,” “both of the Trustees” or such similar references shall mean the Person named as the U.S. Trustee or any successor thereto appointed pursuant to the applicable provisions of this Indenture. Except to the extent otherwise indicated, “Trustees” shall refer to the Canadian Trustee (if appointed and still serving) and the U.S. Trustee, both jointly and individually.

“U.S. Federal Bankruptcy Code” means the Bankruptcy Act of Title 11 of the United States Code, as amended from time to time.

“U.S. Trustee” means the Person named as the “U.S. Trustee” in the first paragraph of this Indenture until a successor U.S. Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “U.S. Trustee” shall mean or include each Person who is then a U.S. Trustee hereunder; *provided, however*, that if at any time there is more than one such Person, “U.S. Trustee” as used with respect to the Securities of any series shall mean only the U.S. Trustee with respect to Securities of that series.

“United States” means, unless otherwise specified with respect to any Securities pursuant to Section 3.01, the United States of America (including the states and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

“United States person” means, unless otherwise specified with respect to any Securities pursuant to Section 3.01, an individual who is a citizen or resident of the United States, a corporation, partnership (including any entity treated as a corporation or as a partnership for United States federal income tax purposes) or other entity created or organized in or under the laws of the United States, any state thereof or the District of Columbia, an estate the income of which is subject to United States federal income taxation regardless of its source, or a trust if (A) it is subject to the primary supervision of a court within the United States and one or more United States persons have the authority to control all substantial decisions of the trust or (B) it has a valid election in effect under applicable United States Treasury Regulations to be treated as a United States person.

“Valuation Date” has the meaning specified in Section 3.12(c).

“Writing” has the meaning specified in Section 6.13.

“Yield to Maturity” means the yield to maturity, computed at the time of issuance of a Security (or, if applicable, at the most recent redetermination of interest on such Security) and as set forth in such Security in accordance with generally accepted United States bond yield computation principles.

#### **SECTION 1.02 Rules of Construction.**

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (1) the terms defined in this Indenture have the meanings assigned to them herein and include the plural as well as the singular;
- (2) all terms used herein which are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein, and the terms “cash transaction” and “self-liquidating paper,” as used in TIA Section 319, shall have the meanings assigned to them in the rules of the Commission adopted under the Trust Indenture Act;
- (3) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;
- (4) “or” is not exclusive;

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- (5) words implying any gender shall apply to all genders;
- (6) the words Subsection, Section and Article refer to the Subsections, Sections and Articles, respectively, of this Indenture unless otherwise noted; and
- (7) “include,” “includes” or “including” means include, includes or including, in each case, without limitation.

#### **SECTION 1.03 Compliance Certificates and Opinions.**

Upon any application or request by the Company to the Trustees to take any action under any provision of this Indenture, the Company shall furnish to the Trustees an Officer’s Certificate stating that all conditions precedent, if any, provided for in this Indenture (including any covenant compliance with which constitutes a condition precedent) relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

Every certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture (other than pursuant to Section 10.04) shall include:

- (1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether, in the opinion of each such individual, such covenant or condition has been complied with.

#### **SECTION 1.04 Form of Documents Delivered to Trustees.**

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons may certify or give an opinion with respect to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, a certificate of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Any certificate or opinion of an officer of the Company or counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of, or representations by, an accountant or firm of accountants in the employ of the Company, unless such officer or counsel, as the case may be, knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the accounting matters upon which such certificate or opinion may be based are erroneous. Any certificate or opinion of any independent firm of public accountants filed with the Trustees shall contain a statement that such firm is independent.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

#### **SECTION 1.05 Acts of Holders.**

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders of the Outstanding Securities of all series or one or more series, as the case may be, may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agents duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments or record or both are delivered to the Trustees and, where it is hereby expressly required, to the Company. Such instrument or instruments and any such record (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments or so voting at any such meeting. Proof of execution of any such instrument or of a writing appointing any such agent, or of the holding by any Person of a Security, shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustees and the Company, if made in the manner provided in this Section 1.05. The Trustees may make reasonable rules for action by or at a meeting of Holders.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustees deem sufficient.

(c) The ownership of the Securities, including the principal amount and serial numbers, and the date of holding the same, shall be proved by the Security Register.

(d) If the Company shall solicit from the Holders of Securities any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. Notwithstanding Trust Indenture Legislation, including TIA Section 316(c), such record date shall be the record date specified in or pursuant to such Board Resolution, which shall be a date not earlier than the date 30 days prior to the first solicitation of Holders generally in connection therewith and not later than the date such solicitation is completed. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of Outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the Outstanding Securities shall be computed as of such record date; *provided* that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than eleven months after the record date.

(e) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustees or the Company in reliance thereon, whether or not notation of such action is made upon such Security.

#### **SECTION 1.06 Notices, Etc. to Trustees and Company.**

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

- (1) the U.S. Trustee, by the Canadian Trustee, any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the U.S. Trustee at its Corporate Trust Office, Attention: \_\_\_\_\_, or
- (2) the Canadian Trustee, by the U.S. Trustee, any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Canadian Trustee at its Corporate Trust Office, Attention: \_\_\_\_\_, or
- (3) the Company by either Trustee or any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, or sent by overnight courier, to the Company at 2601 South Bayshore Drive, Suite 900, Miami, FL 33133, Attention: Corporate Secretary or such other address and/or officer as the Company may designate on written notice to the Trustees

#### **SECTION 1.07 Notice to Holders; Waiver.**

Where this Indenture provides for notice of any event to Holders of Securities by the Company or the Trustees, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each such Holder affected by such event, at his address as it appears in the Security Register. In any case where notice to Holders of Securities is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders of Securities. Any notice mailed to a Holder in the manner herein prescribed shall be conclusively deemed to have been received by such Holder, whether or not such Holder actually receives such notice.

In case, by reason of the suspension of or irregularities in regular mail service or by reason of any other cause, it shall be impractical to mail notice of any event to Holders of Securities when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustees shall be deemed to be sufficient giving of such notice for every purpose hereunder.

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustees, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**SECTION 1.08 Effect of Headings and Table of Contents.**

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

**SECTION 1.09 Successors and Assigns.**

All covenants and agreements in this Indenture by the Company and the Trustees shall bind their successors and assigns, whether so expressed or not.

**SECTION 1.10 Severability Clause.**

In case any provision in this Indenture or in any Security shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**SECTION 1.11 Benefits of Indenture.**

Nothing in this Indenture or in the Securities, express or implied, shall give to any Person, other than the parties hereto, any Authenticating Agent, any Paying Agent, any Securities Registrar and their successors hereunder and the Holders of Securities, any benefit or any legal or equitable right, remedy or claim under this Indenture. Subject to Section 1.16, at all times in relation to this Indenture and any action to be taken hereunder, the Company and the Trustees each shall observe and comply with Trust Indenture Legislation and the Company, the Trustees and each Holder of a Security shall be entitled to the benefits of Trust Indenture Legislation.

**SECTION 1.12 Governing Law.**

This Indenture and the Securities shall be governed by and construed in accordance with the law of the State of New York, but without giving effect to applicable principles of conflicts of law to the extent that the application of the law of another jurisdiction would be required thereby. Notwithstanding the preceding sentence, the exercise, performance or discharge by the Canadian Trustee of any of its rights, powers, duties or responsibilities hereunder shall be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable thereto. This Indenture is subject to the provisions of Trust Indenture Legislation that are required to be part of this Indenture and shall, to the extent applicable, be governed by such provisions. Each Trustee and the Company agrees to comply with all provisions of Trust Indenture Legislation applicable to or binding upon it in connection with this Indenture and any action to be taken hereunder.

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**SECTION 1.13 Legal Holidays.**

In any case where any Interest Payment Date, Redemption Date, sinking fund payment date or Stated Maturity or Maturity of any Security shall not be a Business Day at any Place of Payment or other location contemplated hereunder, then (notwithstanding any other provision of this Indenture or of any Security other than a provision in the Securities of any series which specifically states that such provision shall apply in lieu of this Section 1.13), payment of principal, premium (if any) or interest (if any), need not be made at such Place of Payment or other location contemplated hereunder on such date, but may be made on the next succeeding Business Day at such Place of Payment or other location contemplated hereunder with the same force and effect as if made on the Interest Payment Date or Redemption Date or sinking fund payment date, or at the Stated Maturity or Maturity; *provided* that no interest shall accrue for the period from and after such Interest Payment Date, Redemption Date, sinking fund payment date, Stated Maturity or Maturity, as the case may be.

**SECTION 1.14 Agent for Service; Submission to Jurisdiction; Waiver of Immunities.**

By the execution and delivery of this Indenture, the Company (i) acknowledges that it has irrevocably designated and appointed \_\_\_\_\_ as its authorized agent upon which process may be served in any suit, action or proceeding arising out of or relating to the Securities or this Indenture that may be instituted in any United States federal or New York state court located in The Borough of Manhattan, The City of New York, or brought by the Trustees (whether in their individual capacity or in their capacity as Trustees hereunder), (ii) irrevocably submits to the non-exclusive jurisdiction of any such court in any such suit or proceeding, and (iii) agrees that service of process upon \_\_\_\_\_ and written notice of said service to the Company (mailed or delivered to the Company at 2601 South Bayshore Drive, Suite 900, Miami, FL 33133, Attention: Corporate Secretary or such other address and/or officer as the Company may designate on written notice to the Trustees), shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company further agrees to take any and all action, including the execution and filing of any and all such documents and instruments, as may be necessary to continue such designation and appointment of \_\_\_\_\_ in full force and effect so long as this Indenture shall be in full force and effect.

To the extent that the Company has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, the Company hereby irrevocably waives such immunity in respect of its obligations under this Indenture and the Securities, to the extent permitted by law.

The Company irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such action, suit or proceeding in any such court or any appellate court with respect thereto. The Company irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such action, suit or proceeding in any such court.

**SECTION 1.15 Conversion of Judgment Currency.**

(a) The Company covenants and agrees that the following provisions shall apply to conversion of Currency in the case of the Securities and this Indenture, to the fullest extent permitted by applicable law:

(i) If for the purposes of obtaining judgment in, or enforcing the judgment of, any court in any country, it becomes necessary to convert into a Currency (the "**Judgment Currency**") an amount due or contingently due in any other Currency under the Securities of any series and this Indenture (the "**Base Currency**"), then the conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which the final judgment is given or the order of enforcement is made, as the case may be (unless a court shall otherwise determine).

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(ii) If there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment referred to in (i) above is given or an order of enforcement is made, as the case may be (or such other date as a court shall determine), and the date of receipt of the amount due, the Company shall pay such additional (or, as the case may be, such lesser) amount, if any, as may be necessary so that the amount paid in the Judgment Currency when converted at the rate of exchange prevailing on the date of receipt will produce the amount in the Base Currency originally due.

(b) In the event of the winding-up of the Company at any time while any amount or damages owing under the Securities and this Indenture, or any judgment or order rendered in respect thereof, shall remain outstanding, the Company shall indemnify and hold the Holders and the Trustees harmless against any deficiency arising or resulting from any variation in rates of exchange between (1) the date as of which the equivalent of the amount in the Base Currency due or contingently due under the Securities and this Indenture (other than under this Subsection (b)) is calculated for the purposes of such winding-up and (2) the final date for the filing of proofs of claim in such winding-up. For the purpose of this Subsection (b) the final date for the filing of proofs of claim in the winding-up of the Company shall be the date fixed by the liquidator or otherwise in accordance with the relevant provisions of applicable law as being the latest practicable date as at which liabilities of the Company may be ascertained for such winding-up prior to payment by the liquidator or otherwise in respect thereto.

(c) The obligations contained in Subsections (a)(ii) and (b) of this Section 1.15 shall constitute separate and independent obligations of the Company from its other obligations under the Securities and this Indenture, shall give rise to separate and independent causes of action against the Company, shall apply irrespective of any waiver or extension granted by any Holder or the Trustees from time to time and shall continue in full force and effect notwithstanding any judgment or order or the filing of any proof of claim in the winding up of the Company for a liquidated sum in respect of amounts due hereunder (other than under Subsection (b) above) or under any such judgment or order. Any such deficiency as aforesaid shall be deemed to constitute a loss suffered by the Holders or the Trustees, as the case may be, and no proof or evidence of any actual loss shall be required by the Company or its liquidator. In the case of Subsection (b) above, the amount of such deficiency shall not be deemed to be increased or reduced by any variation in rates of exchange occurring between the said final date and the date of any liquidating distribution.

The term “**rate(s) of exchange**” shall mean the rate of exchange quoted by a Canadian chartered bank as may be designated in writing by the Company to the Trustees from time to time, at its central foreign exchange desk in its main office in Toronto at 12:00 noon (Toronto time) on the relevant date for purchases of the Base Currency with the Judgment Currency and includes any premiums and costs of exchange payable. The Trustees shall have no duty or liability with respect to monitoring or enforcing this Section 1.15.

#### **SECTION 1.16 Currency Equivalent.**

Except as otherwise provided in this Indenture, for purposes of the construction of the terms of this Indenture or of the Securities, in the event that any amount is stated herein in the Currency of one nation (the “**First Currency**”), as of any date such amount shall also be deemed to represent the amount in the Currency of any other relevant nation which is required to purchase such amount in the First Currency at the Bank of Canada daily average exchange rate as reported by Telerate on screen 3194 (or such other means of reporting the Bank of Canada daily average exchange rate as may be agreed upon by each of the parties to this Indenture) on the date of determination.

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#### **SECTION 1.17 Conflict with Trust Indenture Legislation.**

If and to the extent that any provision of this Indenture limits, qualifies or conflicts with any mandatory requirement of Trust Indenture Legislation, such mandatory requirement shall control. If and to the extent that any provision hereof modifies or excludes any provision of Trust Indenture Legislation that may be so modified or excluded, the latter provision shall be deemed to apply hereof as so modified or to be excluded, as the case may be.

#### **SECTION 1.18 Incorporators, Shareholders, Officers and Directors of the Company Exempt from Individual Liability.**

No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such, or against any past, present or future shareholder, officer or director, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the Holders and as part of the consideration for the issue of the Securities.

#### **SECTION 1.19 Waiver of Jury Trial.**

Each of the Company and the Trustees hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Indenture, the Securities or the transactions contemplated hereby.

#### **SECTION 1.20 Counterparts.**

This Indenture may be executed in any number of counterparts (either by facsimile or by original manual signature), each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Indenture.

#### **SECTION 1.21 Force Majeure.**

Except for the payment obligations of the Company contained herein, neither the Company nor the Trustees shall be liable to each other, or held in breach of this Indenture, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Indenture shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 1.21.

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### **ARTICLE TWO SECURITIES FORMS**

#### **SECTION 2.01 Forms Generally.**



The Securities of each series shall be in substantially the forms as shall be established by or pursuant to a Board Resolution or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the Officer executing such Securities, as evidenced by the execution of such Securities by such Officer. If the forms of Securities of any series are established by action taken pursuant to a Board Resolution, a copy of an appropriate record of such action shall be certified by the Corporate Secretary or an Assistant Secretary of the Company and delivered to the Trustees at or prior to the delivery of the Company Order contemplated by Section 3.03 for the authentication and delivery of such Securities. Any portion of the text of any Security may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Security.

Either Trustee's certificate of authentication shall be in substantially the form set forth in this Article Two.

**SECTION 2.02 Form of Trustee's Certificate of Authentication.**

Subject to Section 6.12, either Trustee's certificate of authentication shall be in substantially the following form:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

(Certificate of Authentication may be executed by either Trustee)

Dated: \_\_\_\_\_

\_\_\_\_\_, as U.S. Trustee, certifies that this is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

\_\_\_\_\_  
as U.S. Trustee

By: \_\_\_\_\_  
Authorized Officer

OR

Dated: \_\_\_\_\_

\_\_\_\_\_, as Canadian Trustee, certifies that this is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

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\_\_\_\_\_  
as Canadian Trustee

By: \_\_\_\_\_  
Authorized Officer

**SECTION 2.03 Securities Issuable in Global Form.**

If Securities of or within a series are issuable in global form, as specified and contemplated by Section 3.01, then any such Security shall represent such of the Outstanding Securities of such series as shall be specified therein and may provide that it shall represent the aggregate amount of Outstanding Securities of such series from time to time endorsed thereon and that the aggregate amount of Outstanding Securities of such series represented thereby may from time to time be increased or decreased to reflect exchanges. Any endorsement of a Security in global form to reflect the amount, or any increase or decrease in the amount, of Outstanding Securities represented thereby shall be made by the Trustees in such manner and upon instructions given by the Holder or its nominee as shall be specified therein or in the Company Order to be delivered to the Trustees pursuant to Section 3.03 or 3.04. Subject to the provisions of Sections 3.03 and 3.04 (if applicable), the Trustees shall deliver and redeliver any Security in global form in the manner and upon instructions given by the Holder or its nominee as shall be specified therein or in the applicable Company Order. If a Company Order pursuant to Section 3.03 or Section 3.04 has been, or simultaneously is, delivered, any instructions by the Company with respect to endorsement or delivery or redelivery of a Security in global form shall be in writing but need not comply with Section 1.03 and need not be accompanied by an Opinion of Counsel.

Notwithstanding the provisions of Section 3.07, unless otherwise specified as contemplated by Section 3.01, payment of principal of, premium (if any) and interest (if any) on any Security in permanent global form shall be made to the Holder or its nominee specified therein.

Notwithstanding Section 3.09 and except as provided in the preceding paragraph, the Company, the Trustees and any agent of the Company and the Trustees shall treat as the Holder of such principal amount of Outstanding Securities represented by a permanent global Security, the Holder of such permanent global Security.

**ARTICLE THREE  
THE SECURITIES**

**SECTION 3.01 Issuable in Series.**

The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series and may be denominated and payable in Dollars or any Foreign Currency. There shall be established in one or more Board Resolutions or pursuant to authority granted by one or more Board Resolutions and set forth in, or determined in the manner provided in, an Officer's Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series, any or all of the following, as applicable:

- (1) the title of the Securities of the series (which shall distinguish the Securities of such series from the Securities of all other series);

- (2) the aggregate principal amount of the Securities of the series and any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer (including any restriction or condition on the transferability of the Securities of such series) of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 3.04, 3.05, 3.06, 9.06, 11.07 or 13.05) and, in the event that no limit upon the aggregate principal amount of the Securities of that series is specified, the Company shall have the right, subject to any terms, conditions or other provisions specified pursuant to this Section 3.01 with respect to the Securities of such series, to re-open such series for the issuance of additional Securities of such series from time to time;
- (3) the extent and manner, if any, to which payment on or in respect of the Securities of the series will be senior or will be subordinated to the prior payment of other liabilities and obligations of the Company, and whether the payment of principal, premium (if any) and interest (if any) will be guaranteed by any other Person;
- (4) the percentage or percentages of principal amount at which the Securities of the series will be issued;
- (5) the date or dates, or the method by which such date or dates will be determined or extended, on which the Securities of the series may be issued and the date or dates, or the method by which such date or dates will be determined or extended, on which the principal of and premium (if any) on the Securities of the series is payable;
- (6) the rate or rates at which the Securities of the series shall bear interest, whether fixed or variable (if any), or the method by which such rate or rates shall be determined, whether such interest shall be payable in cash or additional Securities of the same series or shall accrue and increase the aggregate principal amount outstanding of such series, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the Interest Payment Dates on which such interest shall be payable and the Regular Record Date, if any, for the interest payable on any Security on any Interest Payment Date, or the method by which such date or dates shall be determined, and the basis upon which interest shall be calculated if other than on the basis of a 360-day year of twelve 30-day months;
- (7) the place or places, if any, other than or in addition to the Borough of Manhattan, The City of New York, where the principal of, premium (if any) and interest (if any) on Securities of the series shall be payable, where any Securities of the series may be surrendered for registration of transfer, where Securities of the series may be surrendered for exchange, where Securities of the series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable and, if different than the location specified in Section 1.06, the place or places where notices or demands to or upon the Company in respect of the Securities of the series and this Indenture may be served;
- (8) the period or periods within which, the date or dates on which, the price or prices at which, the Currency in which, and other terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option;
- (9) the obligation, if any, of the Company to redeem, repay or purchase Securities of the series pursuant to any sinking fund, amortization or analogous provisions or at the option of a Holder thereof, and the period or periods within which, the price or prices at which, the Currency in which, and other terms and conditions upon which Securities of the series shall be redeemed, repaid or purchased, in whole or in part, pursuant to such obligation;

- (10) if other than denominations of \$1,000 and any integral multiple thereof, the denomination or denominations in which any Securities of the series shall be issuable;
- (11) the identity of each Security Registrar and/or Paying Agent;
- (12) if other than the principal amount thereof, the portion of the principal amount of Securities of the series that shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 5.02 or the method by which such portion shall be determined;
- (13) if other than Dollars, the Foreign Currency in which payment of the principal of, premium (if any) or interest (if any) on the Securities of the series shall be payable or in which the Securities of the series shall be denominated and the particular provisions applicable thereto in accordance with, in addition to or in lieu of any of the provisions of Section 3.12;
- (14) whether the amount of payments of principal of, premium (if any) or interest (if any) on the Securities of the series may be determined with reference to an index, formula or other method (which index, formula or method may be based, without limitation, on one or more Currencies, commodities, equity indices or other indices), and the manner in which such amounts shall be determined;
- (15) whether the principal of, premium (if any) or interest (if any) on the Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a Currency other than that in which such Securities are denominated or stated to be payable, the period or periods within which (including the Election Date), and the terms and conditions upon which, such election may be made, and the time and manner of determining the exchange rate between the Currency in which such Securities are denominated or stated to be payable and the Currency in which such Securities are to be so payable, in each case in accordance with, in addition to or in lieu of any of the provisions of Section 3.12;
- (16) the designation of the initial Exchange Rate Agent, if any;
- (17) the applicability, if any, of Sections 14.02 and/or 14.03 to the Securities of the series and any provisions in modification of, in addition to or in lieu of any of the provisions of Article Fourteen that shall be applicable to the Securities of the series;
- (18) provisions, if any, granting special rights to the Holders of Securities of the series upon the occurrence of such events as may be specified;
- (19) any deletions from, modifications of or additions to the Events of Default or covenants (including any deletions from, modifications of or additions to Section 10.09) of the Company with respect to Securities of the series, whether or not such Events of Default or covenants are consistent with the Events of Default or covenants set forth herein;

- (20) any restrictions applicable to the offer, sale or delivery of Securities of the series, whether any Securities of the series are to be issuable initially in temporary global form and whether any Securities of the series are to be issuable in permanent global form and, if so, whether beneficial owners of interests in any such permanent global Security may exchange such interests for Securities of such series and of like tenor of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in Section 3.05, and the circumstances under which and the place or places where any such exchanges may be made and, if Securities of the series are to be issuable in global form, the designation of any Depository therefor;
- (21) the date as of which any temporary global Security of the series shall be dated if other than the date of original issuance of the first Security of the series to be issued;
- (22) the Person to whom any interest on any Security of the series shall be payable, if other than the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, and the extent to which, or the manner in which, any interest payable on a temporary global Security on an Interest Payment Date will be paid if other than in the manner provided in Section 3.04;
- (23) if Securities of the series are to be issuable in definitive form (whether upon original issue or upon exchange of a temporary Security of such series) only upon receipt of certain certificates or other documents or satisfaction of other conditions, the form and/or terms of such certificates, documents or conditions;
- (24) if the Securities of the series are to be issued upon the exercise of warrants or subscription receipts, the time, manner and place for such Securities to be authenticated and delivered;
- (25) if the Securities of the series are to be convertible into or exchangeable for any securities or property of any Person (including the Company), the terms and conditions upon which such Securities will be so convertible or exchangeable, and any additions or changes to permit or facilitate such conversion or exchange;
- (26) provisions as to modification, amendment or variation of any rights or terms attaching to the Securities;
- (27) whether the Securities will be secured or unsecured and the nature and priority of any security; and
- (28) any other terms, conditions, rights and preferences (or limitations on such rights and preferences) relating to the series (which terms shall not be inconsistent with the requirements of Trust Indenture Legislation or the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to such Board Resolution (subject to Section 3.03) and set forth in such Officer's Certificate or in any such indenture supplemental hereto. Not all Securities of any one series need be issued at the same time, and, unless otherwise provided, a series may be reopened for issuances of additional Securities of such series.

If any of the terms of the series are established by action taken pursuant to one or more Board Resolutions, such Board Resolutions shall be delivered to the Trustees at or prior to the delivery of the Officer's Certificate setting forth the terms of the series.

**SECTION 3.02 Denominations.**

The Securities of each series shall be issuable in such denominations as shall be specified as contemplated by Section 3.01. With respect to Securities of any series denominated in Dollars, in the absence of any such provisions, the Securities of such series, other than Securities issued in global form (which may be of any denomination), shall be issuable in denominations of \$1,000 and any integral multiple thereof.

**SECTION 3.03 Execution, Authentication, Delivery and Dating.**

The Securities shall be executed on behalf of the Company by an Officer. The signature of an Officer on the Securities may be the manual or facsimile signatures of the present or any future such authorized officer and may be imprinted or otherwise reproduced on the Securities.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series, executed by the Company to the applicable Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities, and the applicable Trustee in accordance with such Company Order shall authenticate and deliver such Securities. If not all the Securities of any series are to be issued at one time and if the Board Resolution or supplemental indenture establishing such series shall so permit, such Company Order may set forth procedures acceptable to the Trustees for the issuance of such Securities and determining terms of particular Securities of such series such as interest rate, Stated Maturity, date of issuance and date from which interest shall accrue.

In authenticating such Securities, and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustees shall be entitled to receive, and (subject to Trust Indenture Legislation, including TIA Sections 315(a) through 315(d)) shall be fully protected in relying upon, an Opinion of Counsel stating:

- (a) that the form or forms of such Securities have been established in conformity with the provisions of this Indenture;
- (b) that the terms of such Securities have been established in conformity with the provisions of this Indenture;
- (c) that such Securities, when completed by appropriate insertions and executed and delivered by the Company to the applicable Trustee for authentication in accordance with this Indenture, authenticated and delivered by the applicable Trustee in accordance with this Indenture and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute the legal, valid and binding obligations of the Company, enforceable in accordance with their terms;

- (d) the execution and delivery by the Company of such Securities and any supplemental indenture will not contravene the articles of incorporation or continuance, or such other constating documents then in effect, if any, or the by-laws of the Company, or violate applicable laws; and
- (e) that the Company has the corporate power to issue such Securities, and has duly taken all necessary corporate action with respect to such issuance.

Notwithstanding the provisions of Section 3.01 and of the preceding two paragraphs, if not all the Securities of any series are to be issued at one time, it shall not be necessary to deliver the Officer's Certificate otherwise required pursuant to Section 3.01 or the Company Order and Opinion of Counsel otherwise required pursuant to the preceding two paragraphs prior to or at the time of issuance of each Security, if such documents are delivered prior to or at the time of issuance of the first Security of such series and with respect to all Securities of such series.

The Trustees shall not be required to authenticate and deliver any such Securities if the issue of such Securities pursuant to this Indenture will affect the Trustees' own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner which is not reasonably acceptable to the Trustees.

Each Security shall be dated the date of its authentication.

No Security shall entitle a Holder to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the applicable Trustee by manual signature of an authorized officer thereof, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustees for cancellation as provided in Section 3.10 together with a written statement (which need not comply with Section 1.03 and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never entitle a Holder to the benefits of this Indenture.

#### **SECTION 3.04 Temporary Securities.**

Pending the preparation of definitive Securities of any series, the Company may execute, and upon Company Order the applicable Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued, in registered form, and with such appropriate insertions, omissions, substitutions and other variations as the Officer executing such Securities may determine, as conclusively evidenced by their execution of such Securities. Such temporary Securities may be in global form.

Except in the case of temporary Securities in global form (which shall be exchanged in accordance with the provisions of the following paragraphs), if temporary Securities of any series are issued, the Company will cause definitive Securities of that series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of the temporary Securities of such series at the office or agency of the Company in a Place of Payment for that series, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company shall execute and the applicable Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of the same series of authorized denominations and of like tenor and evidencing the same indebtedness. Until so exchanged the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

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If temporary Securities of any series are issued in global form, any such temporary global Security shall, unless otherwise provided therein, be delivered to the office of the Depository for credit to the respective accounts of the beneficial owners of such Securities (or to such other accounts as they may direct).

Without unnecessary delay, but in any event not later than the date specified in, or determined pursuant to the terms of, any such temporary global Security (the "Exchange Date"), the Company shall deliver to the Trustees definitive Securities, in aggregate principal amount equal to the principal amount of such temporary global Security and of like tenor and evidencing the same indebtedness, executed by the Company. On or after the Exchange Date, such temporary global Security shall be surrendered by the Depository to the Trustees, as the Company's agent for such purpose, to be exchanged, in whole or from time to time in part, for definitive Securities without charge and the applicable Trustee shall authenticate and deliver, in exchange for each portion of such temporary global Security, an equal aggregate principal amount of definitive Securities of the same series of authorized denominations and of like tenor and evidencing the same indebtedness as the portion of such temporary global Security to be exchanged. The definitive Securities to be delivered in exchange for any such temporary global Security shall be in registered form or permanent global registered form, or any combination thereof, as specified as contemplated by Section 3.01, and, if any combination thereof is so specified, as requested by the beneficial owner thereof; *provided, however*, that, unless otherwise specified in such temporary global Security, upon such presentation by the Depository, such temporary global Security is accompanied by a certificate dated the Exchange Date or a subsequent date and signed by the Depository as to the portion of such temporary global Security held for its account then to be exchanged and a certificate dated the Exchange Date or a subsequent date, each in the form set forth in Exhibit A-2 to this Indenture (or in such other form as may be established pursuant to Section 3.01).

Unless otherwise specified in such temporary global Security, the interest of a beneficial owner of Securities of a series in a temporary global Security shall be exchanged for definitive Securities of the same series and of like tenor and evidencing the same indebtedness following the Exchange Date when the account holder instructs the Depository to request such exchange on his behalf and delivers to the Depository a certificate in the form set forth in Exhibit A-1 to this Indenture (or in such other form as may be established pursuant to Section 3.01), dated no earlier than 15 days prior to the Exchange Date, copies of which certificate shall be available from the offices of the Depository, the Trustees, any Authenticating Agent appointed for such series of Securities and each Paying Agent. Unless otherwise specified in such temporary global Security, any such exchange shall be made free of charge to the beneficial owners of such temporary global Security, except that a Person receiving definitive Securities must bear the cost of insurance, postage, transportation and the like in the event that such Person does not take delivery of such definitive Securities in person at the offices of the Depository.

Until exchanged in full as hereinabove provided, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of the same series and of like tenor and evidencing the same indebtedness authenticated and delivered hereunder, except that, unless otherwise specified as contemplated by Section 3.01, interest payable on a temporary global Security on an Interest Payment Date for Securities of such series occurring prior to the applicable Exchange Date shall be payable to the Depository on such Interest Payment Date upon delivery by the Depository to the Trustees of a certificate or certificates in the form set forth in Exhibit A-2 to this Indenture (or in such other form as may be established pursuant to Section 3.01), for credit without further interest thereon on or after such Interest Payment Date to the respective accounts of the Persons who are the beneficial owners of such temporary global Security on such Interest Payment Date and who have each delivered to the Depository a certificate dated no earlier than 15 days prior to the Interest Payment Date occurring prior to such Exchange Date in the form set forth in Exhibit A-1 to this Indenture (or in such other form as may be established pursuant to Section 3.01). Notwithstanding anything to the contrary herein contained, the certifications made pursuant to this paragraph shall satisfy the certification requirements of the preceding two paragraphs of this Section 3.04 and of the third paragraph of Section 3.03 and the interests of the Persons who are the beneficial owners of the temporary global Security with respect to which such certification was made will be exchanged for definitive Securities of the same series and of like tenor and evidencing the same indebtedness on the Exchange Date or the date of certification if such date occurs after the Exchange Date, without further act or deed by such beneficial owners. Except as otherwise provided in this paragraph, no payments of principal of, premium (if any) or interest (if any) owing with respect to a beneficial interest in a temporary global Security will be made unless and until such interest in such temporary global Security shall have been exchanged for an interest in a definitive Security. Any interest so received by the Depository and not paid as herein provided shall be returned to the Trustees immediately prior to the expiration of two years after such Interest Payment Date in order to be repaid to the Company in accordance with Section 10.03.

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### SECTION 3.05 Registration, Registration of Transfer and Exchange.

So long as required by Trust Indenture Legislation, the Company shall cause to be kept at the Corporate Trust Offices of the applicable Trustee a register for each series of Securities (the registers maintained in the Corporate Trust Offices of the Trustees and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the “**Security Register**”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of the Holders of Securities and of transfers of Securities. The Security Register shall be in written form or any other form capable of being converted into written form within a reasonable time. At all reasonable times, the Security Register shall be open to inspection by the Trustees. The Trustees are hereby initially appointed as security registrar (the “**Security Registrar**”) for the purpose of registering Securities and transfers of Securities as herein provided. The Company shall have the right to remove and replace from time to time the Security Registrar for any series of Securities; provided, however, that, no such removal or replacement shall be effective until a successor Security Registrar with respect to such series of Securities shall have been appointed by the Company and shall have accepted such appointment by the Company. In the event that the Trustees shall not be or shall cease to be the Securities Registrar with respect to a series of Securities, they shall have the right to examine the Security Register for such series at all reasonable times. There shall be only one Securities Register for such series of Securities.

Upon surrender for registration of transfer of any Security of any series at the office or agency in a Place of Payment for that series, the Company shall execute, and the applicable Trustee shall authenticate and deliver, in the name of the designated transferee, one or more new Securities of the same series, of any authorized denominations and of a like aggregate principal amount and tenor and evidencing the same indebtedness.

For Canadian Securities, the Security must be duly endorsed for transfer or in a duly endorsed transferable form as applicable and must comply with the current industry practice in accordance with the Securities Transfer Association of Canada.

At the option of the Holder, Securities of any series may be exchanged for other Securities of the same series, of any authorized denomination and of a like aggregate principal amount and tenor and evidencing the same indebtedness, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the applicable Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

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Whenever any Securities are so surrendered for exchange, the Company shall execute, and the applicable Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

Notwithstanding the foregoing, except as otherwise specified as contemplated by Section 3.01, any permanent global Security shall be exchangeable only as provided in this Section. If any beneficial owner of an interest in a permanent global Security is entitled to exchange such interest for Securities of such series and of like tenor and principal amount of another authorized form and denomination, as contemplated by Section 3.01 and provided that any applicable notice provided in the permanent global Security shall have been given to the Company, the Trustees and the Depository, then without unnecessary delay but in any event not later than the earliest date on which such interest may be so exchanged, the Company shall deliver to the applicable Trustee definitive Securities in aggregate principal amount equal to the principal amount of such beneficial owner’s interest in such permanent global Security, executed by the Company. On or after the earliest date on which such interests may be so exchanged, such permanent global Security shall be surrendered by the Depository or such other depository as shall be specified in the Company Order with respect thereto to the applicable Trustee, as the Company’s agent for such purpose, to be exchanged in whole or from time to time in part, for definitive Securities without charge, and the applicable Trustee shall authenticate and deliver, in exchange for each portion of such permanent global Security, an equal aggregate principal amount of definitive Securities of the same series of authorized denominations and of like tenor as the portion of such permanent global Security to be exchanged. If a Security is issued in exchange for any portion of a permanent global Security after the close of business at the office or agency where such exchange occurs on (i) any Regular Record Date and before the opening of business at such office or agency on the relevant Interest Payment Date, or (ii) any Special Record Date and before the opening of business at such office or agency on the related proposed date for payment of Defaulted Interest, interest or Defaulted Interest, as the case may be, will not be payable on such Interest Payment Date or proposed date for payment, as the case may be, in respect of such Security, but will be payable on such Interest Payment Date or proposed date for payment, as the case may be, only to the Person to whom interest in respect of such portion of such permanent global Security is payable in accordance with the provisions of this Indenture.

Transfers of global Securities shall be limited to transfers in whole, but not in part, to the Depository, its successors or their respective nominees. If at any time the Depository for Securities of a series notifies the Company that it is unwilling, unable or no longer qualifies to continue as Depository for Securities of such series or if at any time the Depository for such series shall no longer be registered or in good standing under the Exchange Act, or other applicable statute or regulation, the Company shall appoint a successor Depository for the Securities of such series. If a successor to the Depository for Securities of such series is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such condition, as the case may be, the Company’s election pursuant to Section 3.01 shall no longer be effective with respect to the Securities for such series and the Company will execute, and the applicable Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the global Security or Securities representing such series and evidencing the same indebtedness in exchange for such global Security or Securities.

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The Company may at any time and in its sole discretion determine that the Securities of any series issued in the form of one or more global Securities shall no longer be represented by such global Security or Securities. In such event the Company will execute, and the applicable Trustee, upon receipt of a Company Order for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form, in authorized denominations, and in an aggregate principal amount equal to the principal amount of the global Security or Securities representing such series and evidencing the same indebtedness in exchange for such global Security or Securities.

Upon the exchange of a global Security for Securities in definitive form, such global Security shall be cancelled by the applicable Trustee. Securities issued in exchange for a global Security pursuant to this Section 3.05 shall be registered in such names and in such authorized denominations as the Depository for such global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the applicable Trustee in writing. The applicable Trustee shall deliver such Securities to the Persons in whose names such Securities are so registered.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Security Registrar or applicable securities transfer industry practices) be duly endorsed, or be accompanied by a written instrument of transfer, in form satisfactory to the Company and the Security Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

Any registration of transfer or exchange of Securities may be subject to service charges by the Securities Registrar and the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 3.04, 9.06, 11.07 or 13.05 not involving any transfer.

The Company shall not be required (i) to issue, register the transfer of or exchange Securities of any series in definitive form during a period beginning at the opening of business 15 days before the day of the selection for redemption of Securities of that series under Section 11.03 or 12.03 and ending at the close of business on the day of the mailing of the relevant notice of redemption or (ii) to register the transfer of or exchange any Security in definitive form so selected for redemption in whole or in part, except the unredeemed portion of any Security being redeemed in part, or (iii) to issue, register the transfer of or exchange any Security in definitive form which has been surrendered for repayment at the option of the Holder, except the portion, if any, of such Security not to be so repaid.

#### **SECTION 3.06 Mutilated, Destroyed, Lost and Stolen Securities.**

If any mutilated Security is surrendered to the applicable Trustee, the Company shall execute and the applicable Trustee shall authenticate and deliver in exchange therefor a new Security of the same series and of like tenor and principal amount and evidencing the same indebtedness and bearing a number not contemporaneously outstanding, or, in case any such mutilated Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security. If there shall be delivered to the Company and to the Trustees (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security (or surety in the case of the Canadian Trustee) or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustees that such Security has been acquired by a bona fide purchaser, the Company shall execute and upon Company Order the applicable Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of the same series and of like tenor and principal amount and evidencing the same indebtedness and bearing a number not contemporaneously outstanding.

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Notwithstanding the provisions of the previous two paragraphs, in case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security appertaining to such mutilated, destroyed, lost or stolen Security, pay such Security.

Upon the issuance of any new Security under this Section 3.06, the Company 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 Trustees) connected therewith.

Every new Security of any series issued pursuant to this Section 3.06 in lieu of any mutilated, destroyed, lost or stolen Security, shall constitute an original additional contractual obligation of the Company, whether or not the mutilated, destroyed, lost or stolen Security shall be at any time enforceable by anyone, and the Holders of such Security shall be entitled to all the benefits of this Indenture equally and proportionately with the Holders of any and all other Securities of that series duly issued hereunder.

The provisions of this Section 3.06 as amended or supplemented pursuant to this Indenture with respect to a particular series of Securities or generally are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

#### **SECTION 3.07 Payment of Principal, Premium and Interest; Interest Rights Preserved; Optional Interest Reset**

(a) Unless otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, interest (if any) on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid by the Paying Agent to the Person in whose name such Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest at the office or agency of the Company maintained for such purpose pursuant to Section 10.02; *provided, however*, that each installment of interest (if any) on any Security may at the Company's option be paid by (i) mailing a check for such interest, payable to or upon the written order of the Person entitled thereto pursuant to Section 3.09, to the address of such Person as it appears on the Security Register, (ii) wire transfer to an account located in the United States maintained by the Person entitled to such payment as specified in the Security Register, or (iii) as otherwise specified pursuant to Section 3.01 for the Securities of such series. Unless otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, principal and premium (if any) paid in relation to any Security shall be paid to the Holder of such Security only upon presentation and surrender of such Security at the office or agency of the Company maintained for such purpose pursuant to Section 10.02.

Unless otherwise provided as contemplated by Section 3.01, every permanent global Security will provide that interest (if any) payable on any Interest Payment Date will be paid to the Depository with respect to that portion of such permanent global Security held for its account by the Depository, for the purpose of permitting the Depository to credit the interest (if any) received by it in respect of such permanent global Security to the accounts of the beneficial owners thereof.

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Any interest on any Security of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such defaulted interest and, if applicable, interest on such defaulted interest (to the extent lawful) at the rate specified in the Securities of such series (such defaulted interest and, if applicable, interest thereon herein collectively called "**Defaulted Interest**") must be paid by the Company as provided for in either clause (1) or (2), at the Company's election:

- (1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustees in writing of the amount of Defaulted Interest proposed to be paid on each Security of such series and the date of the proposed payment, and at the same time the Company shall deposit with the applicable Trustee an amount of money in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)) equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustees for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustees shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustees of the notice of the proposed payment. The Trustees shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given in the manner provided in Section 1.07, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so given, such Defaulted Interest shall be paid to the Persons in whose name the Securities of such series (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (2).

(2) The Company may make payment of any Defaulted Interest on the Securities of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed, and, upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustees of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustees.

(b) The provisions of this Section 307(b) may be made applicable to any series of Securities pursuant to Section 3.01 (with such modifications, additions or substitutions as may be specified pursuant to such Section 3.01). The interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable) on any Security of such series may be reset by the Company on the date or dates specified on the face of such Security (each an “**Optional Reset Date**”). The Company may exercise such option with respect to such Security by notifying the Trustees of such exercise at least 50 but not more than 60 days prior to an Optional Reset Date for such Security. Not later than 40 days prior to each Optional Reset Date, the Trustees shall transmit, in the manner provided for in Section 1.07, to the Holder of any such Security a notice (the “**Reset Notice**”) indicating whether the Company has elected to reset the interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable), and if so (i) such new interest rate (or such new spread or spread multiplier, if applicable) and (ii) the provisions, if any, for redemption during the period from such Optional Reset Date to the next Optional Reset Date or if there is no such next Optional Reset Date, to the Stated Maturity of such Security (each such period a “**Subsequent Interest Period**”), including the date or dates on which or the period or periods during which and the price or prices at which such redemption may occur during the Subsequent Interest Period.

Notwithstanding the foregoing, not later than 20 days prior to the Optional Reset Date, the Company may, at its option, revoke the interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable) provided for in the Reset Notice and establish an interest rate (or the spread or spread multiplier, if applicable) that is higher than the interest rate (or the spread or spread multiplier, if applicable) provided for in the Reset Notice, for the Subsequent Interest Period by causing the Trustees to transmit, in the manner provided for in Section 1.07, notice of such higher interest rate (or such higher spread or spread multiplier, if applicable) to the Holder of such Security. Such notice shall be irrevocable. All Securities with respect to which the interest rate (or the spread or spread multiplier used to calculate such interest rate, if applicable) is reset on an Optional Reset Date, and with respect to which the Holders of such Securities have not tendered such Securities for repayment (or have validly revoked any such tender) pursuant to the next succeeding paragraph, will bear such higher interest rate (or such higher spread or spread multiplier, if applicable).

The Holder of any such Security will have the option to elect repayment by the Company of the principal of such Security on each Optional Reset Date at a price equal to the principal amount thereof plus interest accrued to such Optional Reset Date. In order to obtain repayment on an Optional Reset Date, the Holder must follow the procedures set forth in Article Thirteen for repayment at the option of Holders except that the period for delivery or notification to the Trustees shall be at least 25 but not more than 35 days prior to such Optional Reset Date and except that, if the Holder has tendered any Security for repayment pursuant to the Reset Notice, the Holder may, by written notice to the Trustees, revoke such tender or repayment until the close of business on the tenth day before such Optional Reset Date.

Subject to the foregoing provisions of this Section 3.07 and Section 3.05, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

#### **SECTION 3.08 Optional Extension of Stated Maturity.**

The provisions of this Section 3.08 may be made applicable to any series of Securities pursuant to Section 3.01 (with such modifications, additions or substitutions as may be specified pursuant to such Section 3.01). The Stated Maturity of any Security of such series may be extended at the option of the Company for the period or periods specified on the face of such Security (each an “**Extension Period**”) up to but not beyond the date (the “**Final Maturity**”) set forth on the face of such Security. The Company may exercise such option with respect to any Security by notifying the Trustees of such exercise at least 50 but not more than 60 days prior to the Stated Maturity of such Security in effect prior to the exercise of such option (the “**Original Stated Maturity**”). If the Company exercises such option, the Trustees shall transmit, in the manner provided for in Section 1.07, to the Holder of such Security not later than 40 days prior to the Original Stated Maturity a notice (the “**Extension Notice**”) indicating (i) the election of the Company to extend the Stated Maturity, (ii) the new Stated Maturity, (iii) the interest rate (if any) applicable to the Extension Period and (iv) the provisions, if any, for redemption during such Extension Period. Upon the Trustees’ transmittal of the Extension Notice, the Stated Maturity of such Security shall be extended automatically and, except as modified by the Extension Notice and as described in the next paragraph, such Security will have the same terms as prior to the transmittal of such Extension Notice.

Notwithstanding the foregoing, not later than 20 days before the Original Stated Maturity of such Security, the Company may, at its option, revoke the interest rate provided for in the Extension Notice and establish a higher interest rate for the Extension Period by causing the Trustees to transmit, in the manner provided for in Section 1.07, notice of such higher interest rate to the Holder of such Security. Such notice shall be irrevocable. All Securities with respect to which the Stated Maturity is extended will bear such higher interest rate.

If the Company extends the Maturity of any Security, the Holder will have the option to elect repayment of such Security by the Company on the Original Stated Maturity at a price equal to the principal amount thereof, plus interest accrued to such date. In order to obtain repayment on the Original Stated Maturity once the Company has extended the Maturity thereof, the Holder must follow the procedures set forth in Article Thirteen for repayment at the option of Holders, except that the period for delivery or notification to the Trustees shall be at least 25 but not more than 35 days prior to the Original Stated Maturity and except that, if the Holder has tendered any Security for repayment pursuant to an Extension Notice, the Holder may by written notice to the Trustees revoke such tender for repayment until the close of business on the tenth day before the Original Stated Maturity.

#### **SECTION 3.09 Persons Deemed Owners.**

Prior to due presentment of a Security for registration of transfer, the Company, the Trustees and any agent of the Company or the Trustees may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of, premium (if any) and (subject to Sections 3.05 and 3.07) interest (if any) on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Company, the Trustees or any agent of the Company or the Trustees shall be affected by notice to the contrary.

The Depository for Securities may be treated by the Company, the Trustees, and any agent of the Company or the Trustees as the owner of such global Security for all purposes whatsoever. None of the Company, the Trustees, any Paying Agent or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Security in global form or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Notwithstanding the foregoing, with respect to any global Security, nothing herein shall prevent the Company, the Trustees, or any agent of the Company or the Trustees, from giving effect to any written certification, proxy or other authorization furnished by any Depository, as a Holder, with respect to such global Security or impair, as between such Depository and owners of beneficial interests in such global Security, the operation of customary practices governing the exercise of the rights of such Depository (or its nominee) as Holder of such global Security.

### SECTION 3.10 Cancellation.

All Securities surrendered for payment, redemption, repayment at the option of the Holder, registration of transfer or exchange or for credit against any current or future sinking fund payment shall, if surrendered to any Person other than a Trustee, be delivered to either Trustee. All Securities so delivered to either Trustee shall be promptly cancelled by such Trustee. The Company may at any time deliver to a Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and may deliver to either Trustee (or to any other Person for delivery to such Trustee) for cancellation any Securities previously authenticated hereunder which the Company has not issued and sold, and all Securities so delivered shall be promptly cancelled by such Trustee. If the Company shall so acquire any of the Securities, however, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are surrendered to either Trustee for cancellation. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section 3.10, except as expressly permitted by this Indenture. All cancelled Securities held by either Trustee shall be disposed of by such Trustee in accordance with its customary procedures and certification of their disposal delivered to the Company unless by Company Order the Company shall direct that cancelled Securities be returned to it.

### SECTION 3.11 Computation of Interest.

Except as otherwise specified as contemplated by Section 3.01 with respect to any Securities, interest (if any) on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months. For the purposes of disclosure under the Interest Act (Canada), the yearly rate of interest to which interest calculated under a Security for any period in any calendar year (the “**calculation period**”) is equivalent, is the rate payable under a Security in respect of the calculation period multiplied by a fraction the numerator of which is the actual number of days in such calendar year and the denominator of which is the actual number of days in the calculation period.

### SECTION 3.12 Currency and Manner of Payments in Respect of Securities

(a) With respect to Securities of any series not permitting the election provided for in paragraph (b) below or the Holders of which have not made the election provided for in paragraph (b) below, payment of the principal of, premium (if any) and interest (if any) on such Security of such series will be made in the Currency in which such Security is payable. The provisions of this Section 3.12 may be modified or superseded with respect to any Securities pursuant to Section 3.01.

(b) It may be provided pursuant to Section 3.01 with respect to Securities of any series that Holders shall have the option, subject to paragraphs (d) and (e) below, to receive payments of principal of, premium (if any) or interest (if any) on such Securities in any of the Currencies which may be designated for such election by delivering to the Trustees a written election with signature guarantees and in the applicable form established pursuant to Section 3.01, not later than the close of business on the Election Date immediately preceding the applicable payment date. If a Holder so elects to receive such payments in any such Currency, such election will remain in effect for such Holder or any transferee of such Holder until changed by such Holder or such transferee by written notice to the Trustees (but any such change must be made not later than the close of business on the Election Date immediately preceding the next payment date to be effective for the payment to be made on such payment date and no such change of election may be made with respect to payments to be made on any Security of such series with respect to which an Event of Default has occurred or with respect to which the Company has deposited funds pursuant to Article Four or Fourteen or with respect to which a notice of redemption has been given by the Company or a notice of option to elect repayment has been sent by such Holder or such transferee). Any Holder of any such Security who shall not have delivered any such election to the Trustees not later than the close of business on the applicable Election Date will be paid the amount due on the applicable payment date in the relevant Currency as provided in Section 3.12(a). The Trustees shall notify the Exchange Rate Agent as soon as practicable after the Election Date of the aggregate principal amount of Securities for which Holders have made such written election.

(c) Unless otherwise specified pursuant to Section 3.01, if the election referred to in paragraph (b) above has been provided for pursuant to Section 3.01, then, unless otherwise specified pursuant to Section 3.01, not later than the fourth Business Day after the Election Date for each payment date for Securities of any series, the Exchange Rate Agent will deliver to the Company a written notice specifying, in the Currency in which Securities of such series are payable, the respective aggregate amounts of principal of, premium (if any) and interest (if any) on the Securities to be paid on such payment date, specifying the amounts in such Currency so payable in respect of the Securities as to which the Holders of Securities of such series shall have elected to be paid in another Currency as provided in paragraph (b) above. If the election referred to in paragraph (b) above has been provided for pursuant to Section 3.01 and if at least one Holder has made such election, then, unless otherwise specified pursuant to Section 3.01, on the second Business Day preceding such payment date the Company will deliver to the Trustees for such series of Securities an Exchange Rate Officer’s Certificate in respect of the Dollar or Foreign Currency payments to be made on such payment date. Unless otherwise specified pursuant to Section 3.01, the Dollar or Foreign Currency amount receivable by Holders of Securities who have elected payment in a Currency as provided in paragraph (b) above shall be determined by the Company on the basis of the applicable Market Exchange Rate in effect on the third Business Day (the “**Valuation Date**”) immediately preceding each payment date, and such determination shall be conclusive and binding for all purposes, absent manifest error.

(d) If a Conversion Event occurs with respect to a Foreign Currency in which any of the Securities are denominated or payable other than pursuant to an election provided for pursuant to paragraph (b) above, then, with respect to each date for the payment of principal of, premium (if any) and interest (if any) on the applicable Securities denominated or payable in such Foreign Currency occurring after the last date on which such Foreign Currency was used (the “**Conversion Date**”), the Dollar shall be the Currency of payment for use on each such payment date. Unless otherwise specified pursuant to Section 3.01, the Dollar amount to be paid by the Company to the Trustees and by the Trustees or any Paying Agent to the Holders of such Securities with respect to such payment date shall be, in the case of a Foreign Currency other than a currency unit, the Dollar Equivalent of the Foreign Currency or, in the case of a currency unit, the Dollar Equivalent of the Currency Unit, in each case as determined by the Exchange Rate Agent in the manner provided in paragraph (f) or (g) below.

(e) Unless otherwise specified pursuant to Section 3.01, if the Holder of a Security denominated in any Currency shall have elected to be paid in another Currency as provided in paragraph (b) above, and a Conversion Event occurs with respect to such elected Currency, such Holder shall receive payment in the Currency in which payment would have been made in the absence of such election; and if a Conversion Event occurs with respect to the Currency in which payment would have been made in the absence of such election, such Holder shall receive payment in Dollars as provided in paragraph (d) above.

(f) The “**Dollar Equivalent of the Foreign Currency**” shall be determined by the Exchange Rate Agent and shall be obtained for each subsequent payment date by converting the specified Foreign Currency into Dollars at the Market Exchange Rate on the Conversion Date.

(g) The “**Dollar Equivalent of the Currency Unit**” shall be determined by the Exchange Rate Agent and subject to the provisions of paragraph (h) below shall be the sum of each amount obtained by converting the Specified Amount of each Component Currency into Dollars at the Market Exchange Rate for such Component Currency on the Valuation Date with respect to each payment.

(h) For purposes of this Section 3.12 the following terms shall have the following meanings:



A “**Component Currency**” shall mean any Currency which, on the Conversion Date, was a component currency of the relevant currency unit, including, but not limited to, the Euro.

A “**Specified Amount**” of a Component Currency shall mean the number of units of such Component Currency or fractions thereof which were represented in the relevant currency unit, including, but not limited to, the Euro, on the Conversion Date. If after the Conversion Date the official unit of any Component Currency is altered by way of combination or subdivision, the Specified Amount of such Component Currency shall be divided or multiplied in the same proportion. If after the Conversion Date two or more Component Currencies are consolidated into a single currency, the respective Specified Amounts of such Component Currencies shall be replaced by an amount in such single Currency equal to the sum of the respective Specified Amounts of such consolidated Component Currencies expressed in such single Currency, and such amount shall thereafter be a Specified Amount and such single Currency shall thereafter be a Component Currency. If after the Conversion Date any Component Currency shall be divided into two or more currencies, the Specified Amount of such Component Currency shall be replaced by amounts of such two or more currencies, having an aggregate Dollar Equivalent value at the Market Exchange Rate on the date of such replacement equal to the Dollar Equivalent value of the Specified Amount of such former Component Currency at the Market Exchange Rate immediately before such division and such amounts shall thereafter be Specified Amounts and such currencies shall thereafter be Component Currencies. If, after the Conversion Date of the relevant currency unit, including, but not limited to, the Euro, a Conversion Event (other than any event referred to above in this definition of “**Specified Amount**”) occurs with respect to any Component Currency of such currency unit and is continuing on the applicable Valuation Date, the Specified Amount of such Component Currency shall, for purposes of calculating the Dollar Equivalent of the Currency Unit, be converted into Dollars at the Market Exchange Rate in effect on the Conversion Date of such Component Currency.

“**Election Date**” shall mean the date for any series of Securities as specified pursuant to clause (15) of Section 3.01 by which the written election referred to in paragraph (b) above may be made.

All decisions and determinations of the Exchange Rate Agent regarding the Dollar Equivalent of the Foreign Currency, the Dollar Equivalent of the Currency Unit, the Market Exchange Rate and changes in the Specified Amounts as specified above shall be in its sole discretion and shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Company, the Trustees and all Holders of such Securities denominated or payable in the relevant Currency. The Exchange Rate Agent shall promptly give written notice to the Company and the Trustees of any such decision or determination.

In the event that the Company determines in good faith that a Conversion Event has occurred with respect to a Foreign Currency, the Company will immediately give written notice thereof to the Trustees and to the Exchange Rate Agent (and the Trustees will promptly thereafter give notice in the manner provided for in Section 1.07 to the affected Holders) specifying the Conversion Date. In the event the Company so determines that a Conversion Event has occurred with respect to the Euro or any other currency unit in which Securities are denominated or payable, the Company will immediately give written notice thereof to the Trustees and to the Exchange Rate Agent (and the Trustees will promptly thereafter give notice in the manner provided for in Section 1.07 to the affected Holders) specifying the Conversion Date and the Specified Amount of each Component Currency on the Conversion Date. In the event the Company determines in good faith that any subsequent change in any Component Currency as set forth in the definition of Specified Amount above has occurred, the Company will similarly give written notice to the Trustees and the Exchange Rate Agent.

The Trustees shall be fully justified and protected in relying and acting upon information received by it from the Company and the Exchange Rate Agent and shall not otherwise have any duty or obligation to determine the accuracy or validity of such information independent of the Company or the Exchange Rate Agent.

### **SECTION 3.13 Appointment and Resignation of Successor Exchange Rate Agent**

(a) Unless otherwise specified pursuant to Section 3.01, if and so long as the Securities of any series (i) are denominated in a Currency other than Dollars or (ii) may be payable in a Currency other than Dollars, or so long as it is required under any other provision of this Indenture, then the Company will maintain with respect to each such series of Securities, or as so required, at least one Exchange Rate Agent. The Company will cause the Exchange Rate Agent to make the necessary foreign exchange determinations at the time and in the manner specified pursuant to Section 3.01 for the purpose of determining the applicable rate of exchange and, if applicable, for the purpose of converting the issued Currency into the applicable payment Currency for the payment of principal, premium (if any) and interest (if any) pursuant to Section 3.12.

(b) The Company shall have the right to remove and replace from time to time the Exchange Rate Agent for any series of Securities. No resignation of the Exchange Rate Agent and no appointment of a successor Exchange Rate Agent pursuant to this Section 3.13 shall become effective until the acceptance of appointment by the successor Exchange Rate Agent as evidenced by a written instrument delivered to the Company and the Trustees.

(c) If the Exchange Rate Agent shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Exchange Rate Agent for any cause with respect to the Securities of one or more series, the Company, by or pursuant to a Board Resolution, shall promptly appoint a successor Exchange Rate Agent or Exchange Rate Agents with respect to the Securities of that or those series (it being understood that any such successor Exchange Rate Agent may be appointed with respect to the Securities of one or more or all of such series and that, unless otherwise specified pursuant to Section 3.01, at any time there shall only be one Exchange Rate Agent with respect to the Securities of any particular series that are originally issued by the Company on the same date and that are initially denominated and/or payable in the same Currency).

## **ARTICLE FOUR SATISFACTION AND DISCHARGE**

### **SECTION 4.01 Satisfaction and Discharge of Indenture.**

This Indenture shall upon Company Request cease to be of further effect with respect to any series of Securities specified in such Company Request (except as to any surviving rights of registration of transfer or exchange of Securities of such series expressly provided for herein or pursuant hereto and the rights of Holders of such series of Securities to receive, solely from the trust fund described in subclause (b) of clause (1) of this Section 4.01, payments in respect of the principal of, premium (if any) and interest (if any) on such Securities when such payments are due and except as provided in the last paragraph of this Section 4.01) and the Trustees, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture as to such series when

(1) either

(a) all Securities of such series theretofore authenticated and delivered (other than Securities of such series for whose payment money has theretofore been deposited in trust with either Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company, as provided in Section 10.03) have been delivered to either Trustee for cancellation; or

- (b) all Securities of such series not theretofore delivered to either Trustee for cancellation
- (i) have become due and payable, or
  - (ii) will become due and payable at their Stated Maturity within one year, or
  - (iii) if redeemable at the option of the Company, are to be called for redemption within one year under arrangements satisfactory to the Trustees for the giving of notice of redemption by the Trustees in the name, and at the expense, of the Company,

and the Company, in the case of (i), (ii) or (iii) above, has irrevocably deposited or caused to be deposited with either Trustee as trust funds in trust for such purpose an amount in the Currency in which the Securities of such series are payable, sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to such Trustee for cancellation, for principal, premium (if any) and interest (if any) to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

- (2) the Company has paid or caused to be paid all other sums payable hereunder by the Company; and
- (3) the Company has delivered to the Trustees an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture as to such series have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustees under Section 6.07, the obligations of the Trustees to any Authenticating Agent under Section 6.12 and, if money shall have been deposited with the Trustees pursuant to subclause (b) of clause (1) of this Section 4.01, the obligations of the Trustees under Section 4.02, Section 6.07(3) and the last paragraph of Section 10.03 shall survive.

#### **SECTION 4.02 Application of Trust Money.**

Subject to the provisions of the last paragraph of Section 10.03, all money deposited with the Trustees pursuant to Section 4.01 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustees may determine, to the Persons entitled thereto, of the principal, premium (if any) and interest (if any) for whose payment such money has been deposited with the Trustees; but such money need not be segregated from other funds except to the extent required by law.

### **ARTICLE FIVE REMEDIES**

#### **SECTION 5.01 Events of Default.**

“**Event of Default**,” wherever used herein with respect to Securities of any series, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), unless such event is specifically deleted or modified in or pursuant to a supplemental indenture, Board Resolution or Officer's Certificate establishing the terms of such series pursuant to Section 3.01 of this Indenture:

- (1) default in the payment of any interest due on any Security of that series, when such interest becomes due and payable, and continuance of such default for a period of 30 days; or

- (2) default in the payment of the principal or premium (if any) in respect of any Security of that series at its Maturity; or
- (3) default in the deposit of any sinking fund, amortization or analogous payment when due by the terms of any Security of that series and Article Twelve; or
- (4) default in the performance, or breach, of any covenant or agreement of the Company in this Indenture which affects or is applicable to the Securities of that series (other than a covenant or agreement, a default in whose performance or whose breach is elsewhere in this Section 5.01 specifically dealt with), and continuance of such default or breach for a period of 60 days after there has been given (and 120 days with respect to a default or breach under Section 7.05), by registered or certified mail, to the Company by the Trustees or to the Company and the Trustees by the Holders of at least 25% in principal amount of all Outstanding Securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or
- (5) the entry of a decree or order by a court having jurisdiction in the premises adjudging the Company bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under or subject to the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada), the U.S. Federal Bankruptcy Code or any other federal, provincial, state or foreign bankruptcy, insolvency or analogous laws, or the issuance of a sequestration order or the (appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or in receipt of any substantial part of the property of the Company, and any such decree, order or appointment continues unstayed and in effect for a period of 90 consecutive days; or
- (6) the institution by the Company of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under or subject to the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada), the U.S. Federal Bankruptcy Code or any other federal, provincial, state or foreign bankruptcy, insolvency or analogous laws or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property, or the making by it of a general assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due or the taking by it of corporate action in furtherance of any of the aforesaid purposes; or
- (7) any other Event of Default provided with respect to Securities of that series.

#### **SECTION 5.02 Acceleration of Maturity; Rescission and Annulment.**

If an Event of Default described in clause (1), (2), (3), (4) or (7) of Section 5.01 with respect to Securities of any series at the time Outstanding occurs and is

continuing, then in every such case, either Trustee or the Holders of not less than 25% in principal amount of the Outstanding Securities of that series, may declare the principal amount (or, if the Securities of that series are Original Issue Discount Securities or Indexed Securities, such portion of the principal amount as may be specified in the terms of that series) of all of the Securities of that series and all interest thereon to be due and payable immediately, by a notice in writing to the Company (and to the Trustees if given by Holders), and upon any such declaration such principal amount (or specified portion thereof) shall become immediately due and payable. If an Event of Default specified in clause (5) or (6) of Section 5.01 occurs and is continuing, then the principal amount of all the Securities shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustees or any Holder.

At any time after such a declaration of acceleration with respect to Securities of any series (or of all series, as the case may be) has been made and before a judgment or decree for payment of the money due has been obtained by either Trustee as hereinafter provided in this Article Five, the Holders of a majority in principal amount of the Outstanding Securities of that series (or of all series, as the case may be), by written notice to the Company and the Trustees, may rescind and annul such declaration and its consequences if:

- (1) the Company has paid or deposited with either Trustee a sum sufficient to pay in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)),
  - (a) all overdue interest (if any) on all Outstanding Securities of that series (or of all series, as the case may be),
  - (b) all unpaid principal of and premium (if any) on any Outstanding Securities of that series (or of all series, as the case may be) which has become due otherwise than by such declaration of acceleration, and interest on such unpaid principal and premium (if any) at the rate or rates prescribed therefor in such Securities,
  - (c) to the extent that payment of such interest is legally enforceable, interest on overdue interest at the rate or rates prescribed therefor in such Securities, and
  - (d) all sums paid or advanced by the Trustees hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustees, their agents and counsel; and
- (2) all Events of Default with respect to Securities of that series (or of all series, as the case may be), other than the non-payment of amounts of principal of, premium (if any) or interest (if any) on Securities of that series (or of all series, as the case may be) which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 5.13.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

#### **SECTION 5.03 Collection of Debt and Suits for Enforcement by Trustees**

The Company covenants that if

- (1) default is made in the payment of any installment of interest on any Security when such interest becomes due and payable and such default continues for a period of 30 days, or
- (2) default is made in the payment of the principal of or premium (if any) any Security at the Maturity thereof,

then the Company will, upon demand of the Trustees, pay to the applicable Trustee for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal of, premium (if any) and interest (if any) and interest on any overdue principal, overdue premium (if any) and, to the extent lawful, overdue interest (if any), at the rate or rates prescribed therefor in such Securities, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustees, their agents and counsel.

If the Company fails to pay such amounts forthwith upon such demand, the Trustees, in their own names as trustees of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon such Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon such Securities, wherever situated.

If an Event of Default with respect to Securities of any series (or of all series, as the case may be) occurs and is continuing, either Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of Securities of such series (or of all series, as the case may be) by such appropriate judicial proceedings as such Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

#### **SECTION 5.04 Trustees May File Proofs of Claim.**

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Securities or the property of the Company or of such other obligor or their creditors, each Trustee (irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether either Trustee shall have made any demand on the Company for the payment of overdue principal, premium (if any) or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

- (i) to file and prove a claim for the whole amount of principal and premium (if any), or such portion of the principal amount of any series of Original Issue Discount Securities or Indexed Securities as may be specified in the terms of such series, and interest (if any) owing and unpaid in respect of the Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of such Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and
- (ii) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such

payments to such Trustee and, in the event that such Trustee shall consent to the making of such payments directly to the Holders, to pay to such Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of each Trustee, its agents and counsel, and any other amounts due to such Trustee under Section 6.07.

Nothing herein contained shall be deemed to authorize the Trustees to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustees to vote in respect of the claim of any Holder in any such proceeding.

**SECTION 5.05 Trustees May Enforce Claims Without Possession of Securities.**

All rights of action and claims under this Indenture, the Securities may be prosecuted and enforced by the Trustees without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by either Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of such Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

**SECTION 5.06 Application of Money Collected.**

Any money collected by either Trustee pursuant to this Article Five shall be applied in the following order, at the date or dates fixed by the Trustees and, in case of the distribution of such money on account of principal of, premium (if any) or interest (if any) upon presentation of the Securities, and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

First: to the payment of all amounts due the Trustees under Section 6.07;

Second: to the payment of the amounts then due and unpaid for principal of, premium (if any) and interest (if any), on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal, premium (if any) and interest (if any), respectively; and

Third: the balance, if any, to the Person or Persons entitled thereto.

**SECTION 5.07 Limitation on Suits.**

No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture or the Securities, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless

- (1) such Holder has previously given written notice to the Trustees of a continuing Event of Default with respect to the Securities of that series;
- (2) the Holders of not less than 25% in principal amount of the Outstanding Securities of that series in the case of any Event of Default described in clause (1), (2), (3), (4) or (7) of Section 5.01, or, in the case of any Event of Default described in clause (5) or (6) of Section 5.01, the Holders of not less than 25% in principal amount of all Outstanding Securities, shall have made written request to the Trustees to institute proceedings in respect of such Event of Default in their own names as Trustees hereunder;

- (3) such Holder or Holders have offered to the Trustees reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;
- (4) the Trustees for 60 days after their receipt of such notice, request and offer of indemnity have failed to institute any such proceeding; and
- (5) no direction inconsistent with such written request has been given to the Trustees during such 60-day period by the Holders of a majority or more in principal amount of the Outstanding Securities of that series in the case of any Event of Default described in clause (1), (2), (3), (4) or (7) of Section 5.01, or in the case of any Event of Default described in clause (5) or (6) of Section 5.01, by the Holders of a majority or more in principal amount of all Outstanding Securities;

it being understood and intended that no one or more of such Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Securities of the same series, in the case of any Event of Default described in clause (1), (2), (3), (4) or (7) of Section 5.01, or of Holders of all Securities in the case of any Event of Default described in clause (5) or (6) of Section 5.01, or to obtain or to seek to obtain priority or preference over any other of such Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Holders of Securities of the same series, in the case of any Event of Default described in clause (1), (2), (3), (4) or (7) of Section 5.01, or of Holders of all Securities in the case of any Event of Default described in clause (5) or (6) of Section 5.01.

**SECTION 5.08 Unconditional Right of Holders to Receive Principal, Premium and Interest**

Notwithstanding any other provision in this Indenture, the Holder of any Security shall have the right, which is absolute and unconditional, to receive payment, as provided herein (including, if applicable, Article Fourteen) and in such Security, of the principal of and premium (if any) and (subject to Section 3.07) interest (if any) on, such Security on the respective Stated Maturities expressed in such Security (or, in the case of redemption, on the Redemption Date or, in the case of repayment at the option of the Holder as contemplated by Article Twelve, on the Repayment Date) and subject to the limitations on a Holder's ability to institute suit contained Section 5.07, to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

**SECTION 5.09 Restoration of Rights and Remedies.**

If either Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to such Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustees and the Holders of Securities shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustees and the Holders shall continue as though no such proceeding had been instituted.

**SECTION 5.10 Rights and Remedies Cumulative.**

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 3.06, no right or remedy herein conferred upon or reserved to the Trustees or to the Holders of Securities is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not, to the extent permitted by law, prevent the concurrent assertion or employment of any other appropriate right or remedy.

**SECTION 5.11 Delay or Omission Not Waiver.**

No delay or omission of the Trustees or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article Five or by law to the Trustees or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustees or by the Holders, as the case may be.

**SECTION 5.12 Control by Holders.**

With respect to the Securities of any series, the Holders of not less than a majority in principal amount of the Outstanding Securities of such series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustees, or exercising any trust or power conferred on the Trustees, relating to or arising under clause (1), (2), (3), (4) or (7) of Section 5.01, and, with respect to all Securities, the Holders of not less than a majority in principal amount of all Outstanding Securities shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustees, or exercising any trust or power conferred on the Trustees, not relating to or arising under clause (1), (2), (3), (4) or (7) of Section 5.01, *provided* that in each case

- (1) such direction shall not be in conflict with any rule of law or with this Indenture,
- (2) the Trustees may take any other action deemed proper by the Trustees which is not inconsistent with such direction, and
- (3) the Trustees need not take any action which might involve them in personal liability or be unjustly prejudicial to the Holders of Securities of such series not consenting.

**SECTION 5.13 Waiver of Past Defaults.**

Subject to Section 5.02, the Holders of not less than a majority in principal amount of the Outstanding Securities of any series may on behalf of the Holders of all the Securities of such series waive any past Default described in clause (1), (2), (3), (4) or (7) of Section 5.01 (or, in the case of a Default described in clause (5) or (6) of Section 5.01, the Holders of not less than a majority in principal amount of all Outstanding Securities may waive any such past Default), and its consequences, except a default

- (1) in respect of the payment of the principal of, premium (if any) or interest (if any) on any Security, or
- (2) in respect of a covenant or provision herein which under Article Nine cannot be modified or amended without the consent of the Holder of each outstanding Security of such series affected.

Upon any such waiver, any such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

**SECTION 5.14 Waiver of Stay or Extension Laws.**

The Company covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustees, but will suffer and permit the execution of every such power as though no such law had been enacted.

**SECTION 5.15 Undertaking for Costs.**

In any suit for the enforcement of any right or remedy under this Indenture, or in any suit against either Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant, in the manner and to the extent provided in Trust Indenture Legislation; *provided, however*, that neither this Section 5.15 nor the provisions of TIA Section 315(e) shall apply to any suit instituted by either Trustee or by any Holder or group of Holders holding more than 10% in principal amount of all Outstanding Securities or by any Holder of any Security on any suit for the enforcement of the right to receive the principal of and interest on any such Securities.

**ARTICLE SIX  
THE TRUSTEES**

**SECTION 6.01 Notice of Defaults.**

Each Trustee shall promptly give the other Trustee notice of any Default or Event of Default known to it. Within a reasonable time, but no more than 30 days after either Trustee has knowledge of any Default hereunder with respect to the Securities of any series, one or both of the Trustees shall transmit in the manner and to the extent provided in Trust Indenture Legislation, including TIA Section 313(c), notice to the Holders of such Default hereunder known to either Trustee, unless such Default shall have been cured or waived (and, in the case where such Default shall have been cured, the Trustees shall notify the Holders in writing of such cure in writing within a reasonable time, but not exceeding 30 days, after the Trustees have become aware that the Default has been cured); *provided, however*, that, except in the case of a Default in the payment of the principal of, premium (if any) or interest (if any) on any Security of such series or in the payment of any sinking fund installment with respect to Securities of such series, the Trustees shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of each Trustee in good faith determine that the withholding of such notice is in the interest of the Holders of Securities of such series; *provided further* that in the case of any Default of the character specified in clause (4) of Section 5.01 with respect to Securities of such series, no such notice to Holders shall be given until at least 30 days after the occurrence thereof.

**SECTION 6.02 Certain Duties and Responsibilities of Trustees.**

(a) The Trustees, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform with respect to the Securities of any series such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants shall be read into this Indenture against the Trustees.

(b) In all instances, in the exercise of the powers, rights, duties and discharge of obligations prescribed or conferred by the terms of this Indenture, each Trustee shall act honestly and in good faith with a view to the best interests of the Holders and exercise that degree of care, diligence and skill that a reasonably prudent trustee in respect of indentures for the purpose of issuing corporate debt obligations would exercise in comparable circumstances.

(c) No provision of this Indenture shall be construed to relieve each Trustee from liability for its own actions or failure to act in accordance with Subsection 6.02(b), except that:

- (i) prior to the occurrence of an Event of Default and after the curing or waiving of all such Events of Default that may have occurred:
  - (A) the duties and obligations of each Trustee with respect to the Securities of any series shall be determined solely by the express provisions of this Indenture, and the Trustees shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustees; and
  - (B) in the absence of bad faith on the part of either Trustee, such Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustees and conforming to the requirements of this Indenture and Trust Indenture Legislation; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Trustees, the Trustees shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture; *provided, however*, the Canadian Trustee shall not be required to determine whether the certificates or opinions presented to it conform to the Trust Indenture Act and the U.S. Trustee shall not be required to determine whether the certificates or opinions presented to it conform to Canadian Trust Indenture Legislation.
- (ii) the Trustees shall not be liable with respect to any action taken or omitted to be taken by them in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Securities of any series at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustees, or exercising any trust or power conferred upon the Trustees under this Indenture;
- (iii) none of the provisions contained in this Indenture shall require either Trustee to expend or risk their own funds or otherwise incur personal or any financial liability in the performance of any of their duties or in the exercise of any of their rights or powers; and
- (iv) whether or not therein expressly so provided, except to the extent expressly provided herein to the contrary, every provision of this Indenture relating to the conduct or effecting the liability or affording protection to the Trustees shall be subject to the provisions of this Section 6.02.

(d) Notwithstanding the provisions of this Section 6.02 or any provision in this Indenture or in the Securities, the Trustees will not be charged with knowledge of the existence of any Event of Default or any other fact that would prohibit the making of any payment of monies to or by the Trustees, or the taking of any other action by the Trustees, unless and until the Trustees have received written notice thereof from the Company or any Holder.

### **SECTION 6.03 Certain Rights of Trustees.**

Subject to the provisions of TIA Sections 315(a) through 315(d):

- (1) the Trustees may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties;
- (2) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;
- (3) whenever in the administration of this Indenture the Trustees shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, each Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate;
- (4) the Trustees may consult with counsel and the written advice of such counsel or any opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by them hereunder in good faith and in reliance thereon;
- (5) the Trustees shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of Securities of any series pursuant to this Indenture, unless such Holders shall have offered to the Trustees reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by them in compliance with such request or direction;
- (6) the Trustees shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustees, in their discretion, may make such further inquiry or investigation into such facts or matters as they may see fit, and, if the Trustees shall determine to make such further inquiry or investigation, they shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney;
- (7) in an Event of Default, the Trustees' powers shall not be infringed upon so long as they act in accordance with Section 6.02(b);
- (8) the Trustees may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustees shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by them hereunder; and

- (9) the Trustees shall not be liable for any action taken, suffered or omitted by them in good faith and believed by them to be authorized or within the discretion or rights or powers conferred upon them by this Indenture, so long as they act in accordance with this Section 6.02(b).

**SECTION 6.04 Trustees Not Responsible for Recitals or Issuance of Securities**

The recitals contained herein and in the Securities, except for a Trustee's certificate of authentication, shall be taken as the statements of the Company, and neither Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustees make no representations as to the validity or sufficiency of this Indenture or of the Securities, except that the Trustees represent that they are duly authorized to execute and deliver this Indenture, authenticate the Securities and perform their obligations hereunder and that the statements made by the U.S. Trustee in a Statement of Eligibility on Form T-1 supplied to the Company are true and accurate, subject to the qualifications set forth therein. Neither Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of Securities or the proceeds thereof. Nothing herein contained will impose on either Trustee any obligation to see to, or to require evidence of, the registration or filing (or renewal thereof) of this Indenture or any supplemental indenture. The Trustees shall not be bound to give notice to any person of the execution hereof.

**SECTION 6.05 May Hold Securities.**

The Trustees, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or of the Trustees, in their individual or any other capacity, may become the owner or pledgee of Securities and, subject to TIA Sections 310(b) and 311, may otherwise deal with the Company, including, without limitation, as a creditor of the Company, with the same rights they would have if they were not Trustees, Authenticating Agent, Paying Agent, Security Registrar or such other agent. A Trustee that has resigned or is removed shall remain subject to TIA Section 311(a) to the extent provided therein.

**SECTION 6.06 Money Held in Trust.**

Money held by the Trustees in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustees shall be under no liability for interest on any money received by them hereunder except as otherwise agreed with the Company.

**SECTION 6.07 Compensation and Reimbursement.**

The Company agrees:

- (1) to pay to the Trustees from time to time reasonable compensation for all services rendered by them hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);
- (2) except as otherwise expressly provided herein, to reimburse the Trustees upon their request for all reasonable expenses, disbursements and advances incurred or made by the Trustees in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of their agents and counsel), except any such expense, disbursement or advance as may be attributable to the U.S. Trustee's gross negligence or bad faith or the Canadian Trustee's gross negligence or willful misconduct, respectively; and

- (3) to indemnify the Trustees for, and to hold them and their directors, officers, agents, representatives, successors, assigns and employees harmless against, any loss, liability or expense incurred without gross negligence or bad faith on the part of the U.S. Trustee, or gross negligence or willful misconduct on the part of the Canadian Trustee, respectively, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including reasonable attorneys' fees and other reasonable costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their powers or duties hereunder.

The obligations of the Company under this Section 6.07 to compensate the Trustees, to pay or reimburse the Trustees for expenses, disbursements and advances and to indemnify and hold harmless the Trustees shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee. As security for the performance of such obligations of the Company, the Trustees shall have a claim prior to the Securities upon all property and funds held or collected by the Trustees as such, except funds held in trust for the payment of principal of, premium (if any) or interest (if any) on particular Securities.

When the Trustees incur expenses or render services in connection with an Event of Default specified in clause (5) or (6) of Section 5.01, the expenses (including reasonable charges and expense of its counsel) of and the compensation for such services are intended to constitute expenses of administration under any applicable United States or Canadian federal, state or provincial bankruptcy, insolvency or other similar law.

The provisions of this Section 6.07 shall survive the termination of this Indenture.

**SECTION 6.08 Corporate Trustees Required; Eligibility.**

- (1) There shall be at all times a U.S. Trustee hereunder which shall be eligible to act as Trustee under TIA Section 310(a)(1) and, together with its immediate parent, shall have a combined capital and surplus of at least \$50,000,000. If the U.S. Trustee publishes reports of condition at least annually, pursuant to law or to the requirements of United States federal, state, territorial or District of Columbia supervising or examining authority, then for the purposes of this Section 6.08, the combined capital and surplus of U.S. Trustee shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the U.S. Trustee shall cease to be eligible in accordance with the provisions of this Section 6.08, it shall resign immediately in the manner and with the effect hereinafter specified in this Article Six.
- (2) For so long as required by Trust Indenture Legislation, there shall be a Canadian Trustee under this Indenture. The Canadian Trustee shall at all times be a resident or authorized to do business in the Province of Ontario and any other province in Canada where Holders may be resident from time to time. The Canadian Trustee represents and warrants that no material conflict of interest exists in the Canadian Trustee's role as a fiduciary hereunder and agrees that in the event of a material conflict of interest arising hereafter it will, within 30 days after ascertaining that it has such material conflict of interest, either eliminate the same or resign its trust hereunder. If any such material conflict of interests exists or hereafter shall exist, the validity and enforceability of this Indenture shall not be affected in any manner whatsoever by reason thereof.
- (3) The Trustees will not be required to give any bond or security in respect of the execution of the trusts and powers set out in this Indenture or otherwise in respect of the premises.

- (4) Neither Trustee nor any Affiliate of either Trustee shall be appointed a receiver or receiver and manager or liquidator of all or any part of the assets or undertaking of the Company.

**SECTION 6.09 Resignation and Removal; Appointment of Successor.**

- (1) No resignation or removal of either Trustee and no appointment of a successor Trustee pursuant to this Article Six shall become effective until the acceptance of appointment by the successor Trustee in accordance with the applicable requirements of Section 6.10.
- (2) Either Trustee may resign at any time with respect to the Securities of one or more series by giving written notice thereof to the Company. If the instrument of acceptance by a successor Trustee required by Section 6.10 shall not have been delivered to such Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.
- (3) Either Trustee may be removed following 30 days notice at any time with respect to the Securities of any series by Act of the Holders of not less than a majority in principal amount of the Outstanding Securities of such series, delivered to such Trustee and to the Company.
- (4) If at any time:
- (i) either Trustee shall acquire any conflicting interest as defined in TIA Section 310(b) and fail to comply with the provisions of TIA Section 310(b)(i), or
  - (ii) either Trustee shall fail to comply with the provisions of TIA Section 310(b) after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or
  - (iii) either Trustee shall cease to be eligible under Section 6.08 and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Security for at least six months, or
  - (iv) either Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of such Trustee or of its property shall be appointed or any public officer shall take charge or control of such Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company, by a Board Resolution, may remove such Trustee with respect to all Securities, or (ii) subject to TIA Section 315(e), any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such Trustee with respect to all Securities of such series and the appointment of a successor Trustee or Trustees.

- (5) If either Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the U.S. Trustee or the Canadian Trustee for any cause, with respect to the Securities of one or more series, the Company, by a Board Resolution, shall promptly appoint a successor Trustee or Trustees with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series) *provided, however*, that the Company shall not be required to appoint a successor Trustee to the Canadian Trustee if the Canadian Trustee resigns or is removed and a Canadian Trustee under this Indenture is no longer required under Trust Indenture Legislation. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee with respect to the Securities of any series shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities of such series delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee with respect to the Securities of such series and to that extent supersede the successor Trustee appointed by the Company. If no successor Trustee with respect to the Securities of any series shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security of such series for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee with respect to the Securities of such series.
- (6) The Company shall give notice of each resignation and each removal of a Trustee with respect to the Securities of any series and each appointment of a successor Trustee with respect to the Securities of any series to the Holders of Securities of such series in the manner provided for in Section 1.07. Each notice shall include the name of the successor Trustee with respect to the Securities of such series and the address of its Corporate Trust Office.
- (7) If a Canadian Trustee under this Indenture is no longer required by Trust Indenture Legislation, then the Company by a Board Resolution may remove the Canadian Trustee.

**SECTION 6.10 Acceptance of Appointment by Successor.**

- (1) In case of the appointment hereunder of a successor Trustee with respect to all Securities, every such successor Trustee so appointed shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on the request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder.



- (2) In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, the Company, the retiring Trustee and each successor Trustee with respect to the Securities of one or more series shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which (1) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Trustee all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates, (2) if the retiring Trustee is not retiring with respect to all Securities, shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series as to which the retiring Trustee is not retiring shall continue to be vested in the retiring Trustee, and (3) shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee; and upon the execution and delivery of such supplemental indenture the resignation or removal of the retiring Trustee shall become effective to the extent provided therein and each such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee with respect to the Securities of that or those series to which the appointment of such successor Trustee relates; but, on request of the Company or any successor Trustee, such retiring Trustee shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder with respect to the Securities of that or those series to which the appointment of such successor Trustee relates. Whenever there is a successor Trustee with respect to one or more (but less than all) series of Securities issued pursuant to this Indenture, the terms "Indenture" and "Securities" shall have the meanings specified in the provisos to the respective definitions of those terms in Section 1.01 which contemplate such situation.
- (3) Upon reasonable request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all rights, powers and trusts referred to in paragraph (1) or (2) of this Section 6.10, as the case may be.
- (4) No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article Six.

#### **SECTION 6.11 Merger, Conversion, Consolidation or Succession to Business.**

Any corporation into which either Trustee or its corporate trust business may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which either Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of either Trustee, shall be the successor of such Trustee hereunder, *provided* such corporation shall be otherwise qualified and eligible under this Article Six, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by a Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities. In case any of the Securities shall not have been authenticated by such predecessor Trustee, any successor Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee. In all such cases such certificates shall have the full force and effect which this Indenture provides for the certificate of authentication of such Trustee; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

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#### **SECTION 6.12 Appointment of Authenticating Agent.**

At any time when any of the Securities remain outstanding, the Trustees may appoint an Authenticating Agent or Agents, with respect to one or more series of Securities which shall be authorized to act on behalf of the Trustees to authenticate Securities of such series and the Trustees shall give written notice of such appointment to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, in the manner provided for in Section 1.07. Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the applicable Trustee hereunder. Any such appointment shall be evidenced by an instrument in writing signed by a Responsible Officer of the Trustees, and a copy of such instrument shall be promptly furnished to the Company. Wherever reference is made in this Indenture to the authentication and delivery of Securities by the Trustees or either Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustees by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustees by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any state thereof or the District of Columbia or the laws of Canada or any province thereof, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than \$50,000,000 and subject to supervision or examination by United States federal or state or Canadian federal or provincial authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 6.12, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.12, it shall resign immediately in the manner and with the effect specified in this Section 6.12.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, *provided* such corporation shall be otherwise eligible under this Section 6.12, without the execution or filing of any paper or any further act on the part of the Trustees or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustees and to the Company. The Trustees may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 6.12, the Trustees may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all Holders of Securities of the series with respect to which such Authenticating Agent will serve, in the manner provided for in Section 1.07. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section 6.12.

The Trustees agree to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 6.12, and the Trustees shall be entitled to be reimbursed for such payments, subject to the provisions of Section 6.07.

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If an appointment with respect to one or more series is made pursuant to this Section 6.12, the Securities of such series may have endorsed thereon, in addition to either Trustee's certificate of authentication, an alternate certificate of authentication in the following form:

(Certificate of Authentication may be executed by either Trustee)

\_\_\_\_\_, as U.S. Trustee, certifies that this is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Dated: \_\_\_\_\_

\_\_\_\_\_,

as U.S. Trustee

By: \_\_\_\_\_  
As Authenticating Agent

By: \_\_\_\_\_  
Authorized Officer

\_\_\_\_\_, as Canadian Trustee, certifies that this is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Dated: \_\_\_\_\_

\_\_\_\_\_,

as Canadian Trustee

By: \_\_\_\_\_  
As Authenticating Agent

By: \_\_\_\_\_  
Authorized Officer

#### SECTION 6.13 Joint Trustees.

The rights, powers, duties and obligations conferred and imposed upon the Trustees are conferred and imposed upon and shall be exercised and performed by the U.S. Trustee and the Canadian Trustee individually, except to the extent the Trustees are required under Trust Indenture Legislation to perform such acts jointly, and neither Trustee shall be liable or responsible for the acts or omissions of the other Trustee. If the U.S. Trustee and Canadian Trustee are unable to agree jointly to act or refrain from acting, the applicable Trustee shall make the decision in accordance with its applicable legislation. Unless the context implies or requires otherwise, any written notice, request, direction, certificate, instruction, opinion or other document (each such document, a "Writing") delivered pursuant to any provision of this Indenture to any of the U.S. Trustee or the Canadian Trustee shall be deemed for all purposes of this Indenture as delivery of such Writing to the Trustee. Each such Trustee in receipt of such Writing shall notify such other Trustee of its receipt of such Writing within two Business Days of such receipt *provided, however*, that any failure of such trustee in receipt of such Writing to so notify such other Trustee shall not be deemed as a deficiency in the delivery of such Writing to the Trustee.

#### SECTION 6.14 Other Rights of Trustees.

Each Trustee 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, either Trustee, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should either Trustee, in its sole judgment, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, then it shall have the right to resign on 10 days written notice to all parties provided (i) that such Trustee's written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to such Trustee's satisfaction within such 10 day period, then such resignation shall not be effective.

The parties hereto acknowledge that Canadian federal and provincial legislation addressing the protection of individuals' personal information (collectively, "Privacy Laws") applies to obligations and activities under this Indenture. Despite any other provision of this Indenture, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. The Company, prior to transferring, or causing to be transferred, personal information to the Canadian Trustee, shall obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have been previously given and can be relied on or are not required under Privacy Laws. The Canadian Trustee shall use commercially reasonable efforts to ensure that its services hereunder comply with Privacy Laws. Specifically, the Trustee agrees to (i) have designated a chief privacy officer; (ii) maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry; (iii) use personal information solely for the purposes of providing its services under or ancillary to this Indenture and not to use it for any other purpose except with the consent and direction of the Company; (iv) not sell or otherwise improperly disclose personal information to any third party; and (v) use employee administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft or unauthorized access, use or modification.

It is expressly acknowledged and agreed that the Canadian Trustee may, in the course of providing services hereunder, collect or receive, use and disclose financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:

- (i) to provide the services required under this Indenture and other services that may be requested from time to time;
- (ii) to help the Canadian Trustee manage its servicing relationships with such individuals;
- (iii) to meet the Canadian Trustee's legal and regulatory requirements; and

- (iv) if social insurance numbers are collected by the Canadian Trustee, to perform tax reporting and to assist in verification of an individual's identity for security purposes.

Further, each party agrees that it shall not provide or cause to be provided to the Canadian Trustee any personal information relating to an individual who is not a party to this Indenture unless that party has assured itself that such individual understands and has consented to the aforementioned uses and disclosures. Notwithstanding anything to the contrary herein, the Company and the Trustees may, without liability, disclose information about the Holders and beneficial owners or potential Holders or potential beneficial owners of the Securities pursuant to subpoena or other order issued by a court of competent jurisdiction or when otherwise required by applicable law.

Each Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by law in trust for the various persons who shall from time to time be holders, subject to all the terms and conditions herein set forth.

## **ARTICLE SEVEN HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY**

### **SECTION 7.01 Company to Furnish Trustees Names and Addresses of Holders.**

The Company will furnish or cause to be furnished to the Trustees (1) not more than 15 days after each Regular Record Date, or such lesser time as required by the Trustees, a list, in such form as the Trustees may reasonably require, of the names and addresses of Holders as of such Regular Record Date; *provided, however*, that the Company shall not be obligated to furnish or cause to be furnished such list at any time that the list shall not differ in any respect from the most recent list furnished to the Trustees by the Company or at such times as either Trustee is acting as Security Registrar for the applicable series of Securities and (2) at such other times as the Trustees may request in writing within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished.

### **SECTION 7.02 Preservation of List of Names and Addresses of Holders.**

The Trustees shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders contained in the most recent list furnished to them as provided in Section 7.01 and as to the names and addresses of Holders received by either Trustee in its capacity as Security Registrar for the applicable series of Securities (if acting in such capacity).

The Trustees may destroy any list furnished as provided in Section 7.01 upon receipt of a new list so furnished.

Holders may communicate as provided in TIA Section 312(b) with other Holders with respect to their rights under this Indenture or under the Securities.

### **SECTION 7.03 Disclosure of Names and Addresses of Holders.**

Every Holder of Securities, by receiving and holding the same, agrees with the Company and the Trustees that none of the Company or the Trustees or any agent of either of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with TIA Section 312, regardless of the source from which such information was derived, and that the Trustees shall not be held accountable by reason of mailing any material pursuant to a request made under TIA Section 312(b).

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### **SECTION 7.04 Reports by Trustees.**

- (1) Within 60 days after May 15 of each year commencing with the first year after the first issuance of Securities pursuant to this Indenture, the U.S. Trustee shall transmit to the Holders of Securities, in the manner and to the extent provided in TIA Section 313(c), a brief report dated as of such reporting date, if required by TIA Section 313(a).
- (2) The U.S. Trustee shall comply with TIA Sections 313(b) and 313(c).
- (3) A copy of such report shall, at the time of such transmission to the Holders, be filed by the U.S. Trustee with the Company, with each securities exchange upon which any of the Securities are listed (if so listed) and also with the Commission. The Company agrees to notify the Trustees when the Securities become listed on any securities exchange.

### **SECTION 7.05 Reports by the Company.**

- (1) The Company will file with the Trustees, within 20 days after filing with or furnishing to the Commission, copies of its annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) which the Company is required to file or furnish with the Commission pursuant to Section 13 or 15(d) of the Exchange Act or, if the Company is not required to file information, documents or reports pursuant to either of such sections, then to file with the Trustees and the Commission, in accordance with rules and regulations prescribed by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Exchange Act in respect of a security listed and registered on a national securities exchange as may be prescribed in such rules and regulations; *provided* that any such reports, information or documents filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval (EDGAR) system shall be deemed filed with the Trustees.
- (2) The Company will transmit to all Holders, in the manner and to the extent provided in TIA Section 313(c), within 30 days after the filing thereof with the Trustees, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraph (1) of this Section 7.05 as may be required by rules and regulations prescribed from time to time by the Commission.
- (3) If at any time the Securities are guaranteed by a direct or indirect parent of the Company, and such parent has furnished the reports required by this Section 7.05 with respect to parent as required by this Section 7.05 as if parent were the Company (including any financial information required hereby), the Company shall be deemed to be in compliance with this Section 7.05.

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**ARTICLE EIGHT  
CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE**

**SECTION 8.01 Company May Consolidate, etc., only on Certain Terms.**

The Company shall not amalgamate or consolidate with or merge into or enter into any statutory arrangement with any other Person, or, directly or indirectly, convey, transfer or lease all or substantially all of its properties and assets to any Person, unless:

- (1) the Person formed by or continuing from such amalgamation or consolidation or into which the Company is merged or with which it enters into such statutory arrangement or the Person which acquires by operation of law or by conveyance or transfer, or which leases, all or substantially all of the properties and assets of the Company shall be a corporation, partnership or trust organized and validly existing under the laws of Canada or any province or territory thereof, the United States of America or any state thereof or the District of Columbia or, if such amalgamation, consolidation, merger, statutory arrangement or other transaction would not impair the rights of Holders, any other country, and, unless the Company is the continuing corporation, shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustees, in form satisfactory to the Trustees, the Company's obligation for the due and punctual payment of the principal of, premium (if any) and interest (if any) on all the Securities and the performance and observance of every covenant of this Indenture on the part of the Company to be performed or observed;
- (2) immediately after giving effect to such transaction, no Default or Event of Default shall have happened and be continuing; and
- (3) the Company or such Person shall have delivered to the Trustees an Officer's Certificate and an Opinion of Counsel, each stating that such amalgamation, consolidation, merger, statutory arrangement or other transaction and such supplemental indenture comply with this Article Eight and that all conditions precedent herein provided for relating to such transaction have been complied with.

Notwithstanding the above, the Company may consolidate with, amalgamate with, undergo an arrangement with, merge with or into an Affiliate of the Company solely for the purpose of reincorporating the Company in a state of the United States or the District of Columbia or in another province or territory of Canada.

This Section 8.01 shall only apply to a merger, consolidation or amalgamation in which the Company is not the surviving Person and to conveyances, leases and transfers by the Company as transferor or lessor.

**SECTION 8.02 Successor Person Substituted.**

Upon any amalgamation or consolidation by the Company with or merger by the Company into any other corporation or a statutory arrangement or any conveyance, transfer or lease of all or substantially all of the properties and assets of the Company to any Person in accordance with Section 8.01, the successor Person formed by such amalgamation or consolidation or into which the Company is merged or statutory arrangement, or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein, and in the event of any such conveyance or transfer, the Company (which term shall for this purpose mean the Person named as the "Company" in the first paragraph of this Indenture or any successor Person which shall theretofore become such in the manner described in Section 8.01), except in the case of a lease, shall be discharged of all obligations and covenants under this Indenture and the Securities and may be dissolved and liquidated.

**ARTICLE NINE  
SUPPLEMENTAL INDENTURES**

**SECTION 9.01 Supplemental Indentures Without Consent of Holders.**

Notwithstanding Section 9.02, without the consent of any Holders, the Company, when authorized by or pursuant to a Board Resolution, and the Trustees, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustees, for any of the following purposes:

- (1) to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants of the Company contained herein and in the Securities; or
- (2) to add to the covenants of the Company for the benefit of the Holders of all or any series of Securities (and if such covenants are to be for the benefit of less than all series of Securities, stating that such covenants are being included solely for the benefit of such series) or to surrender any right or power herein conferred upon the Company; or
- (3) to add any additional Events of Default (and if such Events of Default are to be for the benefit of less than all series of Securities, stating that such Events of Default are being included solely for the benefit of such series); or
- (4) to delete or modify any Events of Default with respect to a series of the Securities, the form and terms of which are being established pursuant to such supplemental indenture as permitted in Section 3.01; or
- (5) to change or eliminate any of the provisions of this Indenture; *provided* that any such change or elimination shall become effective only when there is no Security Outstanding of any series created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision; or
- (6) to establish the form or terms of Securities of any series as permitted by Sections 2.01 and 3.01; or
- (7) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Section 6.10; or
- (8) to close this Indenture with respect to the authentication and delivery of additional series of Securities; or

- (9) to cure any ambiguity or to correct or supplement any provision contained herein or in any indenture supplemental hereto which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture or to conform the terms hereof, as amended and supplemented, that are applicable to the Securities of any series to the description of the terms of such Securities in the offering memorandum, prospectus supplement or other offering document applicable to such Securities at the time of initial sale thereof; or
- (10) to make any change in any series of Securities that does not adversely affect in any material respect the rights of the Holders of such Securities; or
- (11) to add to or change or eliminate any provision of this Indenture as shall be necessary or desirable in accordance with any amendments to the Trust Indenture Act; or
- (12) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance and discharge of any series of Securities pursuant to Sections 4.01, 14.02 and 14.03; *provided* that any such action shall not adversely affect the interests of the Holders of Securities of such series or any other series of Securities in any material respect; or
- (13) to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualifications of this Indenture under any applicable law of the United States and Canada or of any province or territory thereof to the extent they do not conflict with the applicable law of the United States heretofore or hereafter enacted.

**SECTION 9.02 Supplemental Indentures with Consent of Holders.**

Except as provided in Section 9.01 and this Section 9.02, with the consent of the Holders of not less than a majority in principal amount of all Outstanding Securities affected by such supplemental indenture, by Act of said Holders delivered to the Company and the Trustees, the Company, when authorized by or pursuant to a Board Resolution, and the Trustees may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture which affect such series of Securities or of modifying in any manner the rights of the Holders of Securities of such series under this Indenture; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security of such series,

- (1) change the Stated Maturity of the principal of, premium (if any) or any installment of interest (if any) on any Security of such series, or reduce the principal amount thereof, premium (if any) or the rate of interest (if any) thereon, or reduce the amount of the principal of an Original Issue Discount Security of such series that would be due and payable upon a declaration of acceleration of the Maturity thereof pursuant to Section 5.02 or the amount thereof provable in bankruptcy pursuant to Section 5.04, or adversely affect any right of repayment at the option of any Holder of any Security of such series, or change any Place of Payment where, or the Currency in which, any Security of such series or any premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption or repayment at the option of the Holder, on or after the Redemption Date or Repayment Date, as the case may be), or adversely affect any right to convert or exchange any Security as may be provided pursuant to Section 3.01 herein, or

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- (2) reduce the percentage in principal amount of the Outstanding Securities of such series required for any such supplemental indenture, or the consent of whose Holders is required for any waiver of compliance with certain provisions of this Indenture which affect such series or certain defaults applicable to such series hereunder and their consequences provided for in this Indenture, or
- (3) modify any of the provisions of this 9.02 Section, Section 5.13 or Section 10.09, except to increase any such percentage or to provide that certain other provisions of this Indenture which affect such series cannot be modified or waived without the consent of the Holder of each Outstanding Security of such series.

A supplemental indenture which changes or eliminates any covenant or other provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities, or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series. Any such supplemental indenture adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture, or modifying in any manner the rights of the Holders of Securities of such series, shall not affect the rights under this Indenture of the Holders of Securities of any other series.

It shall not be necessary for any Act of Holders under this 9.02 Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

**SECTION 9.03 Execution of Supplemental Indentures.**

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article Nine or the modifications thereby of the trusts created by this Indenture, the Trustees shall be entitled to receive, and shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. Each Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects such Trustee's own rights, duties or immunities under this Indenture or otherwise.

**SECTION 9.04 Effect of Supplemental Indentures.**

Upon the execution of any supplemental indenture under this Article Nine, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

**SECTION 9.05 Conformity with Trust Indenture Legislation.**

Every supplemental indenture executed pursuant to this Article Nine shall conform to the requirements of Trust Indenture Legislation as then in effect.

**SECTION 9.06 Reference in Securities to Supplemental Indentures.**

Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to this Article Nine may, and shall if required by the Trustees, bear a notation in form approved by the Trustees as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustees and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustees in exchange for outstanding Securities of such series.

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**SECTION 9.07 Notice of Supplemental Indentures.**

Promptly after the execution by the Company and the Trustees of any supplemental indenture pursuant to the provisions of Section 9.02, the Company shall give notice thereof to the Holders of each outstanding Security affected, in the manner provided for in Section 1.07, setting forth in general terms the substance of such supplemental indenture.

**ARTICLE TEN  
COVENANTS**

**SECTION 10.01 Payment of Principal, Premium and Interest**

The Company covenants and agrees for the benefit of the Holders of each series of Securities that it will duly and punctually pay the principal of, premium (if any) and interest (if any), on the Securities of that series in accordance with the terms of the Securities and this Indenture.

**SECTION 10.02 Maintenance of Office or Agency.**

- (1) The Company will maintain in each Place of Payment for any series of Securities an office or agency where Securities of that series may be presented or surrendered for payment, where Securities of that series may be surrendered for registration of transfer or exchange, where Securities of that series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable, and where notices and demands to or upon the Company in respect of the Securities of that series and this Indenture may be served .
- (2) The Company will give prompt written notice to the Trustees of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustees with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Offices of the Trustees.
- (3) The Company may also from time to time designate one or more other offices or agencies where the Securities of one or more series may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in accordance with the requirements set forth above for Securities of any series for such purposes. The Company will give prompt written notice to the Trustees of any such designation or rescission and of any change in the location of any such other office or agency. Unless otherwise specified with respect to any Securities as contemplated by Section 3.01 with respect to a series of Securities, the Company hereby initially appoints the U.S. Trustee at its Corporate Trust Office as Paying Agent in such city and as its agent to receive all such presentations, surrenders, notices and demands.
- (4) Unless otherwise specified with respect to any Securities pursuant to Section 3.01, if and so long as the Securities of any series (i) are denominated in a Currency other than Dollars or (ii) may be payable in a Currency other than Dollars, or so long as it is required under any other provision of the Indenture, then the Company will maintain with respect to each such series of Securities, or as so required, at least one Exchange Rate Agent.

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**SECTION 10.03 Money for Securities Payments to Be Held in Trust**

If the Company shall at any time act as its own Paying Agent with respect to any series of Securities , it will, on or before each due date of the principal of, premium (if any) or interest (if any) on any of the Securities of that series, segregate and hold in trust for the benefit of the Persons entitled thereto a sum in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)) sufficient to pay the principal of, premium (if any) or interest (if any) on Securities of such series so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustees of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents for any series of Securities, it will, prior to or on each due date of the principal of, premium (if any) or interest (if any) on any Securities of that series, deposit with a Paying Agent a sum (in the Currency described in the preceding paragraph) sufficient to pay the principal, premium (if any) or interest (if any) so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such Paying Agent is a Trustee) the Company will promptly notify the Trustees of its action or failure so to act.

The Company will cause each Paying Agent (other than the Trustees) for any series of Securities to execute and deliver to the Trustees an instrument in which such Paying Agent shall agree with the Trustees, subject to the provisions of this 10.03 Section, that such Paying Agent will:

- (1) hold all sums held by it for the payment of the principal of, premium (if any) and interest (if any) on Securities of such series in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;
- (2) give the Trustees notice of any default by the Company (or any other obligor upon the Securities of such series) in the making of any payment of principal of, premium (if any) or interest (if any) on the Securities of such series; and
- (3) at any time during the continuance of any such default, upon the written request of the Trustees, forthwith pay to the Trustees all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustees all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustees upon the same trusts as those upon which sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustees, such Paying Agent shall be released from all further liability with respect to such sums.

Except as provided in the Securities of any series, any money deposited with the Trustees or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium (if any) or interest (if any) on any Security of any series, and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustees or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

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**SECTION 10.04 Statement as to Compliance.**

The Company shall deliver to the Trustees, on or before 120 days after the end of the Company's fiscal year, an Officer's Certificate stating that a review of the activities of the Company during such fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to such Officer, that the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default or Event of Default shall have occurred and is continuing, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or propose to take with respect thereto). The Company shall deliver to the Trustees upon demand evidence in such form as the Trustees may require as to compliance by the Company with any condition or covenant of the Company set out herein relating to any action required or permitted to be taken by the Company under this Indenture or as a result of any obligation imposed by this Indenture. For purposes of this Section 10.04, such compliance shall be determined without regard to any period of grace or requirement of notice under this Indenture.

**SECTION 10.05 Payment of Taxes and Other Claims**

The Company will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (1) all material taxes, assessments and governmental charges levied or imposed upon the Company or upon the income, profits or property of the Company, and (2) all material lawful claims for labor, materials and supplies which, if unpaid, might by law become a Lien upon any property or assets of the Company; *provided, however*, that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

**SECTION 10.06 Corporate Existence.**

Subject to Article Eight, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and the rights (charter and statutory) and franchises of the Company; *provided, however*, that the Company shall not be required to preserve any such right or franchise if the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company.

**SECTION 10.07 Waiver of Certain Covenants.**

The Company may, with respect to any series of Securities, omit in any particular instance to comply with any term, provision or condition which affects such series set forth in Sections 10.06 and 10.07, or, as specified pursuant to Section 3.01(19) for Securities of such series, in any covenants of the Company added to this Article Ten pursuant to Section 3.01(19) in connection with Securities of such series, if before the time for such compliance the Holders of at least a majority in principal amount of all Outstanding Securities of any series, by Act of such Holders, waive such compliance in such instance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustees to Holders of Securities of such series in respect of any such term, provision or condition shall remain in full force and effect.

**ARTICLE ELEVEN  
REDEMPTION OF SECURITIES**

**SECTION 11.01 Applicability of Article.**

Securities of any series which are redeemable before their Stated Maturity shall be redeemable in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article Eleven.

**SECTION 11.02 Election to Redeem; Notice to Trustees**

The election of the Company to redeem any Securities shall be evidenced by or pursuant to a Board Resolution. In case of any redemption at the election of the Company, the Company shall, at least 60 days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustees), notify the Trustees of such Redemption Date and of the principal amount of Securities of such series to be redeemed and, in the case of certificated Securities, shall deliver to the Trustees such documentation and records as shall enable the Trustees to select the Securities to be redeemed pursuant to Section 11.03. In the case of any redemption of Securities prior to the expiration of any restriction on such redemption provided in the terms of such Securities or elsewhere in this Indenture, the Company shall furnish to the Trustees an Officer's Certificate evidencing compliance with such restriction.

**SECTION 11.03 Selection by Trustees of Securities to Be Redeemed.**

If less than all the Securities of any series are to be redeemed, the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustees, from the Outstanding Securities of such series not previously called for redemption, in the case of certificated Securities, by such method as the Trustees shall deem fair and appropriate and which may provide for the selection for redemption of portions of the principal of Securities of such series, or in the case of Securities in global form in accordance with the policies and procedures of the applicable Depository; *provided, however*, that no such partial redemption shall reduce the portion of the principal amount of a Security not redeemed to less than the minimum authorized denomination for Securities of such series established pursuant to Section 3.01.

The Trustees shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Securities selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

**SECTION 11.04 Notice of Redemption.**

Except as otherwise specified as contemplated by Section 3.01, notice of redemption shall be given in the manner provided for in Section 1.07 not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Securities to be redeemed. Failure to give notice in the manner provided in Section 1.07 to the Holder of any Securities designated for redemption as a whole or in part, or any defect in the notice to any such Holder, shall not affect the validity of the proceedings for the redemption of any other Securities or portion thereof.

All notices of redemption shall state:

- (1) the Redemption Date,

- (2) the Redemption Price and the amount of accrued interest to the Redemption Date payable as provided in Section 11.06, if any,
- (3) if less than all the Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the particular Securities to be redeemed,
- (4) in case any Security is to be redeemed in part only, the notice which relates to such Security shall state that on and after the Redemption Date, upon surrender of such Security, the Holder will receive, without charge, a new Security or Securities of authorized denominations for the principal amount thereof remaining unredeemed,
- (5) that on the Redemption Date, the Redemption Price and accrued interest (if any) to the Redemption Date payable as provided in Section 11.06 will become due and payable upon each such Security, or the portion thereof, to be redeemed and, if applicable, that interest thereon will cease to accrue on and after said date,
- (6) the Place or Places of Payment where such Securities are to be surrendered for payment of the Redemption Price and accrued interest (if any),
- (7) that the redemption is for a sinking fund, if such is the case, and
- (8) if applicable, any condition to such redemption.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustees in the name and at the expense of the Company.

**SECTION 11.05 Deposit of Redemption Price.**

Prior to any Redemption Date, the Company shall deposit with a Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)) sufficient to pay the Redemption Price of, and accrued interest (if any) on, all the Securities which are to be redeemed on that date.

**SECTION 11.06 Securities Payable on Redemption Date.**

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)) (together with accrued interest (if any) to the Redemption Date), and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest (if any)) such Securities shall, if the same were interest-bearing, cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest (if any), to the Redemption Date; *provided, however*, that installments of interest on Securities whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant record dates according to their terms and the provisions of Section 3.07.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal and premium (if any) shall, until paid, bear interest from the Redemption Date at the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) set forth in such Security.

**SECTION 11.07 Securities Redeemed in Part.**

Any Security which is to be redeemed only in part (pursuant to the provisions of this Article Eleven or of Article Twelve) shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustees so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustees duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing), and the Company shall execute, and the applicable Trustee shall authenticate and deliver to the Holder of such Security without service charge, a new Security or Securities of the same series, of any authorized denomination as requested by such Holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered.

**ARTICLE TWELVE  
SINKING FUNDS**

**SECTION 12.01 Applicability of Article.**

Retirements of Securities of any series pursuant to any sinking fund shall be made in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article Twelve.

The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a "mandatory sinking fund payment," and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an "optional sinking fund payment". If provided for by the terms of Securities of any series, the cash amount of any mandatory sinking fund payment may be subject to reduction as provided in Section 12.02. Each sinking fund payment shall be applied to the redemption of Securities of any series as provided for by the terms of Securities of such series.

**SECTION 12.02 Satisfaction of Sinking Fund Payments with Securities.**

Subject to Section 12.03, in lieu of making all or any part of any mandatory sinking fund payment with respect to any Securities of a series in cash, the Company may at its option (1) deliver to the Trustees Outstanding Securities of a such series (other than any previously called for redemption) theretofore purchased or otherwise acquired by the Company, and/or (2) receive credit for the principal amount of Securities of such series which have been previously delivered to the Trustees by the Company or redeemed either at the election of the Company pursuant to the terms of such Securities or through the application of permitted optional sinking fund payments pursuant to the terms of such Securities, in each case in satisfaction of all or any part of any mandatory sinking fund payment with respect to the Securities of the same series required to be made pursuant to the terms of such Securities as provided for by the terms of such series; *provided, however*, that such Securities have not been previously so credited. Such Securities shall be received and credited for such purpose by the Trustees at the Redemption Price specified in such Securities for redemption through operation of the sinking fund and the amount of such mandatory sinking fund payment shall be reduced accordingly.



### **SECTION 12.03 Redemption of Securities for Sinking Fund.**

Not less than 60 days prior to each sinking fund payment date for any series of Securities, the Company will deliver to the Trustees an Officer's Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)) and the portion thereof, if any, which is to be satisfied by delivering or crediting Securities of that series pursuant to Section 12.02 (which Securities will, if not previously delivered, accompany such certificate) and whether the Company intends to exercise its right to make a permitted optional sinking fund payment with respect to such series.

Such certificate shall be irrevocable and upon its delivery the Company shall be obligated to make the cash payment or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. In the case of the failure of the Company to deliver such certificate, the sinking fund payment due on the next succeeding sinking fund payment date for that series shall be paid entirely in cash and shall be sufficient to redeem the principal amount of such Securities subject to a mandatory sinking fund payment without the option to deliver or credit Securities as provided in Section 12.02 and without the right to make any optional sinking fund payment, if any, with respect to such series.

Not more than 60 days before each such sinking fund payment date the Trustees shall select the Securities to be redeemed upon such sinking fund payment date in the manner specified in Section 11.03 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 11.04. Such notice having been duly given, the redemption of such Securities shall be made upon the terms and in the manner stated in Sections 11.06 and 11.07.

Prior to any sinking fund payment date, the Company shall pay to the Trustees or a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) in cash a sum equal to any interest that will accrue to the date fixed for redemption of Securities or portions thereof to be redeemed on such sinking fund payment date pursuant to this 12.03 Section.

Notwithstanding the foregoing, with respect to a sinking fund for any series of Securities, if at any time the amount of cash to be paid into such sinking fund on the next succeeding sinking fund payment date, together with any unused balance of any preceding sinking fund payment or payments for such series, does not exceed in the aggregate \$100,000, the Trustees, unless requested by the Company, shall not give the next succeeding notice of the redemption of Securities of such series through the operation of the sinking fund. Any such unused balance of moneys deposited in such sinking fund shall be added to the sinking fund payment for such series to be made in cash on the next succeeding sinking fund payment date or, at the request of the Company, shall be applied at any time or from time to time to the purchase of Securities of such series, by public or private purchase, in the open market or otherwise, at a purchase price for such Securities (excluding accrued interest and brokerage commissions, for which the Trustees or any Paying Agent will be reimbursed by the Company) not in excess of the principal amount thereof.

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## **ARTICLE THIRTEEN REPAYMENT AT OPTION OF HOLDERS**

### **SECTION 13.01 Applicability of Article.**

Repayment of Securities of any series before their Stated Maturity at the option of Holders thereof shall be made in accordance with the terms of such Securities and (except as otherwise specified as contemplated by Section 3.01 for Securities of any series) in accordance with this Article Thirteen.

### **SECTION 13.02 Repayment of Securities.**

Securities of any series subject to repayment in whole or in part at the option of the Holders thereof will, unless otherwise provided in the terms of such Securities, be repaid at a price equal to the principal amount thereof, together with interest (if any) thereon accrued to the Repayment Date specified in or pursuant to the terms of such Securities. The Company covenants that, with respect to such Securities, on or before the Repayment Date it will deposit with a Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 10.03) an amount of money in the Currency in which the Securities of such series are payable (except as otherwise specified pursuant to Section 3.01 for the Securities of such series and except, if applicable, as provided in Sections 3.12(b), 3.12(d) and 3.12(e)) sufficient to pay the principal (or, if so provided by the terms of the Securities of any series, a percentage of the principal) of and (except if the Repayment Date shall be an Interest Payment Date) accrued interest (if any) on, all the Securities or portions thereof, as the case may be, to be repaid on such date.

### **SECTION 13.03 Exercise of Option.**

Securities of any series subject to repayment at the option of the Holders thereof will contain an "Option to Elect Repayment" form on the reverse of such Securities. To be repaid at the option of the Holder, any Security so providing for such repayment, with the "Option to Elect Repayment" form on the reverse of such Security duly completed by the Holder (or by the Holder's attorney duly authorized in writing), must be received by the Company at the Place of Payment therefor specified in the terms of such Security (or at such other place or places which the Company shall from time to time notify the Holders of such Securities) not earlier than 45 days nor later than 30 days prior to the Repayment Date. If less than the entire principal amount of such Security is to be repaid in accordance with the terms of such Security, the principal amount of such Security to be repaid, in increments of the minimum denomination for Securities of such series, and the denomination or denominations of the Security or Securities to be issued to the Holder for the portion of the principal amount of such Security surrendered that is not to be repaid, must be specified. The principal amount of any Security providing for repayment at the option of the Holder thereof may not be repaid in part if, following such repayment, the unpaid principal amount of such Security would be less than the minimum authorized denomination of Securities of the series of which such Security to be repaid is a part. Except as otherwise may be provided by the terms of any Security providing for repayment at the option of the Holder thereof, exercise of the repayment option by the Holder shall be irrevocable unless waived by the Company.

### **SECTION 13.04 When Securities Presented for Repayment Become Due and Payable**

If Securities of any series providing for repayment at the option of the Holders thereof shall have been surrendered as provided in this Article Thirteen and as provided by or pursuant to the terms of such Securities, such Securities or the portions thereof, as the case may be, to be repaid shall become due and payable and shall be paid by the Company on the Repayment Date therein specified, and on and after such Repayment Date (unless the Company shall default in the payment of such Securities on such Repayment Date) such Securities shall, if the same were interest-bearing, cease to bear interest. Upon surrender of any such Security for repayment in accordance with such provisions, the principal amount of such Security so to be repaid shall be paid by the Company, together with accrued interest (if any) to the Repayment Date; *provided, however*, that, in the case of Securities, installments of interest (if any) whose Stated Maturity is on or prior to the Repayment Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 3.07.

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If any Security surrendered for repayment shall not be so repaid upon surrender thereof for repayment, the principal amount and premium (if any) shall, until paid, bear interest from the Repayment Date at the rate of interest or Yield to Maturity (in the case of Original Issue Discount Securities) set forth in such Security.

#### **SECTION 13.05 Securities Repaid in Part.**

Upon surrender of any Security which is to be repaid in part only, the Company shall execute and the applicable Trustee shall authenticate and deliver to the Holder of such Security, without service charge and at the expense of the Company, a new Security or Securities of the same series, of any authorized denomination specified by the Holder, in an aggregate principal amount equal to and in exchange for the portion of the principal of such Security so surrendered which is not to be repaid.

### **ARTICLE FOURTEEN DEFEASANCE AND COVENANT DEFEASANCE**

#### **SECTION 14.01 Company's Option to Effect Defeasance or Covenant Defeasance**

Except as otherwise specified as contemplated by Section 3.01 for Securities of any series, the provisions of this Article Fourteen shall apply to each series of Securities, and the Company may, at its option, effect defeasance of the Securities of or within a series under Section 14.02, or covenant defeasance of or within a series under Section 14.03 in accordance with the terms of such Securities and in accordance with this Article Fourteen.

#### **SECTION 14.02 Defeasance and Discharge.**

Upon the Company's exercise of the above option applicable to this Section 14.02 with respect to any Securities of or within a series, the Company shall be deemed to have been discharged from its obligations with respect to such Securities on the date the conditions set forth in Section 14.04 are satisfied (hereinafter, "**defeasance**"). For this purpose, such defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Securities, which shall thereafter be deemed to be "Outstanding" only for the purposes of Section 14.05 and the other Sections of this Indenture referred to in (A) and (B) below, and to have satisfied all of its other obligations under such Securities and this Indenture insofar as such Securities are concerned (and the Trustees, at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of such Securities to receive, solely from the trust fund described in Section 14.04 and as more fully set forth in such Section, payments in respect of the principal of, premium (if any) and interest (if any) on such Securities when such payments are due, (B) the Company's obligations with respect to such Securities under Sections 3.05, 3.06, 10.02 and 10.03, (C) the rights, powers, trusts, duties and immunities of the Trustees hereunder and (D) this Article Fourteen. Subject to compliance with this Article Fourteen, the Company may exercise its option under this Section 14.02 notwithstanding the prior exercise of its option under Section 14.03 with respect to such Securities.

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#### **SECTION 14.03 Covenant Defeasance.**

Upon the Company's exercise of the above option applicable to this Section 14.03 with respect to any Securities of or within a series, the Company shall be released from its obligations under Sections 10.05 and 10.06, and, if specified pursuant to Section 3.01, its obligations under any other covenant, with respect to such Securities on and after the date the conditions set forth in Section 14.04 are satisfied (hereinafter, "**covenant defeasance**"), and such Securities shall thereafter be deemed not to be "Outstanding" for the purposes of any direction, waiver, consent or declaration or Act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "Outstanding" for all other purposes hereunder. For this purpose, such covenant defeasance means that, with respect to such Securities, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under clauses (4) or (7) of Section 5.01 or otherwise but, except as specified above, the remainder of this Indenture and such Securities shall be unaffected thereby.

#### **SECTION 14.04 Conditions to Defeasance or Covenant Defeasance**

The following shall be the conditions to application of either Section 14.02 or Section 14.03 to any Securities of or within a series:

- (1) The Company shall irrevocably have deposited or caused to be deposited with either Trustee (or another trustee satisfying the requirements of Section 6.08 who shall agree to comply with the provisions of this Article Fourteen applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Securities, (A) an amount (in such Currency in which such Securities are then specified as payable at Stated Maturity), or (B) Government Obligations applicable to such Securities (determined on the basis of the Currency in which such Securities are then specified as payable at Stated Maturity) which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment of principal of and premium (if any) and interest (if any) under such Securities, money in an amount, or (C) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustees, to pay and discharge, and which shall be applied by the Trustees (or another trustee satisfying the requirements of Section 6.08 who shall agree to comply with the provisions of this Article Fourteen) to pay and discharge, (i) the principal of, premium (if any) and interest (if any) on such Securities on the Stated Maturity (or Redemption Date, if applicable) of such principal of, premium (if any) or installment of interest (if any), (ii) any mandatory sinking fund payments or analogous payments applicable to such Securities on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Securities, and (iii) all amounts due the Trustees under Section 6.07; *provided* that the Trustees shall have been irrevocably instructed to apply such money or the proceeds of such Government Obligations to said payments with respect to such Securities. Before such a deposit, the Company may give to the Trustees, in accordance with Section 11.02, a notice of its election to redeem all or any portion of such Securities at a future date in accordance with the terms of such Securities and Article Eleven hereof, which notice shall be irrevocable. Such irrevocable redemption notice, if given, shall be given effect in applying the foregoing.

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- (2) No Default or Event of Default with respect to such Securities shall have occurred and be continuing on the date of such deposit or, insofar as clauses (5) and (6) of Section 5.01 are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).
- (3) Such defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a Default or an Event of Default under, this Indenture or any default under any material agreement or instrument to which the Company is a party or by which it is bound.

- (4) In the case of an election under Section 14.02, the Company shall have delivered to the Trustees an Opinion of Counsel in the United States stating that (x) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (y) since the date of execution of this Indenture, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of such Securities will not recognize income, gain or loss for United States federal income tax purposes as a result of such defeasance and will be subject to United States federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred.
- (5) In the case of an election under Section 14.03, the Company shall have delivered to the Trustees an Opinion of Counsel in the United States to the effect that the Holders of such Securities will not recognize income, gain or loss for United States federal income tax purposes as a result of such covenant defeasance and will be subject to United States federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.
- (6) The Company shall have delivered to the Trustees an Opinion of Counsel in Canada or a ruling from the Canada Revenue Agency to the effect that the Holders of such Securities will not recognize income, gain or loss for Canadian federal, provincial or territorial income tax or other tax purposes as a result of such defeasance or covenant defeasance, as applicable, and will be subject to Canadian federal, provincial or territorial income tax and other tax on the same amounts, in the same manner and at the same times as would have been the case had such defeasance or covenant defeasance, as applicable, not occurred (and for the purposes of such opinion, such Canadian counsel shall assume that Holders of such Securities include Holders who are not resident in Canada).
- (7) The Company is not an “insolvent person” within the meaning of the Bankruptcy and Insolvency Act (Canada) on the date of such deposit or at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).
- (8) Notwithstanding any other provisions of this Section 14.04, such defeasance or covenant defeasance shall be effected in compliance with any additional or substitute terms, conditions or limitations in connection therewith pursuant to Section 3.01.
- (9) The Company shall have delivered to the Trustees an Officer’s Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for, relating to either the defeasance under Section 14.02 or the covenant defeasance under Section 14.03 (as the case may be), have been complied with.

**SECTION 14.05 Deposited Money and Government Obligations to Be Held in Trust; Other Miscellaneous Provisions**

Subject to the provisions of the last paragraph of Section 10.03, all money and Government Obligations (or other property as may be provided pursuant to Section 3.01) (including the proceeds thereof) deposited with a Trustee (or another trustee satisfying the requirements of Section 6.08 who shall agree to comply with the provisions of this Article Fourteen) pursuant to Section 14.04 in respect of such Securities shall be held in trust and applied by such Trustee, in accordance with the provisions of such Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent), to the Holders of such Securities of all sums due and to become due thereon in respect of principal, premium (if any) and interest (if any) on such Securities but such money need not be segregated from other funds except to the extent required by law.

Unless otherwise specified with respect to any Security pursuant to Section 3.01, if, after a deposit referred to in Section 14.04(1) has been made, (a) the Holder of a Security in respect of which such deposit was made is entitled to, and does, elect pursuant to Section 3.12(b) or the terms of such Security to receive payment in a Currency other than that in which the deposit pursuant to Section 14.04(1) has been made in respect of such Security, or (b) a Conversion Event occurs as contemplated in Section 3.12(d) or 3.12(e) or by the terms of any Security in respect of which the deposit pursuant to Section 14.04(1) has been made, the indebtedness represented by such Security shall be deemed to have been, and will be, fully discharged and satisfied through the payment of the principal of, premium (if any) and interest (if any) on such Security as they become due out of the proceeds yielded by converting (from time to time as specified below in the case of any such election) the amount or other property deposited in respect of such Security into the Currency in which such Security becomes payable as a result of such election or Conversion Event based on the applicable Market Exchange Rate for such Currency in effect on the third Business Day prior to each payment date, except, with respect to a Conversion Event, for such Currency in effect (as nearly as feasible) at the time of the Conversion Event.

The Company shall pay and indemnify such Trustee against any tax, fee or other charge imposed on or assessed against the Government Obligations deposited pursuant to Section 14.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of such Securities.

Anything in this Article Fourteen to the contrary notwithstanding, such Trustee shall deliver or pay to the Company from time to time upon Company Request any money or Government Obligations (or other property and any proceeds therefrom) held by it as provided in Section 14.04 which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to such Trustee, are in excess of the amount thereof which would then be required to be deposited to effect an equivalent defeasance or covenant defeasance, as applicable, in accordance with this Article Fourteen.

**SECTION 14.06 Reinstatement.**

If a Trustee or any Paying Agent is unable to apply any money in accordance with Section 14.05 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company’s obligations under this Indenture and such Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 14.02 or 14.03, as the case may be, until such time as such Trustee or Paying Agent is permitted to apply all such money in accordance with Section 14.05; *provided, however*, that if the Company makes any payment of principal of, premium (if any) or interest (if any) on any such Security following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money held by such Trustee or Paying Agent.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed, all as of the day and year first above written.

AYR WELLNESS INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ ,  
as U.S. Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_ ,  
as Canadian Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Signing Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Authorized Signing Officer

**EXHIBIT A-1**

FORM OF CERTIFICATE TO BE GIVEN BY  
PERSON ENTITLED TO OBTAIN INTEREST PAYABLE PRIOR  
TO THE EXCHANGE DATE

CERTIFICATE

AYR WELLNESS INC.

\_\_\_\_\_% Notes due \_\_\_\_\_

This is to certify that as of the date hereof, and except as set forth below, the above-captioned Securities held by you for our account (i) are owned by any person(s) that is not a citizen or resident of the United States; a corporation or partnership (including any entity treated as a corporation or partnership for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia unless, in the case of a partnership, United States Treasury Regulations provide otherwise; any estate whose income is subject to United States federal income tax regardless of its source; or a trust if (A) a United States court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust or (B) it was in existence on August 20, 1996 and has a valid election in effect under applicable United States Treasury Regulations to be treated as a United States person ("United States persons(s)"), (ii) are owned by United States person(s) that are (a) foreign branches of United States financial institutions (financial institutions, as defined in United States Treasury Regulation Section 1.165-12(c)(1)(iv) are herein referred to as "financial institutions") purchasing for their own account or for resale, or (b) United States person(s) who acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such United States financial institution hereby agrees, on its own behalf or through its agent, that you may advise AYR Wellness Inc. or its agent that such financial institution will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the United States Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) are owned by United States or foreign financial institution(s) for purposes of resale during the restricted period (as defined in United States Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)), and, in addition, if the owner is a United States or foreign financial institution described in clause (iii) above (whether or not also described in clause (i) or (ii)), this is to further certify that such financial institution has not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "United States" means the United States of America (including the states and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We undertake to advise you promptly in writing on or prior to the date on which you intend to submit your certification relating to the above-captioned Securities held by you for our account in accordance with your operating procedures if any applicable statement herein is not correct on such date, and in the absence of any such notification it may be assumed that this certification applies as of such date.

This certificate excepts and does not relate to U.S. \$ \_\_\_\_\_ of such interest in the above-captioned Securities in respect of which we are not able to certify and as to which we understand an exchange for an interest in a permanent global security or an exchange for and delivery of definitive Securities (or, if relevant, collection of any interest) cannot be made until we do so certify.

We understand that this certificate may be required in connection with certain tax legislation in the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Dated: \_\_\_\_\_  
[To be dated no earlier than the 15th day prior to  
(i) the Exchange Date or (ii) the relevant Interest  
Payment Date occurring prior to the Exchange  
Date, as applicable]

[Name of Person Making Certification]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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EXHIBIT A-2

FORM OF CERTIFICATE TO BE GIVEN BY THE DEPOSITARY  
IN CONNECTION WITH THE EXCHANGE OF A PORTION OF A  
TEMPORARY GLOBAL SECURITY OR TO OBTAIN INTEREST  
PAYABLE PRIOR TO THE EXCHANGE DATE

CERTIFICATE

AYR WELLNESS INC.

\_\_\_\_\_% Notes due \_\_\_\_\_

This is to certify that based solely on written certifications that we have received in writing or by electronic transmission from each of the persons appearing in our records as persons entitled to a portion of the principal amount set forth below (our "Member Organizations") substantially in the form attached hereto, as of the date hereof, U.S. \$ \_\_\_\_\_ principal amount of the above-captioned Securities (i) is owned by any person(s) that is not a citizen or resident of the United States; a corporation or partnership (including any entity treated as a corporation or partnership for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia unless, in the case of a partnership, United States Treasury Regulations provide otherwise; any estate whose income is subject to United States federal income tax regardless of its source; or a trust if (A) a United States court can exercise primary supervision over the trust's administration and one or more United States persons are authorized to control all substantial decisions of the trust or (B) it was in existence on August 20, 1996 and has a valid election in effect under applicable United States Treasury Regulations to be treated as a United States person ("United States person(s)"), (ii) is owned by United States person(s) that are (a) foreign branches of United States financial institutions (financial institutions, as defined in United States Treasury Regulation Section 1.165-12(c)(1)(iv) are herein referred to as "financial institutions") purchasing for their own account or for resale, or (b) United States person(s) who acquired the Securities through foreign branches of United States financial institutions and who hold the Securities through such United States financial institutions on the date hereof (and in either case (a) or (b), each such financial institution has agreed, on its own behalf or through its agent, that we may advise AYR Wellness Inc. or its agent that such financial institution will comply with the requirements of Section 165(j)(3)(A), (B) or (C) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder), or (iii) is owned by United States or foreign financial institution(s) for purposes of resale during the restricted period (as defined in United States Treasury Regulation Section 1.163-5(c)(2)(i)(D)(7)) and, to the further effect, that financial institutions described in clause (iii) above (whether or not also described in clause (i) or (ii)) have certified that they have not acquired the Securities for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

As used herein, "United States" means the United States of America (including the states and the District of Columbia); and its "possessions" include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands.

We further certify that (i) we are not making available herewith for exchange (or, if relevant, collection of any interest) any portion of the temporary global Security representing the above-captioned Securities excepted in the above-referenced certificates of Member Organizations and (ii) as of the date hereof we have not received any notification from any of our Member Organizations to the effect that the statements made by such Member Organizations with respect to any portion of the part submitted herewith for exchange (or, if relevant, collection of any interest) are no longer true and cannot be relied upon as of the date hereof.

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We understand that this certification is required in connection with certain tax legislation in the United States. If administrative or legal proceedings are commenced or threatened in connection with which this certificate is or would be relevant, we irrevocably authorize you to produce this certificate or a copy thereof to any interested party in such proceedings.

Dated: \_\_\_\_\_  
[To be dated as of (i) the Exchange Date or  
(ii) the relevant Interest Payment Date occurring  
prior to the Exchange Date, as applicable]

[INSERT NAME OF DEPOSITARY]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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## Calculation of Filing Fee Tables

**FORM F-10**

(Form Type)

**AYR WELLNESS INC.**

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

Security Type	Security Class Title <sup>(1)</sup>	Fee Calculation or Carry Forward Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee	
<b>Newly Registered Securities</b>								
Fees to be Paid	Unallocated (Universal) Shelf	Subordinate Voting Shares Restricting Voting Shares Limited Voting Shares Warrants Subscription Receipts Debt Securities Convertible Securities Units	Rule 457(o)	\$ 250,000,000 <sup>(1)</sup>	(1)	\$ 250,000,000 <sup>(1)(2)</sup>	\$ 0.00014760	\$ 36,900 <sup>(1)(2)</sup>
Fees Previously Paid	-	-	-	-	-	-	-	-
<b>Total Offering Amounts</b>					\$ 250,000,000		\$ 36,900	
<b>Total Fees Previously Paid</b>							\$ 0	
<b>Total Fee Offsets</b>							\$ 36,900	
<b>Net Fee Due</b>							\$ 0	

(1) There are being registered under this Registration Statement such indeterminate number of subordinate voting shares, restricting voting shares, limited voting shares, warrants, subscription receipts, debt securities, convertible securities, units of the Registrant, and a combination of such securities, as may be sold by the registrant from time to time, which collectively shall have an aggregate initial offering price not to exceed US\$250,000,000. The securities registered hereunder also include such indeterminate number of each class of identified securities as may be issued upon conversion, exercise or exchange of any other securities that provide for such conversion into, exercise for or exchange into such securities. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities. In addition, pursuant to Rule 416 under the Securities Act of 1933 (the "Securities Act"), as amended, the common shares being registered hereunder include such indeterminate number of subordinate voting shares, restricting voting shares, limited voting shares as may be issuable with respect to the shares being registered hereunder as a result of stock splits, stock dividends, or similar transactions. The proposed maximum initial offering price per security will be determined, from time to time, by the registrant in connection with the sale of the securities under this Registration Statement.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(o) of the Securities Act.

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Table 2: Fee Offset Claims and Sources

Registrant or Filer Name	Form or Filing Type	File Number	Initial Filing Date	Filing Date	Fee Offset Claimed	Security Type Associated with Fee Offset Claimed	Security Title Associated with Fee Offset Claimed	Unsold Securities Associated with Fee Offset Claimed	Unsold Aggregate Offering Amount Associated with Fee Offset Claimed	Fee Paid with Fee Offset Source <sup>(3)</sup>
<b>Rule 457(p)</b>										
Fees Offset Claims	Ayr Wellness Inc.	F-10	333-253466	02/24/2021	\$ 43,285.42	Unallocated (Universal) Shelf	Unallocated (Universal) Shelf	Unallocated (Universal) Shelf	\$ 396,750,000	
Fees Offset Sources	Ayr Wellness Inc.	F-10	333-253466	02/24/2021						\$ 43,285.42

(3) The Registrant previously paid US\$43,285.42 in registration fees with respect to the Registration Statement on Form F-10 (File No. 333-253466) filed with the United States Securities and Exchange Commission (the "SEC") on February 24, 2021 (the "2021 Registration Statement"). As of November 30, 2022, all US\$43,285.42 of such registration fee in connection with the registration of US\$396,750,000 of unsold securities under the 2021 Registration Statement remained unutilized and therefore, was available for future registration fees pursuant to Rule 457(p) under the Securities Act. On July 7, 2023, the Registrant filed a Registration Statement on Form F-10 (File No. 333-273157) with the SEC (the "2023 Registration Statement") using US\$10,391.86 of the US\$43,285.42 fee offset source carried forward from the 2021 Registration Statement. The 2023 Registration Statement was not declared effective by the SEC and was withdrawn by the Registrant on March 21, 2024. Therefore, a total of US\$43,285.42 of previously paid fees in connection with the 2021 Registration Statement may be applied to the filing fees payable to this Registration Statement pursuant to Rule 457(p).

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