

**AMENDED AND RESTATED SENIOR SECURED SECOND LIEN
CREDIT AGREEMENT**

among

WESTERN ENERGY SERVICES CORP.,
as Borrower

and

ALBERTA INVESTMENT MANAGEMENT CORPORATION
and the other banks and financial institutions from time to time parties hereto as Lenders

and

ALBERTA INVESTMENT MANAGEMENT CORPORATION
as Agent for the Lenders

DATED AS OF May 18, 2022

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINED TERMS	2
1.1 Defined Terms	2
1.2 Schedules	24
ARTICLE 2 THE CREDIT FACILITY	24
2.1 Existing Credit Agreement	24
2.2 Commitments	25
2.3 Purpose	25
2.4 Funding of Loan	25
2.5 Evidence of Indebtedness	25
ARTICLE 3 REPAYMENT	26
3.1 Repayment of Loan	26
3.2 Interest	27
3.3 Repayment of Loan – Proportionate Share	29
ARTICLE 4 SECURITY	30
4.1 Security	30
ARTICLE 5 CONDITIONS TO EFFECTIVENESS	32
5.1 Conditions Precedent to Effectiveness	32
5.2 Waiver	34
ARTICLE 6 REPRESENTATIONS AND WARRANTIES	34
6.1 Representations and Warranties	34
6.2 Survival of Representations and Warranties	41
ARTICLE 7 COVENANTS	41
7.1 Positive Covenants	41
7.2 Negative Covenants	47
7.3 Most Favoured Lender	49
ARTICLE 8 DEFAULT	49
8.1 Events of Default	49
8.2 Acceleration and Termination of Rights	53
8.3 Remedies	54
8.4 Saving	54
8.5 Perform Obligations	54
8.6 Third Parties	54
8.7 Remedies Cumulative	54

TABLE OF CONTENTS
(continued)

	Page
8.8 Set-Off or Compensation	55
ARTICLE 9 THE AGENT AND THE LENDERS	55
9.1 Authorization of Agent and Relationship	55
9.2 Disclaimer of Agent	55
9.3 Agent’s Clawback	56
9.4 Cash Collateral and Withholding from Defaulting Lenders	57
9.5 Funding if there is a Defaulting Lender	58
9.6 Payments by the Loan Parties	59
9.7 Payments by Agent	61
9.8 Direct Payments	62
9.9 Administration of the Credit Facility	63
9.10 Rights of Agent	65
9.11 Acknowledgements, Representations and Covenants of Lenders	66
9.12 Action of the Lenders	67
9.13 Successor Agent	67
9.14 Provisions Operative Between Lenders and Agent Only	68
ARTICLE 10 ADDITIONAL LENDERS, SUCCESSORS AND ASSIGNS	68
10.1 Successors and Assigns	68
10.2 Assignments	69
ARTICLE 11 MISCELLANEOUS PROVISIONS	70
11.1 Headings and Table of Contents	70
11.2 Accounting Terms; GAAP; Changes in Generally Accepted Accounting Principles	70
11.3 Capitalized Terms	71
11.4 Severability	71
11.5 Number and Gender	72
11.6 Amendment, Supplement or Waiver	72
11.7 Governing Law	72
11.8 This Agreement to Govern	72
11.9 Permitted Liens	72
11.10 Currency	73
11.11 Liability of Lenders	73
11.12 Expenses and Indemnity	73
11.13 Environmental Indemnity	74
11.14 Manner of Payment and Taxes	74
11.15 Increased Costs	77
11.16 Interest on Miscellaneous Amounts	77
11.17 Address for Notice	78
11.18 Time of the Essence	78

TABLE OF CONTENTS
(continued)

	Page
11.19 Further Assurances.....	78
11.20 Term of Agreement.....	78
11.21 Payments on Business Day	78
11.22 Illegality	78
11.23 Currency Indemnity	79
11.24 Non-Merger.....	79
11.25 Confidentiality	80
11.26 Anti-Money Laundering Legislation	80
11.27 Entire Agreement.....	81
11.28 Counterparts and Facsimile.....	81

THIS AMENDED AND RESTATED SENIOR SECURED SECOND LIEN CREDIT AGREEMENT is dated as of May 18, 2022,

AMONG:

WESTERN ENERGY SERVICES CORP.,
as Borrower

- and -

ALBERTA INVESTMENT MANAGEMENT CORPORATION,
and the other banks and financial institutions from time to time parties to this Agreement, as
lenders

- and -

ALBERTA INVESTMENT MANAGEMENT CORPORATION,
as Agent for and on behalf of itself and the other Lenders

WHEREAS:

- A. The Borrower, the Agent and the Lenders have previously entered into the Existing Credit Agreement and pursuant thereto, the Borrower has become indebted to the Lenders.
- B. The Borrower, the Agent and the Lenders entered into the Debt Restructuring Agreement on March 21, 2022 and the parties agreed to enter into this Agreement as a condition to, and subject to the other terms and conditions described in, the Debt Restructuring Agreement.
- C. The Borrower has requested that the Lenders provide the term loan facility described herein to the Borrower and the Lenders have agreed to provide such term loan credit facility subject to the terms and conditions set forth herein.
- D. The Lenders wish the Agent to act on their behalf with regard to certain matters contemplated hereby.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged by each of the parties hereto, the parties to this Agreement hereby agree as follows:

ARTICLE 1 DEFINED TERMS

1.1 Defined Terms

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

“**Acceleration Notice**” means a written notice delivered, or deemed to be delivered, by the Agent pursuant to Section 8.2(i) declaring the Lenders’ obligations to make the Loan to be terminated, and/or pursuant to Section 8.2(ii) declaring all Obligations of the Borrower outstanding to the Lenders hereunder to be due and payable.

“**Accounting Change**” has the meaning attributed thereto in Section 11.2.

“**Acquisition**” means, with respect to any Person, any purchase or other acquisition, regardless of how accomplished or effected (including any purchase or other acquisition effected by way of amalgamation, merger, arrangement, business combination or other form of corporate reorganization, or by way of purchase, lease or other acquisition arrangements), of:

- (a) any other Person (including any purchase or acquisition of issued and outstanding securities of, or a portion of an equity interest in, another Person, with the effect of that other Person becoming a subsidiary of the purchaser or of any of its Affiliates) or of all or substantially all of the property or assets of any other Person; or
- (b) any division, business, operation or undertaking of any other Person or of all or substantially all of the property or assets of any division, business, operation or undertaking of any other Person.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person specified; provided that, any reference to an Affiliate of a Lender when such Lender is AIMCo shall mean (a) any entity to which AIMCo directly or indirectly provides or will provide investment management services pursuant to the *Alberta Investment Management Corporation Act* and (b) any entity that directly or indirectly controls, is controlled by or is under common control with one or more of the entities described in clause (a); and, for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” or “under common control with”) means the power to direct or cause the direction of the management and policies of any person, whether through the ownership of shares or by contract or otherwise.

“**Agent**” means AIMCo, in its capacity as agent for the Lenders and includes any successor agent appointed pursuant to Section 9.13.

“**Agreement**”, “**hereof**”, “**herein**”, “**hereto**”, “**hereunder**” or similar expressions mean this senior secured second lien credit agreement and any Schedules attached hereto, as amended, supplemented, restated and replaced from time to time.

“**AIMCo**” means Alberta Investment Management Corporation.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any Sanctions Authority that apply to the Borrower and its Subsidiaries from time to time concerning or relating to bribery of government officials or public corruption.

“**Applicable Laws**” means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise); (b) any judgement, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, guideline or directive; or (d) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Governmental Authority, binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person, in each case whether or not having the force of law.

“**Asset Sale**” means any sale, conveyance or other disposition of any assets or property of any Loan Party (and including the sale of Equity Securities of any Subsidiary of a Loan Party), other than Permitted Dispositions.

“**Assignment Agreement**” means an assignment agreement, substantially in the form of Schedule C.

“**BDC Credit Agreement**” means the facility letter dated on or about December 31, 2020 among the Borrower, as borrower, Western Production Services Corp. and Stoneham, as guarantors, and the BDC Creditor, as lender, as amended by a letter agreement dated the date hereof and as the same has otherwise been and may be further amended, modified, supplemented or restated from time to time not in contravention of the terms of the Intercreditor Agreement.

“**BDC Credit Documents**” means, collectively, the BDC Credit Agreement, all Loan Documents (as defined in the BDC Credit Agreement) provided in connection therewith and all other agreements, instruments and other documents governing or relating thereto as permitted hereunder and under the Intercreditor Agreement, and “**BDC Credit Document**” means any of them.

“**BDC Creditor**” means HSBC Bank Canada.

“**Borrower**” means Western Energy Services Corp.

“**Borrowing Base Shortfall**” has the meaning ascribed thereto in the Intercreditor Agreement.

“**Business Day**” means a day of the year, other than Saturday, Sunday or a statutory holiday, on which the Agent is open for business in Alberta.

“**Canadian Dollars**” and “**\$**” mean lawful money of Canada.

“**CARES Act**” means the Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act, and applicable rules and regulations, as amended from time to time.

“**CARES Forgivable Uses**” means uses of proceeds of the PPP Loan that are eligible for forgiveness under Section 1106 of the CARES Act.

“**CARES Payroll Costs**” means “payroll costs” as defined in 15 U.S.C. 636(a)(36)(A)(viii) (as added to the Small Business Act by Section 1102 of the CARES Act).

“**Change of Control**” means:

- (a) the direct or indirect sale, transfer or other disposition (other than by way of consolidation, amalgamation, arrangement, merger or issue of voting shares), in one or a series of related transactions, of all or substantially all of the property of the Borrower to any person or group of persons acting jointly or in concert for purposes of such transaction (other than the Agent or an Affiliate of the Agent);
- (b) a person or group of persons, acting jointly or in concert, (other than the Agent or an Affiliate thereof) acquires, directly or indirectly (other than by way of security for bona fide indebtedness), shares of the Borrower to which are attached more than 50% of the votes that may be cast to elect the directors of the Borrower;
- (c) a person or group of persons, acting jointly or in concert, (other than the Agent or an Affiliate thereof) acquires, directly or indirectly (other than by way of security for a *bona fide* indebtedness), a sufficient number of shares of the Borrower that the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the Borrower; or
- (d) any Loan Party amalgamates or otherwise merges its business and properties with or into any other Person (other than another Loan Party or other Subsidiary) if that amalgamation or merger is not otherwise permitted by Section 7.2(c).

“**Closing Date**” means the date that the conditions precedent set forth in Section 5.1 are satisfied or waived or such other day as may be agreed upon by the Borrower and the Agent.

“**Code**” means the United States *Internal Revenue Code of 1986*, as amended from time to time.

“**Commitment**” means, in respect of each Lender from time to time, the maximum amount of the Loan that such Lender has covenanted to make under this Agreement as set forth in Schedule A attached hereto or as such amount may otherwise be reduced pursuant to this Agreement.

“**Consolidated Debt**” means, as at any particular time and as determined on a consolidated basis in respect of the Borrower in accordance with GAAP and without duplication:

- (a) indebtedness of the Borrower and its Subsidiaries for borrowed money;
- (b) obligations of the Borrower and its Subsidiaries arising pursuant to bankers' acceptance facilities, note purchase facilities and commercial paper programs, or the stated amount of letters of credit, letters of guarantee and the uninsured portion of surety bonds supporting obligations which would otherwise constitute Consolidated Debt within the meaning of this definition;
- (c) all obligations that are evidenced by bonds, debentures, notes or other similar instruments;
- (d) obligations of the Borrower and its Subsidiaries under Guarantees, legally binding comfort letters or other contingent obligations as represented in the Financial Statements relating to the indebtedness or other obligations of any other Person which would otherwise constitute Consolidated Debt within the meaning of this definition;
- (e) all obligations of the Borrower and its Subsidiaries for or in respect of the deferred purchase or acquisition price of property (including, without limitation, Financial Lease Obligations and obligations secured by Purchase Money Security Interests) in excess of 90 days but excluding, for certainty, accounts payable arising in the ordinary course of business;
- (f) principal obligations under any lease which, in accordance with GAAP, is characterized as a financing lease (whether a synthetic lease or otherwise and whether categorized as a true lease or a financing lease for tax purposes); and
- (g) all obligations of the Borrower or any Subsidiary under any performance guarantee given by the Borrower or such Subsidiary but only to the extent that such obligations are due and payable;

but, for greater certainty, excluding:

- (i) current and future taxes;
- (ii) principal obligations under any existing or future lease which would have been accounted for as an operating lease of the Borrower under GAAP as in effect on December 31, 2018;
- (iii) any amounts in respect of liabilities for the mark-to-market exposure of the Borrower or a Subsidiary in respect of any Hedge Agreement;
- (iv) provisions for future performance-based compensation; and
- (v) unrestricted cash on hand in excess of \$20,000,000.

For greater certainty, any indebtedness or obligations of the Borrower or any Subsidiary outstanding at any time and which is denominated in U.S. Dollars shall be converted to its

Equivalent Amount in Canadian Dollars and shall be adjusted by the aggregate mark-to-market gain or loss under all Currency Hedging Agreements in effect at that time which are based on the exchange rate between Canadian Dollars and U.S. Dollars.

“Consolidated Debt to Consolidated EBITDA Ratio” means, as at the end of a Fiscal Quarter, the ratio of Consolidated Debt as at the end of such Fiscal Quarter to Consolidated EBITDA for the 12 months ending at the end of such Fiscal Quarter.

“Consolidated EBITDA” means, for any fiscal period and as determined in accordance with GAAP on a consolidated basis in respect of the Borrower:

- (a) all Consolidated Net Income for such period as shown in the Financial Statements; plus
- (b) Consolidated Interest Expense to the extent deducted in determining such Consolidated Net Income; plus
- (c) all amounts deducted in the calculation of such Consolidated Net Income in respect of the provision for income taxes; plus
- (d) all amounts deducted in the calculation of such Consolidated Net Income in respect of non-cash items, including depreciation and amortization; plus
- (e) losses attributable to minority interests and extraordinary and non-recurring losses of the Borrower and its Subsidiaries, in each case to the extent deducted in the calculation of such Consolidated Net Income;

less (on a consolidated basis, without duplication):

- (i) earnings attributable to minority interests and extraordinary and non-recurring earnings and gains of the Borrower and its Subsidiaries, in each case to the extent included in the calculation of such Consolidated Net Income;
- (ii) to the extent included in such Consolidated Net Income, gains from asset sales;
- (iii) the net income of any Subsidiary of the Borrower, to the extent that the distribution by that Subsidiary of amounts of such net income to the Borrower is restricted by a contract, operation of law or otherwise; and
- (iv) any other non-cash items increasing such Consolidated Net Income for such period;

provided that for the purposes of this definition, if any Material Acquisition is made by the Borrower and/or one or more of its Subsidiaries (whether by amalgamation, asset or share acquisition or otherwise) at any time during the relevant period of calculation, such Material Acquisition shall be deemed to have been made on and as of the first day of such

calculation period; and if any Material Disposition is made by the Borrower or one or more of its Subsidiaries (whether by asset or share disposition or otherwise) at any time during the relevant period of calculation, or the assets cease to be owned by the Borrower and/or one or more of its Subsidiaries, such Material Disposition shall be deemed to have been made on and as of the first day of such calculation period.

“Consolidated Interest Expense” means, for any fiscal period, without duplication, interest expense of the Borrower determined on a consolidated basis in accordance with GAAP, as the same would be set forth or reflected in a consolidated statement of operations of the Borrower and, in any event and without limitation, shall include:

- (a) all interest of the Borrower and its Subsidiaries accrued or payable in respect of such period, including capitalized interest and imputed interest with respect to lease obligations included as Consolidated Debt;
- (b) all fees of the Borrower and its Subsidiaries (including standby and commitment fees, acceptance fees in respect of bankers’ acceptances and fees payable in respect of letters of credit, letters of guarantee and similar instruments but excluding one-time commitment and agency fees in respect of the Loan and other credit facilities from time to time) accrued or payable in respect of such period, prorated (as required) over such period;
- (c) any difference between the face amount and the discount proceeds of any bankers’ acceptances, commercial paper and other obligations of the Borrower or any Subsidiary issued at a discount, prorated (as required) over such period; and
- (d) all net amounts charged (a positive number) or credited (a negative number) to interest expense under any Interest Hedging Agreements in respect of such period.

“Consolidated Net Income” means, for any fiscal period, the net income of the Borrower determined on a consolidated basis in accordance with GAAP, as set forth in the consolidated Financial Statements of the Borrower for such period.

“Consolidated Total Assets” means, in respect of the Borrower, an amount equal to the total assets of the Borrower, determined in accordance with GAAP on a consolidated basis, without duplication, less the aggregate of any amount included therein which is attributable (as determined in accordance with GAAP) to goodwill, trademark, copyrights and other similar intangible assets as shown on the balance sheet of the Borrower.

“Credit Documents” means this Agreement, the Security, the Intercreditor Agreement, and the agreements, guarantees, certificates, instruments and all other documents delivered or to be delivered to or for the benefit of the Agent or Lenders pursuant hereto or thereto all as the same may be amended, modified, varied, restated or replaced from time to time.

“Credit Facility” means the non-revolving term credit facility established (or, for greater certainty, confirmed to have already been established) in favour of the Borrower pursuant to Section 2.2.

“Currency Hedging Agreement” means any currency swap agreement, cross-currency agreement, forward agreement, floor, cap or collar agreement, futures or options, insurance or other similar agreement or arrangement, or any combination thereof, entered into by the applicable Person where the subject matter of the same is currency exchange rates or the price, value or amount payable thereunder is dependent or based upon currency exchange rates or fluctuations in currency exchange rates as in effect from time to time.

“Daily Rate” means, in relation to the conversion of one currency into another currency, the spot rate of exchange for such conversion as quoted by the Bank of Canada (or, if not so quoted, the spot rate of exchange quoted for wholesale transactions by the Agent in Toronto, Ontario in accordance with its normal practice), at approximately 4:30 pm (Toronto, Ontario time) on the Business Day that such conversion is to be made (or, if such conversion is to be made before noon, then at approximately noon on the immediately preceding Business Day).

“Debt Restructuring Agreement” means that debt restructuring agreement dated March 21, 2022 among the Borrower, the Agent and the Lender.

“Debt Restructuring Transaction” means the transactions contemplated by the Debt Restructuring Agreement, including, without limitation, the conversion of \$100,000,000 of indebtedness owing to the Lenders under the Existing Credit Agreement into equity of the Borrower and the further repayment of an additional \$10,000,000 of principal owing thereunder without premium or penalty of such indebtedness.

“Default” means any event or condition that would constitute an Event of Default except for satisfaction of any condition subsequent required to make the event or condition an Event of Default, including giving of any notice, passage of time, or both.

“Defaulting Lender” means any Lender:

- (a) that has failed to fund any payment or its portion of the Loan required to be made by it hereunder or to purchase any participation required to be purchased by it hereunder and under the other Credit Documents;
- (b) that has notified the Borrower, the Agent or any Lender (verbally or in writing) that it does not intend to or is unable to comply with any of its funding obligations under this Agreement or has made a public statement to that effect or to the effect that it does not intend to or is unable to fund advances generally under credit arrangements to which it is a party;
- (c) that has failed, within 3 Business Days after request by the Agent, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund the Loan;
- (d) that has otherwise failed to pay over to an Agent or any Lender any other amount required to be paid by it hereunder within 3 Business Days of the date when due, unless the subject of a good faith dispute;

- (e) in respect of which a Lender Insolvency Event or a Lender Distress Event has occurred in respect of such Lender or its Lender Parent; or
- (f) that is generally in default of its obligations under other existing credit or loan documentation under which it has commitments to extend credit;

provided that, notwithstanding any other provision contained herein, a Lender shall not become a Defaulting Lender solely as the result of the acquisition or maintenance of an ownership interest in such Lender or its Lender Parent by a Governmental Authority or an instrumentality thereof.

“Distribution” by a Person means:

- (a) any declaration or payment by the Person of any dividend or other distribution on or in respect of any of the share capital of or partnership or trust interests in such Person;
- (b) any payment by the Person in respect of the redemption, retraction, purchase or other acquisition or retirement, in whole or in part, of any Voting Securities or any share or equity rights in or in relation to its capital or equity;
- (c) any payment by the Person of any amount of principal, interest or other amounts in respect of any loan or other indebtedness which is owed to any of its Affiliates other than in respect of any payments made under or in respect of this Agreement;
- (d) any loan, advance or payment of management or consulting fees in an aggregate amount of more than \$1,000,000 which is made by the Person to or in favour of a holder of Voting Securities in respect of the Person or an Affiliate of such holder other than any Financial Assistance permitted pursuant to Section 7.2(d); or
- (e) the transfer by such Person of any property or assets for consideration of less than its or their fair market value to any of its Affiliates;

whether any of the foregoing is made, paid or satisfied in or for cash, property or both.

“Environmental Claims” means any and all administrative, regulatory or judicial actions, suits, demands, claims, liens, notices of non-compliance or violation, investigations, inspections, inquiries or proceedings relating in any way to any Environmental Laws or to any permit issued under any such Environmental Laws including, without limitation:

- (a) any claim by a Governmental Authority for enforcement, clean-up, removal, response, remedial or other actions or damages pursuant to any Environmental Laws; and
- (b) any claim by a person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive or other relief resulting from or relating to Hazardous Materials, including any Release thereof, or arising from alleged injury

or threat of injury to human health or safety (arising from environmental matters) or the environment.

“Environmental Laws” means all Applicable Laws with respect to the environment or environmental or public health and safety matters contained in statutes, regulations, rules, ordinances, orders, judgments, approvals, notices, permits or policies, guidelines or directives whether or not having the force of law.

“Environmental Orders” includes all applicable orders, directives, judgments, decisions or the like rendered by any Governmental Authority or court of competent jurisdiction pursuant to Environmental Laws or Environmental Permits.

“Environmental Permits” includes all permits, certificates, approvals, registrations, licences or other instruments issued by any Governmental Authority and relating to or required for the Borrower or its Subsidiaries to carry on their businesses, activities and operations in compliance with all Environmental Laws and Environmental Orders.

“Equity Securities” means any shares, partnership units or other securities issued by the Borrower or any of its Subsidiaries (but excluding any of the foregoing which evidence indebtedness for borrowed money).

“Equivalent Amount” means, on any date, the equivalent amount in Canadian Dollars or U.S. Dollars, as the case may be, after giving effect to a conversion of a specified amount of U.S. Dollars to Canadian Dollars or of Canadian Dollars to U.S. Dollars, as the case may be, at the Daily Rate.

“Event of Default” has the meaning ascribed thereto in Section 8.1.

“Excluded Taxes” means, with respect to the Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of a Loan Party hereunder:

- (a) taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located,
- (b) any branch profits taxes or any similar tax imposed by any jurisdiction in which the Lender is located;
- (c) in the case of a Foreign Lender (other than (A) an assignee pursuant to a request by the Borrower hereunder, (B) an assignee pursuant to an Assignment Agreement made when an Event of Default has occurred and is continuing or (C) any other assignee to the extent that the Borrower has expressly agreed that any withholding tax shall be an Indemnified Tax), any withholding tax that is required by Applicable Laws to be withheld or paid in respect of any amount payable hereunder or under any Credit Document to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office) and is attributable to

such Foreign Lender's failure or inability (other than as a result of a change in law described in Section 11.15) to comply with Section 11.14(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from a Loan Party with respect to such withholding tax pursuant to Section 11.14(a);

- (d) in the case of a U.S. Lender, any U.S. federal withholding Taxes imposed under FATCA, and any Taxes or penalties arising from a Lender's failure to properly comply with such Lender's obligations imposed under the *Canada-United States Enhanced Tax Information Exchange Agreement Implementation Act* (Canada) or the similar provisions of legislation of any other jurisdiction that has entered into an agreement with the United States of America to provide for the implementation of FATCA-based reporting in that jurisdiction; and
- (e) any withholding Taxes payable as a result of a Lender not dealing at arm's length with the Borrower within the meaning of the *Income Tax Act* (Canada).

“Existing Credit Agreement” means the senior secured second lien credit agreement dated October 17, 2017 among the Borrower, the lenders party thereto, and the Agent, as agent for such lenders (as amended and otherwise supplemented from time to time to the date hereof).

“FATCA” means Sections 1471 through 1474 of the Code, as amended from time to time, any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

“Financial Assistance” means providing or agreeing to provide (either directly or indirectly) financial assistance to any Person, including financial assistance by way of a loan, Guarantee, indemnity, loan purchase, share purchase, equity contribution or any credit support arrangement of any nature whatsoever.

“Financial Lease” means any lease of property, real or personal (other than leases of office space), or any similar arrangement which would, in accordance with GAAP, be required to be classified and accounted for as a Financial Lease on a balance sheet of a lessee, where the lessee is the Borrower or a Subsidiary of the Borrower.

“Financial Lease Obligations” means, as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property which obligations are required to be classified and accounted for as a Financial Lease on a balance sheet of such Person and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof; provided that Financial Lease Obligations shall exclude obligations under any existing or future lease which would have been accounted for as an operating lease of the Borrower under GAAP as in effect on December 31, 2018.

“Financial Statements” means the financial statements (including the notes thereto) of the Borrower or a Subsidiary, as the context requires, which shall be consolidated unless expressly provided otherwise and shall include a balance sheet, a statement of income and retained earnings and a statement of cash flows, together with comparative figures in each case (where a comparative period on an earlier statement exists), all prepared, maintained and stated in accordance with GAAP applied consistently.

“First Lien Agent” means HSBC Bank Canada, in its capacity as administrative agent for the First Lien Lenders under the First Lien Credit Agreement, and any successor thereto in such capacity.

“First Lien Cap Amount” means, as of the date of determination, the amount in respect of principal of the obligations under the First Lien Obligations (as defined in the Intercreditor Agreement) not to exceed the greater of (a) \$72,083,333, and (b) upon the Borrower’s request, any higher amount as is consented to by the Lenders. For clarity, the calculation of the “First Lien Cap Amount” refers only to the outstanding principal balance of loans, the face amount of outstanding bankers’ acceptances, and the undrawn amount of outstanding letters of credit and letters of guarantee under the First Lien Agreements (as defined in the Intercreditor Agreement), but does not include (i) interest, fees or other amounts other than principal due under the First Lien Credit Agreement or the BDC Credit Agreement (except associated fees and interest on principal in excess of the First Lien Cap Amount), (ii) the Syndicated Swap Indebtedness (as defined in the Intercreditor Agreement), (iii) the Cash Management Obligations (as defined in the Intercreditor Agreement) or (iv) the Credit Card Obligations (as defined in the Intercreditor Agreement); provided, however, that notwithstanding the foregoing or anything else set forth herein, (A) any Currency Excess (as defined in the First Lien Credit Agreement as of the date hereof) as provided in Section 7.3 of the First Lien Credit Agreement and (B) any Borrowing Base Shortfall, in each case, owing to the First Lien Lenders shall be included as part of the principal owing which falls within the First Lien Cap Amount; provided that such amount set forth in clause (B) shall not include any additional amount in respect of principal to the extent such excess is the result of additional loans advanced or letters of credit issued (other than, for certainty, rollovers or conversions of then existing loans and letters of credit) above the amount of the Borrowing Base (as defined in the Intercreditor Agreement) as in effect prior to a Borrowing Base Shortfall while a Borrowing Base Shortfall is in effect. Also for clarity, (x) all references to “principal”, “principal balance of the loans” and the like as it relates to the First Lien Cap Amount shall include any capitalized or “paid-in-kind” interest on principal, and (y) nothing herein shall be construed to permit a Loan Party to pay interest on the First Lien Obligations (as defined in the Intercreditor Agreement) in kind, except to the extent permitted under the First Lien Agreements (as defined in the Intercreditor Agreement).

“First Lien Credit Agreement” means the fourth amended and restated credit agreement dated as of the date hereof, among, *inter alios*, the Borrower and Western Production Services Corp., as borrowers, the First Lien Lenders and the First Lien Agent, as may be amended, restated, replaced or otherwise modified from time to time as permitted by the Intercreditor Agreement.

“First Lien Credit Documents” means, collectively, the First Lien Credit Agreement, all Security Documents (as defined in the First Lien Credit Agreement as of the date hereof) provided in connection therewith and all other agreements, instruments and other documents governing or relating thereto as permitted hereunder and under the Intercreditor Agreement.

“First Lien Facilities” means the credit facilities established pursuant to the First Lien Credit Agreement.

“First Lien Lenders” means the lenders under the First Lien Credit Agreement.

“Fiscal Quarter” means the three (3) month period commencing on the first day of each Fiscal Year, and each successive three (3) month period thereafter during such Fiscal Year.

“Fiscal Year” means the Borrower’s fiscal year which presently commences on January 1 of each calendar year and ends on December 31 of each calendar year.

“Foreign Lender” means any Lender that is not organized under the laws of the jurisdiction in which the Borrower is resident for tax purposes and that is not otherwise considered or deemed in respect of any amount payable to it hereunder or under any Credit Document to be resident for income tax or withholding tax purposes in the jurisdiction in which the Borrower is resident for tax purposes by application of the laws of that jurisdiction. For purposes of this definition Canada and each Province and Territory thereof shall be deemed to constitute a single jurisdiction and the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Subsidiary” means any Subsidiary of the Borrower that is formed, incorporated or organized under the laws of a jurisdiction other than Canada or the United States of America.

“GAAP” means the recommendations at the relevant time of the Chartered Professional Accountants of Canada, or any successor institute, applicable on a consolidated basis (unless otherwise specifically provided or contemplated herein to be applicable on an unconsolidated basis) as at the date on which such calculation is made or required to be made in accordance with such principles.

“Governmental Authority” means the government of Canada or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including a Minister of the Crown, Superintendent of Financial Institutions or other comparable authority or agency.

“Governmental Authorization” means, in respect of any transaction, Person or event, any authorization, exemption, license, permit, franchise or approval from, or any filing or registration with, any Governmental Authority applicable to such transaction, Person or

event or to any of such Person's business, undertaking or property, including those required under any Environmental Law, and "**Governmental Authorizations**" means any and all of the foregoing.

"**Guarantee**" means any guarantee, undertaking to assume, endorse, contingently agree to purchase or to provide funds for the payment of, or otherwise become liable in respect of, any obligation of any Person; provided that the amount of each Guarantee shall be deemed to be the amount of the obligation guaranteed thereby, unless the Guarantee is limited to a determinable amount in which case the amount of such Guarantee shall be deemed to be the lesser of such determinable amount or the amount of such obligation.

"**Hazardous Materials**" means any substance or mixture of substances defined as or determined to be a pollutant, contaminant, waste, hazardous waste, hazardous chemical, hazardous substance, toxic substance or dangerous good under any Environmental Law.

"**Hedge Agreement**" has the meaning ascribed thereto in the First Lien Credit Agreement as at the date hereof.

"**Indemnified Taxes**" means Taxes other than Excluded Taxes.

"**Intercreditor Agreement**" means the amended and restated intercreditor and priority agreement dated as of the date hereof among the Agent, the Borrower, Stoneham Drilling Corporation, Western Production Services Corp., the BDC Creditor and the First Lien Agent, as such agreement may be amended, restated, replaced or otherwise modified from time to time.

"**Interest Hedging Agreement**" means any interest swap agreement, forward rate agreement, floor, cap or collar agreement, futures or options, insurance or other similar agreement or arrangement, or any combination thereof, entered into by the applicable Person where the subject matter of the same is interest rates or the price, value or amount payable thereunder is dependent or based upon the interest rates or fluctuations in interest rates in effect from time to time (but, for certainty, shall exclude conventional floating rate debt).

"**Interest Payment Date**" means July 1 and January 1 of each calendar year and, if such day is not a Business Day, then the immediately following Business Day.

"**Knowledge**" means, in respect of the Borrower, the knowledge of any director or senior officer of the Borrower who has current knowledge of the relevant facts or circumstances after due enquiry by such Person.

"**Lender Distress Event**" means, in respect of a given Lender, such Lender or its Lender Parent:

- (a) is subject to a forced liquidation, merger, sale or other change of control supported in whole or in part by guarantees or other support (including the nationalization or assumption of ownership or operating control by the Government of Canada or any other Governmental Authority); or

- (b) is otherwise adjudicated as, or determined to be, insolvent or bankrupt, in each case, by any Governmental Authority having regulatory authority over such Lender or Lender Parent or their respective assets; provided that, for certainty, a Lender Distress Event shall not have occurred solely by virtue of the ownership or acquisition of any equity interest in such Lender or its Lender Parent by any Governmental Authority.

“Lender Insolvency Event” means, in respect of a given Lender, such Lender or its Lender Parent:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent, is deemed insolvent by Applicable Laws or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) (i) institutes, or has instituted against it by a regulator, supervisor or any similar Governmental Authority with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, (A) a proceeding pursuant to which such Governmental Authority takes control of such Lender’s or Lender Parent’s assets, (B) a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy, insolvency or winding-up law or other similar law affecting creditors’ rights, or (C) a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar Governmental Authority; or (ii) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy, insolvency or winding-up law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in clause (i) above and either (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof;
- (e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or a substantial portion of all of its assets;
- (g) has a secured party take possession of all or a substantial portion of all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured

party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case, within 30 days thereafter;

- (h) causes or is subject to any event which, under the Applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in subparagraphs (a) to (g) above, inclusive; or
- (i) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing.

“Lender Parent” means any Person that directly or indirectly controls a Lender.

“Lenders” means collectively, the financial institutions listed on the signature pages hereof as Lenders, and any Person who may become a Lender pursuant to Article 10, and their respective successors and permitted assigns, and, in the singular, any one of them.

“Lenders’ Counsel” means Torys LLP, or such other law firm or firms as may from time to time be chosen by the Lenders to act on their behalf in connection with the Credit Facility.

“Liens” means mortgages, charges, pledges, hypothecs, assignments by way of security, conditional sales or other title retentions, security created under the *Bank Act* (Canada), liens, encumbrances, security interests or other interests in property, howsoever created or arising, whether fixed or floating, perfected or not, which secure payment or performance of an obligation and, including, in any event, (a) rights of set-off created for the purpose of securing (directly or indirectly) any Consolidated Debt, and (b) the rights of lessors under Financial Leases and any other lease financing included as Consolidated Debt.

“Loan” has the meaning ascribed thereto in Section 2.2.

“Loan Party” means the Borrower and each of the Restricted Subsidiaries.

“Majority Lenders” means Lenders whose Commitments, taken together, are more than 50% of the aggregate Commitments hereunder in effect at such time.

“Make-Whole Amount” means the present value of all interest that would have accrued on the portion of the Loan being prepaid from the date of prepayment to the second anniversary of the Closing Date, calculated in accordance with accepted financial practice using a discount rate equal to 2% plus the yield to maturity implied by the yield, determined by the Agent, acting reasonably, as of 8:00 A.M. (Edmonton time) on the second Business Day preceding the prepayment date, for the most recently issued actively traded on the run Canadian federal government treasury securities having a maturity closest to the second anniversary of the Closing Date.

“Material Acquisition” means an Acquisition by the Borrower or any of its Subsidiaries, the cost of which is \$10,000,000 or greater.

“Material Adverse Change” means any event, circumstance, occurrence or change which results, or would reasonably be expected to result, in a material adverse change in:

- (a) the financial condition of the Borrower on a consolidated basis;
- (b) the ability of the Borrower on a consolidated basis to perform its obligations under the Credit Documents to which it is a party;
- (c) the validity or enforceability of any material portion of this Agreement or of any other Credit Document; or
- (d) the property, business, operations or liabilities of the Borrower on a consolidated basis.

“Material Adverse Effect” means any event, circumstance, occurrence or change which materially impairs or has a material adverse effect on, or would reasonably be expected to materially impair or have a material adverse effect on:

- (a) the financial condition of the Borrower on a consolidated basis;
- (b) the ability of the Borrower on a consolidated basis to perform its obligations under the Credit Documents to which it is a party;
- (c) the validity or enforceability of any material portion of this Agreement or of any other Credit Document; or
- (d) the property, business, operations or liabilities of the Borrower on a consolidated basis.

“Material Change” any event, change or condition since December 30, 2021, that, individually or in the aggregate, has had, or would reasonably be expected to have, a material change in the business, assets, results of operations, financial condition or ownership of the Loan Parties taken as a whole, except changes generally affecting the industry in which the Borrower and its Subsidiaries operate.

“Material Disposition” means a disposition by the Borrower or any of its Subsidiaries of equity or other assets, the net proceeds of which are \$10,000,000 or greater.

“Maturity Date” means the earliest to occur of (i) the fourth anniversary of the Closing Date, or (ii) the day on which an Acceleration Notice is delivered, or deemed to be delivered, pursuant to Section 8.2.

“Miscellaneous Liens” means Liens on property of the Borrower or a Restricted Subsidiary that do not attach generally to all or substantially all of the property of such Loan Party (including shares in a Subsidiary), such as a floating charge, general security agreement or similar type Lien on all or substantially all of the property of such Loan Party.

“Net Cash Proceeds” means in connection with any Asset Sale, the proceeds thereof in the form of cash and cash equivalents (including any such proceeds received by way of deferred payment) net of reasonable third party legal fees, accounting fees, brokerage fees, investment banking fees, amounts required to be applied to the repayment of indebtedness owing with respect to such assets and other customary fees and expenses incurred in connection therewith and net of taxes paid or reasonably estimated to be payable as a result thereof.

“Obligations” means all of the present and future indebtedness, liabilities and obligations, direct or indirect, absolute or contingent, matured or unmatured of the Loan Parties, or any of them, owing to the Agent, the Lenders or any of them, under, pursuant to or in connection with the Credit Documents; including without limitation all principal, interest, fees, indemnities, costs and expenses owing by the Loan Parties, or any of them, hereunder and thereunder.

“OFAC” means the Office of Foreign Assets Control of the United States Treasury Department.

“Officer’s Certificate” means a certificate or notice signed by any one of the president, chief financial officer, a vice-president, corporate secretary, treasurer or assistant secretary of the Borrower.

“Other Taxes” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Credit Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Credit Document.

“Permitted Contest” means action taken by the Borrower or a Restricted Subsidiary in good faith by appropriate proceedings diligently pursued to contest any Taxes, Other Taxes, claims or Liens, provided that:

- (a) such Loan Party has established reasonable reserves therefor in accordance with GAAP, and
- (b) proceeding with such contest will not create a material risk of sale, forfeiture or loss, or interference with the use of any material property or asset of such Loan Party and would not reasonably be expected to have a Material Adverse Effect.

“Permitted Debt” means, without duplication:

- (a) all indebtedness owing by a Loan Party to the Lenders under this Agreement and under or secured by any Credit Document;
- (b) all Cash Management Obligations (as defined in the Intercreditor Agreement);
- (c) all Credit Card Obligations (as defined in the Intercreditor Agreement);

- (d) all indebtedness of the types referred to in paragraphs (a) through (g) inclusive of the definition of Consolidated Debt owing by a Loan Party to another Loan Party; provided that, any such indebtedness is unsecured;
- (e) all indebtedness of the types referred to in paragraphs (a) through (f) inclusive of the definition of Consolidated Debt which in aggregate does not at any time exceed the amount of 5% of Consolidated Total Assets less the amount of indebtedness secured by Permitted Liens existing pursuant to paragraph (i) of the definition of Permitted Liens (without duplication of indebtedness under this paragraph (e));
- (f) all indebtedness under the First Lien Facilities and the BDC Credit Agreement, up to a principal amount in the aggregate not to exceed the First Lien Cap Amount, as determined in accordance with the definition of “First Lien Cap Amount”; and
- (g) the PPP Loan.

“Permitted Disposition” means, in respect of the Borrower and any Restricted Subsidiary:

- (a) a sale or disposition in the ordinary course of business, in accordance with sound industry practice and on commercially reasonable terms of tangible personal property that is obsolete, no longer useful for its intended purpose or being replaced in the ordinary course of business;
- (b) a sale or disposition of inventory (other than in conjunction with the provision of oilfield services) or non-material assets of such Loan Party in the ordinary course of business at fair market value to a person at arm’s length from the Borrower and its Subsidiaries;
- (c) a sale or disposition of any assets or properties to another Loan Party (save and except for any Foreign Subsidiary); and
- (d) a sale or disposition of any assets where the book value of all such assets sold or disposed of during the then current Fiscal Year in reliance on this paragraph (d) does not exceed an amount equal to 5% of Consolidated Total Assets (as at the beginning of the then current Fiscal Quarter).

“Permitted Liens” means, as at any particular time, any of the following on the property or any part of the property of a Loan Party:

- (a) Liens for taxes, assessments or governmental charges which are not due and delinquent, or, if due or delinquent, the validity of which is subject to a Permitted Contest;
- (b) the Lien of any judgment rendered or claim filed against such Loan Party which is subject to a Permitted Contest or which is adequately covered by insurance;
- (c) Liens, privileges or other charges imposed or permitted by law, such as statutory liens and deemed trusts, carriers’ liens, garagekeepers’ liens, builders’ liens,

warehousemen's liens, mechanics' liens, materialmen's liens and other liens, privileges or other charges of a similar nature which relate to obligations which are not due and delinquent, or if due and delinquent, the validity of which is subject to a Permitted Contest;

- (d) Liens in favour of a public utility or any municipality or governmental or other public authority when required by such utility, municipality or authority in connection with the operations of such Loan Party; provided, however, that all such Liens only secure sums not at the time overdue, or if overdue, the validity of which is subject to a Permitted Contest;
- (e) the Lien or any right of distress reserved in or exercisable under any real property lease for rent or otherwise to effect compliance with the terms of such lease, in respect of which the rent or other obligations are not at the time overdue, or if overdue, the validity of which is subject to a Permitted Contest;
- (f) easements, rights-of-way, servitudes, zoning or other similar rights or restrictions in respect of land held by such Loan Party (including, without limitation, rights-of-way and servitudes for railways, sewers, drains, pipe lines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) which do not, either alone or in the aggregate, materially detract from the value of such land or materially impair its use in the operation of the business of such Loan Party, as the case may be;
- (g) any Lien on any property, real or personal, of a Person which Lien exists at the time such Person is merged into, or amalgamated or consolidated with, such Loan Party or such property or Person is otherwise acquired directly or indirectly by such Loan Party; provided that:
 - (i) such Lien has not been created in contemplation of such merger, consolidation, amalgamation or acquisition,
 - (ii) such Lien will not encumber any assets of such Loan Party upon completion of such merger, consolidation, amalgamation or acquisition (other than assets that were so encumbered immediately prior to such completion), and
 - (iii) such Lien will cease to be a Permitted Lien under this paragraph (g) upon completion of any subsequent merger, consolidation or amalgamation involving such Person or its successor if such completion would result in any assets of such Loan Party becoming encumbered by such Lien (other than assets that were so encumbered immediately prior to such completion and/or assets that are permitted to be so encumbered under any or all of the other paragraphs in the definition of Permitted Liens), or any refinancing of the obligation which is secured by such Lien;
- (h) any extension, renewal or replacement (or successive extensions, renewals or replacements), as a whole or in part, of any Lien referred to in the preceding

subparagraphs (a) to (g) inclusive of this definition, so long as any such extension, renewal or replacement of such Lien is limited to all or any part of the same property that secured the Lien extended, renewed or replaced (plus improvements on such property) and the indebtedness or obligation secured thereby is not increased; and

- (i) Purchase Money Security Interests, Financial Leases, Miscellaneous Liens and other Liens that are not permitted under any of the foregoing subparagraphs of this definition and which secure obligations or indebtedness that are not otherwise prohibited under this Agreement, provided that the aggregate of the obligations and indebtedness secured by all such Liens does not at any time exceed 5% of Consolidated Total Assets less the amount of indebtedness existing pursuant to paragraph (e) of the definition of Permitted Debt (without duplication of indebtedness secured by Liens permitted under this paragraph (i));
- (j) Liens created by or pursuant to the Credit Documents;
- (k) Liens created by or pursuant to the First Lien Credit Documents which secure the obligations of Loan Parties under the under the First Lien Credit Documents (including, for certainty, the First Lien Obligations (as defined in the Intercreditor Agreement)), in accordance with, and subject to, the terms of the Intercreditor Agreement; and
- (l) Liens created by or pursuant to the BDC Credit Documents which secure the obligations of Loan Parties under the BDC Credit Documents in accordance with, and subject to, the terms of the Intercreditor Agreement,

provided that nothing in this definition shall in and of itself cause the Obligations to be subordinated in priority of payment to any such Permitted Lien.

“Permitted Prepayments” means voluntary prepayments of principal which do not exceed \$10,000,000 in any calendar year prior to the Maturity Date.

“Person” or **“person”** means any natural person, corporation, limited liability company, trust, joint venture (other than an unincorporated joint venture), association, company, partnership, Governmental Authority or other entity.

“PPP Loan” means an unsecured loan incurred by Stoneham under the PPP Loan Agreement in a maximum principal amount of US\$1,750,000.

“PPP Loan Agreement” means a paycheck protection program promissory note and agreement dated July 24, 2020 and acknowledged and accepted by Stoneham between Stoneham, as borrower, and Wells Fargo Bank, National Association, as lender.

“Property” means, with respect to any person, all or any portion of its undertaking, property and assets.

“Proportionate Share” means in respect of each Lender from time to time, (i) prior to the giving of an Acceleration Notice under Section 8.2, the percentage determined by dividing

the Lender's Commitment by the aggregate of all of the Lenders' Commitments, and (ii) after the giving of an Acceleration Notice under Section 8.2, the percentage determined by dividing the Obligations owed by the Borrower to each Lender by the aggregate of all Obligations owed by the Borrower to all of the Lenders.

"Purchase Money Security Interest" means:

- (a) a Lien taken or reserved in property to secure payment of all or part of its purchase price or the cost of construction of any improvement thereon; and
- (b) a Lien taken in property by a Person who gives value for the purpose of enabling the Borrower or the relevant Subsidiary of the Borrower to acquire rights in such property, to the extent that the value is applied to acquire those rights;

but does not include a Financial Lease or an operating lease.

"Release" means any release, spill, emission, leak, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the environment including, without limitation, the movement of Hazardous Materials through ambient air, soil, surface water, ground water, wetlands, land or sub-surface strata.

"Relevant Amount" has the meaning attributed thereto in Section 11.2.

"Relevant Jurisdiction" means, from time to time, any province or territory in Canada or any state of the United States of America or any relevant political subdivision in any other country (a) in which any Loan Party has (i) its registered office, chief executive office or principal place of business, or (ii) material property or in which it carries on material business, or (b) under the laws of which a Loan Party is organized.

"Restricted Subsidiary" means any Subsidiary of the Borrower:

- (a) (i) of which all of the Equity Securities are owned, directly or indirectly, by the Borrower (other than a Foreign Subsidiary) and (ii) that has been designated by the Borrower as a Restricted Subsidiary pursuant to Section 4.1(d); or
- (b) which has provided a guarantee or other credit support with respect to the First Lien Credit Agreement or the BDC Credit Documents.

As of the Closing Date, the Restricted Subsidiaries are Stoneham Drilling Corporation and Western Production Services Corp.

"Sanctioned Person" means, at any time, any Person listed in any Sanctions-related list of designated Persons maintained by the OFAC, the Government of Canada, the U.S. Department of State, or by the United Nations Security Council, in all cases, to the extent not inconsistent with the laws of Canada.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by a Sanctions Authority that are applicable to

the Borrower; provided that, with respect to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority other than the Canadian government, to the extent such sanctions or trade embargoes are not inconsistent with the laws of Canada.

“**Sanctions Authority**” means any of: (a) the Canadian government; (b) the United States government; (c) the United Nations Security Council (to the extent not inconsistent with the laws of Canada); or (d) the European Union or Her Majesty’s Treasury of the United Kingdom; or (e) the respective governmental institutions, departments and agencies of any of the foregoing, including OFAC and the United States Department of State.

“**SBA**” means the U.S. Small Business Administration.

“**Security**” means the guarantees and security held from time to time by the Agent on behalf of itself and the Lenders, securing or intended to secure payment and performance of the Obligations of the Loan Parties to the Agent and the Lenders (and to each of them), including without limitation the guarantees and security described in Section 4.1.

“**Small Business Act**” means the Small Business Act (15 U.S. Code Chapter 14A – Aid to Small Business).

“**Solvent**” shall mean, after giving effect to the consummation of the Credit Agreement, the sum of the liabilities (including contingent liabilities) of the Loan Parties, on a consolidated basis, does not exceed the present fair saleable value of the Property of the Loan Parties, on a consolidated basis.

“**Stoneham**” means Stoneham Drilling Corporation.

“**Subsidiary**” means, with respect to a Person:

- (a) any corporation of which at least a majority of the outstanding Voting Securities having by the terms thereof ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time shares of any other class or classes of such corporation might have voting power by reason of the happening of any contingency, unless the contingency has occurred and then only for as long as it continues) is at the time directly, indirectly or beneficially owned or controlled by such Person, or one or more of its Subsidiaries, or such Person and one or more of its Subsidiaries;
- (b) any partnership of which, at the time, such Person, or one or more of its Subsidiaries, or such Person and one or more of its Subsidiaries: (i) directly, indirectly or beneficially own or control more than 50% of the income, capital, beneficial or ownership interests (however designated) thereof; and (ii) is a general partner, in the case of limited partnerships, or is a partner or has authority to bind the partnership, in all other cases; or
- (c) any other Person of which at least a majority of the income, capital, beneficial or ownership interests (however designated) are at the time directly, indirectly or

beneficially owned or controlled by such Person, or one or more of its Subsidiaries, or such Person and one or more of its Subsidiaries.

Unless otherwise specifically indicated herein, “**Subsidiary**” refers to a Subsidiary of a Borrower.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Threshold Amount**” means \$10,000,000 or the Equivalent Amount in U.S. Dollars.

“**United States Dollars**”, “**U.S. Dollars**” and “**U.S. \$**” means the lawful money of the United States of America.

“**Unrestricted Subsidiary**” means any Subsidiary that is not a Restricted Subsidiary.

“**Voting Securities**” means:

- (a) capital stock of any class of any corporation or other Equity Securities of any other Person which carries voting rights to elect the board of directors (or other persons performing similar functions) under any circumstances; and
- (b) an interest in a general partnership, limited partnership, trust, limited liability company, joint venture or similar Person which entitles the holder of such interest to receive a share of the profits, or on dissolution or partition, of the assets, of such Person.

1.2 Schedules

The following are the Schedules annexed hereto and incorporated by reference and deemed to be part hereof:

Schedule A – Lenders and Commitments
Schedule B – Organizational Information
Schedule C – Assignment Agreement

ARTICLE 2 THE CREDIT FACILITY

2.1 Existing Credit Agreement

- (a) Relying on each of the representations and warranties set out in Article 6 and subject to the terms and conditions of this Agreement, the Agent, the Lenders and the Borrower agree that, effective on the Closing Date, the Existing Credit Agreement shall be amended and restated in its entirety and shall be on the terms and conditions and in the form of this Agreement including, without limitation, all Obligations (as that term is defined in the Existing Credit Agreement) of the

Borrower to the Lenders under the Existing Credit Agreement shall be construed as Obligations of the Borrower to the Lenders under this Agreement, subject to the terms of the Debt Restructuring Transaction. As of the date hereof, and after giving effect to the Debt Restructuring Transaction, the outstanding principal amount of the Loan is \$108,497,349. For greater certainty, interest which has accrued on the Loan prior to the Closing Date which is unpaid shall have accrued at the rate set forth, and in accordance with the terms of, the Existing Credit Agreement.

- (b) Notwithstanding the foregoing or any other term hereof, all of the covenants, representations and warranties on the part of the Loan Parties under the Existing Credit Agreement and all of the claims and causes of action arising against the Loan Parties in connection therewith, in respect of all matters, events, circumstances and obligations arising or existing prior to the date hereof shall continue, survive and shall not be merged in the execution of this Agreement or any other Loan Documents.

2.2 Commitments

Subject to the terms and conditions of this Agreement, the Lenders hereby confirm the establishment of a non-revolving term credit facility in favour of the Borrower and each Lender agrees to continue to make its Proportionate Share of the Loan available to the Borrower hereunder in an aggregate principal amount not to exceed such Lender's Commitment (the "**Loan**"). The Loan, the Credit Facility and the Commitments are not revolving and amounts repaid or prepaid may not be re-borrowed under any circumstances.

2.3 Purpose

The Borrower represents and warrants that the proceeds of the Loan were used to repay indebtedness of the Borrower owing by it at the time the drawdown was made under the Existing Credit Agreement.

2.4 Funding of Loan

The Loan was fully advanced in accordance with the Existing Credit Agreement.

2.5 Evidence of Indebtedness

The indebtedness of the Borrower hereunder shall be evidenced by records maintained by the Agent concerning the Loan. The records maintained by the Agent shall constitute, in the absence of manifest error, conclusive evidence of such indebtedness of the Borrower to the Lenders and all details relating thereto. The failure of the Agent to correctly record any such amount or date shall not, however, adversely affect the obligation of the Borrower to pay amounts due hereunder to the Lender in accordance with this Agreement.

ARTICLE 3 REPAYMENT

3.1 Repayment of Loan

- (a) *Scheduled Repayments.* The Borrower will make scheduled principal repayments of the Loan owing under the Credit Facility in the amount of 0.25% of the Commitments as in effect on the Closing Date on the first day of each Fiscal Quarter, commencing on July 1, 2022 (each, a “**Scheduled Repayment Date**”). Any remaining Obligations owing to the Agent and the Lenders will be repayable by the Borrower in full on the Maturity Date.

- (b) *Mandatory Prepayments.* The Borrower shall on the 180th day after receipt of any Net Cash Proceeds or proceeds referenced in paragraphs (i) or (ii) below, prepay the Loan without premium or penalty (subject to any prior payment required pursuant to the Intercreditor Agreement or the First Lien Credit Agreement) from:
 - (i) the Net Cash Proceeds from any Asset Sale to the extent such Net Cash Proceeds are not reinvested in property and assets within six (6) months from the date of receipt thereof or not used to make a repayment of the indebtedness arising under the First Lien Credit Agreement;

 - (ii) net proceeds of any insurance claims by any Loan Party in excess of \$1,000,000 (which are not utilized to repair or replace the damaged property which is the subject of the casualty giving rise to the insurance proceeds) to the extent such insurance proceeds are not reinvested to acquire, improve or repair assets useful in its business (including capital expenditures) within six (6) months of receipt of such proceeds or not used to make a repayment of the indebtedness arising under the First Lien Credit Agreement.

Any mandatory prepayments made pursuant to this Section 3.1(b) shall be applied in the inverse order of maturity to the remaining scheduled repayments prescribed by Section 3.1(a).

- (c) *Voluntary Prepayments.* In addition to the rights of the Borrower to make Permitted Prepayments pursuant to Section 3.1(d), the Borrower shall have the right at any time and from time to time to prepay the Loan in whole or in part, provided that each such voluntary prepayment be in the minimum principal amount of \$1,000,000. The Borrower shall notify the Agent by telephone (confirmed by facsimile not later than 12:00 noon, Edmonton time, two Business Days before the date of prepayment). Each such notice shall specify the prepayment date and the principal amount to be prepaid. Promptly following receipt of any such notice relating to a payment, the Agent shall advise the Lenders of the contents thereof. Each prepayment shall be applied to the Loan as directed by the Borrower. Prepayments shall be accompanied by accrued interest to the extent required by Section 3.2 and any additional payment required by Section 3.1(e).

- (d) *Permitted Prepayments.* In addition to the rights of the Borrower to make voluntary prepayments pursuant to Section 3.1(c), the Borrower shall have the right at any time and from time to time to prepay the Loan in whole or in part with Permitted Prepayments, provided that any such Permitted Prepayment shall be made on a Scheduled Repayment Date and further provided that no more than two (2) Permitted Prepayments are made in any given calendar year, and no more than five (5) Permitted Prepayments are permitted prior to the Maturity Date.

Any Permitted Prepayments made pursuant to this Section 3.1(d) shall be applied in the inverse order of maturity to the remaining scheduled repayments prescribed by Section 3.1(a).

- (e) *Make-Whole Amounts and Premiums.* Other than Permitted Prepayments, all prepayments and repayments permitted or required under this Section 3.1 shall be without premium or penalty except that:
- (i) with respect to any prepayment made pursuant to Section 3.1(c) at any time prior to the second anniversary of the Closing Date, the Borrower may, on one or more occasions, prepay all or any portion of the Loan by making a payment equal to 100% of the principal amount of the Loan so prepaid, plus the Make-Whole Amount, plus accrued and unpaid interest to, but excluding, the date of prepayment; and
 - (ii) with respect to any prepayment made pursuant to Section 3.1(c) made at any time on or after the second anniversary of the Closing Date and prior to the third anniversary of the Closing Date, the Borrower may, on one or more occasions, prepay all or any portion of the Loan, at a price equal to 100% of the principal amount of the Loan so prepaid, plus a premium equal to five percent (5%) per annum calculated on a daily basis for the number of days remaining from the date of prepayment until the third anniversary of the Closing Date, plus accrued and unpaid interest to, but excluding, the date of prepayment.

For certainty, any prepayment made pursuant to Section 3.1(c) at any time on or after the third anniversary of the Closing Date shall be payable without premium or penalty. The parties acknowledge and agree that the Make-Whole Amount is not a penalty and is a genuine pre-estimate of compensation for the Lenders in consideration for the early prepayment of the Loan.

3.2 Interest.

- (a) *Interest Payments.* The Borrower shall pay interest on the Loan owing by it at a rate calculated on the basis of a 365 day year, equal to 8.50% per annum commencing on the Closing Date. Such interest shall accrue daily and shall be payable in arrears on each Interest Payment Date for the Loan (a) for the period from and including the Closing Date to and including the day preceding the first Interest Payment Date; and (b) thereafter, from and including each Interest Payment Date to and including

the day preceding each subsequent Interest Payment Date and shall be calculated on the principal amount of the Loan outstanding during such period and on the basis of the actual number of days elapsed divided by 365.

- (b) *Default Rate.* Notwithstanding the foregoing, if an Event of Default specified in Section 8.1 has occurred and is continuing, then the Loan shall bear interest, after as well as before judgment, at a rate per annum equal to two percent (2%) plus the rate otherwise applicable to the Loan.
- (c) *Payable on Demand.* Interest accrued pursuant to Section 3.2(b) shall be payable on demand and in the event of any repayment or prepayment of the Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment.
- (d) *Deemed Reinvestment Not Applicable.* For the purposes of the *Interest Act* (Canada), the principle of deemed reinvestment of interest will not apply to any interest calculation under the Credit Documents, and the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.
- (e) *Maximum Rate of Return.* Notwithstanding any provision herein to the contrary, in no event will the aggregate “interest” (as defined in section 347 of the *Criminal Code* (Canada)) payable under this Agreement exceed the maximum effective annual rate of interest on the “credit advanced” (as defined in that section 347) permitted under that section and, if any payment, collection or demand pursuant to this Agreement in respect of “interest” (as defined in that section 347) is determined to be contrary to the provisions of that section 347, such payment, collection or demand will be deemed to have been made by mutual mistake of the Borrower and the Lenders and the amount of such payment or collection will be refunded to the Borrower. If any provision is determined to be contrary to the provisions of section 347 of the of the *Criminal Code* (Canada), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted *nunc pro tunc* to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by Applicable Laws or so result in a receipt by a Lender of interest at a criminal rate. For purposes of this Agreement, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Credit Facility on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Agent will be *prima facie* evidence, for the purposes of such determination.
- (f) *Waiver of Judgment Interest Act (Alberta).* To the extent permitted by Applicable Laws, the provisions of the *Judgment Interest Act* (Alberta) will not apply to the Credit Documents and are hereby expressly waived by the Borrower.
- (g) *Interest Act Equivalent.* In this Agreement, each rate of interest which is calculated with reference to a period (the “deemed interest period”) that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest*

Act (Canada), equivalent to a rate based on a calendar year calculated by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing by the number of days in the deemed interest period.

- (h) *PIK Interest.* Interest shall be payable on each Interest Payment Date entirely in cash, except that, so long as no Default or Event of Default has occurred and is continuing at the applicable time, the Borrower may:
- (i) elect to pay all of the interest payable on any Interest Payment Date prior to the Maturity Date in kind by having such interest capitalized on such Interest Payment Date in lieu of providing a cash payment, whereupon on such Interest Payment Date the aggregate outstanding principal amount of the Loan shall be automatically increased by the amount of such interest paid in kind (which interest paid in kind shall thereafter be treated as principal of the Loan for all purposes hereunder); provided, however that if any interest is paid in kind pursuant to this 3.2(h)(i), then the amount of such interest to be added to the principal amount of the aforesaid Loan shall be recalculated for such six month period before such interest is capitalized based on an interest rate equal to the interest rate prescribed by Section 3.2(a) plus ■■■% per annum; or
 - (ii) elect to defer all of the interest payable on any Interest Payment Date prior to the Maturity Date until the next succeeding Interest Payment Date; provided, however that if any interest payment is deferred pursuant to this 3.2(h)(ii), then the amount of such interest shall be recalculated based on an interest rate equal to the interest rate prescribed by Section 3.2(a) plus ■■■% per annum immediately prior to the applicable Interest Payment Date;

provided that, the Borrower may not exercise its rights under this Section 3.2(h) to either defer an interest payment and/or make an interest payment in kind more than two (2) times between the Closing Date and the Maturity Date.

The Borrower shall notify the Agent in writing of its exercise of its rights under this Section 3.2(h) no later than two (2) Business Days prior to the relevant Interest Payment Date. The Agent shall deliver to the Lenders prompt written notice of the Borrower's exercise of any such payment in kind or deferral option.

3.3 Repayment of Loan – Proportionate Share

The amount of a repayment of the Loan shall be applied thereto and the amount of such repayment shall be distributed to each Lender in accordance with such Lender's Proportionate Share of the Credit Facility.

ARTICLE 4 SECURITY

4.1 Security

- (a) *Security.* The Security will be the following:
- (i) an unlimited guarantee made by each Loan Party (other than the Borrower) in favour of the Agent pursuant to which each such Loan Party guarantees the payment of all Obligations owing by the Borrower;
 - (ii) a general security agreement made by each Loan Party in favour of the Agent and the Lenders pursuant to which such Loan Party mortgages, charges and grants a security interest to and in favour of the Agent in all of the present and after acquired property of each such Loan Party, to be registered at the personal property or other appropriate registry office in each Relevant Jurisdiction; and
 - (iii) such other assignments, mortgages, charges, pledges and other security agreements, guarantees, consents and acknowledgements (including negative pledges) as may be provided by the Borrower or any of its Subsidiaries in connection with the First Lien Credit Agreement from time to time.

The Security listed above shall be in form satisfactory to the Agent and the Lenders, acting reasonably but, in any case, shall be identical (to the extent legally practicable and with such amendments as are required to give effect to the provisions of this Agreement and the Intercreditor Agreement) in form and substance to the security documents provided in connection with the First Lien Credit Agreement.

- (b) *Intercreditor Agreement.* The Obligations shall be secured, equally and rateably amongst the Lenders, in accordance with the requirements of this Article 4, and the Security shall be subject to the terms of the Intercreditor Agreement.
- (c) *Registrations.* The Borrower shall, at its expense, register, file or record the Security in all offices where such registration, filing or recording is necessary or of advantage to the creation, perfection and preserving of the charges and security interests created by the Security. The Borrower shall, and shall cause each other Loan Party to, renew such registrations, filings and recordings from time to time as and when required to keep them in full force and effect and shall, from time to time as reasonably required, provide to the Agent an opinion of counsel that all such registrations, filings and recordings have been made.
- (d) *Restricted Subsidiaries.*
- (i) Subject to Section 4.1(d)(iii), the Borrower shall be entitled, from time to time, by notice in writing to the Agent (together with reasonable particulars

which demonstrate compliance with the positive covenant in Section 7.1(q)), to designate that:

- (A) a Subsidiary which is an Unrestricted Subsidiary shall become a Restricted Subsidiary; or
- (B) the Restricted Subsidiary has provided a guarantee or other credit support with respect to the First Lien Credit Agreement or the BDC Credit Documents;

provided that the Borrower shall not be entitled to designate that a Restricted Subsidiary shall cease to be a Restricted Subsidiary if:

- (A) a Default or an Event of Default would result from or exist immediately after such designation; or
- (B) the Restricted Subsidiary has provided a guarantee or other credit support with respect to the First Lien Credit Agreement.

(ii) The Agent shall promptly release all Security provided by a Restricted Subsidiary that ceases to be a Restricted Subsidiary in accordance with the provisions hereof.

(iii) A Foreign Subsidiary may only be designated by the Borrower as a Restricted Subsidiary with the prior written consent of the Lenders and any such Foreign Subsidiary shall provide security over all or substantially all of its assets in form and substance satisfactory to both the Agent and Lenders' Counsel, which security shall in all respects, including enforceability, validity, perfection, registration, priority, and realization, grant the Agent and the Lenders substantially similar rights as the existing security in place in Canada as of the Closing Date. Any Foreign Subsidiary, which designation as a Restricted Subsidiary is not consented to by the Lenders or that cannot provide the security described above, shall be treated for all purposes as an Unrestricted Subsidiary.

(iv) For certainty, each Person that is a "Restricted Subsidiary" under the First Lien Credit Agreement shall also be deemed to be a Restricted Subsidiary under the Credit Documents.

(e) *Release.* The Agent shall not, during the term of this Agreement, discharge, surrender, amend or otherwise modify any Security without the prior written consent of all of the Lenders, provided that the Agent may discharge Security at the discretion of the Agent with respect to Permitted Dispositions or as prescribed by Section 4.1(d)(ii).

The Lenders hereby authorize the Agent, and the Agent hereby agrees, at the Borrower's sole cost and expense, (i) to discharge the Security forthwith after all of the Obligations have been unconditionally and irrevocably paid or performed in

full and the Agreement has been terminated, and (ii) at the request of the Borrower, to discharge that portion of the Security that applies to a Permitted Disposition and/or execute a no interest letter or similar document in connection with such Permitted Disposition.

ARTICLE 5 CONDITIONS TO EFFECTIVENESS

5.1 Conditions Precedent to Effectiveness

This Agreement will become effective upon the following conditions being satisfied.

- (a) *Documentation*: The receipt by the Lenders of the following documents, each in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably:
 - (i) this Agreement, duly executed and delivered by the Borrower;
 - (ii) the Intercreditor Agreement, duly executed and delivered by each Person party thereto;
 - (iii) certificates of good standing (or their equivalent) in respect of each Loan Party;
 - (iv) certified copies of the constating documents of each Loan Party;
 - (v) an officer's certificate as to the of incumbency of the officers of each Loan Party;
 - (vi) certified copies of the resolutions of each Loan Party authorizing the execution, delivery and performance of its respective obligations under the Credit Documents to which it is a party;
 - (vii) a confirmation of Security from the Loan Parties;
 - (viii) a certificate from a responsible officer of the Borrower certifying that the Borrower and its Subsidiaries, on a consolidated basis after giving effect to the Debt Restructuring Transaction, are Solvent;
 - (ix) a certificate of a responsible officer of the Borrower (A) attaching all of the material First Lien Credit Documents required by the Agent, (B) certifying that no default or event of default under the First Lien Facilities has occurred and is continuing, (C) detailing the legal structure and ownership of the Loan Parties and their affiliates, (D) certifying that no Default or Event of Default shall exist on the Closing Date; (E) the Borrower shall have at least \$15,000,000 of undrawn capacity under the First Lien Facilities; and (F) certifying that the closing of the First Lien Facility will occur concurrently on the Closing Date;

- (x) the certificates of insurance referred to in Section 7.1(g) with the Agent shown as a loss payee and additional insured;
 - (xi) letters of opinion of GableGotwals, U.S. counsel to the Loan Parties, and Blake, Cassels and Graydon LLP, Canadian counsel to the Loan Parties, in each case addressed to the Agent and in form and substance satisfactory to the Agent, acting reasonably; and
 - (xii) to the extent requested at least five (5) Business Days prior to the Closing Date, all documentation and other information reasonably required by any Lender or the Agent in order to comply with any applicable “know your customer” and anti-money laundering rules and regulations;
- (b) *Debt Restructuring Transaction.* The conversion of \$100,000,000 of indebtedness owing under the Existing Credit Agreement into equity of the Borrower and the repayment of \$10,000,000 of principal owing thereunder have each been completed in accordance with the Debt Restructuring Agreement and the Agent shall have received:
- (i) a satisfactory flow of funds memorandum in respect of same; and
 - (ii) satisfactory evidence that the Borrower has received aggregate proceeds of not less than \$31,500,000 from the issuance of equity pursuant to the Debt Restructuring Agreement.
- (c) *Representations.* All representations and warranties in this Agreement and in each of the other Credit Documents shall be accurate in all material respects (and in all respects for those representations already qualified by materiality);
- (d) *Material Adverse Change.* There shall not have occurred any Material Adverse Change since December 30, 2021 (provided that matters related to the Debt Restructuring Transaction shall be deemed not to have caused a Material Adverse Change);
- (e) *Material Change.* There shall not have occurred any Material Change since December 30, 2021 (provided that matters related to the Debt Restructuring Transaction shall be deemed not to have caused a Material Change);
- (f) *No Proceedings, etc.* There shall be no actions, suits, claims, proceedings or inquiries pending and outstanding or (to the knowledge of the Borrower) threatened against or affecting the Borrower or any of its Subsidiaries at law or in equity or before or by any governmental authority which, individually or in the aggregate, constitute a Material Adverse Effect or would reasonably be expected to restrain or prevent the Debt Restructuring Transaction or the closing of the First Lien Facilities or this Agreement and the Borrower is not aware of any existing ground on which such action, suit, proceeding or inquiry might be commenced with any reasonable likelihood of success; and

- (g) *Costs.* To the extent invoiced at least two Business Days prior to the Closing Date, all reasonable fees and expenses of the Lenders incurred in connection with the establishment of the Credit Facility and the Debt Restructuring Transaction that have been accrued prior to the Closing Date shall have been paid by the Borrower to the Agent.

5.2 Waiver

The conditions in Section 5.1 are inserted for the sole benefit of the Agent and the Lenders and may be waived by the Agent on the instructions of the Lenders, in whole or in part (with or without terms or conditions) in respect of any Loan.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties

The Borrower represents and warrants as follows to the Agent and each of the Lenders and acknowledges and confirms that the Agent and each of the Lenders is relying upon such representations and warranties:

- (a) *Status.* Each of the Loan Parties are corporations duly incorporated, partnerships or trusts duly formed, and validly existing under the laws of their respective jurisdictions of incorporation or formation, as applicable. Each of the Loan Parties has all necessary corporate, partnership or trust (as applicable) capacity, power and authority to own, lease and operate its respective properties and assets and carry on its respective business as presently carried on, and each is duly licensed, registered or qualified in all jurisdictions where the character of its property owned or leased or the nature of the activities conducted by it makes such licensing, registration or qualification necessary or desirable, except to the extent that failure to be so licensed, registered or qualified would not have a Material Adverse Effect.
- (b) *Authority.* Each of the Loan Parties has full corporate, partnership or trust (as applicable) capacity, power and authority to enter into this Agreement and each of the other Credit Documents to which it is a party and to do all acts and execute and deliver all other documents as are required hereunder or thereunder to be done, observed or performed by it or them in accordance with their respective terms.
- (c) *Valid Authorization.* Each of the Loan Parties has taken all necessary corporate, partnership or trust (as applicable) action to authorize the creation, execution and delivery of, and performance of its respective obligations under, this Agreement and each of the other Credit Documents to which it is a party, and this Agreement and each of the other Credit Documents, when signed and delivered, have or will have been duly executed and delivered in accordance with such corporate, partnership or trust action (as applicable).

- (d) *Validity and Enforceability.* This Agreement constitutes, and each other Credit Document constitutes or, when executed and delivered, each of the other Credit Documents will constitute, valid and legally binding obligations of each of the Loan Parties that is a party thereto, enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights, and to general principles of equity, including the fact that specific performance is an equitable remedy, available only in the discretion of the court.
- (e) *No Violation, Breach, Conflict etc.* Neither the execution and delivery of this Agreement or any other Credit Document, nor compliance with the terms and conditions of any of them:
 - (i) has resulted, or will result, in a violation of the articles, by-laws or other constituting or governing documents of any Loan Party that is party thereto or any resolutions passed by the directors, shareholders or partners (as applicable) of any Loan Party;
 - (ii) has resulted, or will result, in a violation of any Applicable Law, rule, regulation, order, judgment, injunction, award or decree;
 - (iii) has resulted, or will result, in a breach of, or constitute a default under, any loan agreement, indenture, trust deed or any other agreement or instrument to which any Loan Party is a party or by which it or any of its property, assets or undertaking are bound, or requires any consent thereunder other than such as has already been received, except to the extent that such breach, default or failure to have consent arises after (and not upon) the execution and delivery of the Credit Documents and would not have a Material Adverse Effect;
 - (iv) requires any approval or consent of any Governmental Authority having jurisdiction, other than such as has already been obtained; or
 - (v) has resulted or will result, in the creation of, or the obligation to create, any Lien on, against or in respect of any of the property, assets or undertaking of any Loan Party except as expressly permitted or contemplated hereby.
- (f) *Authorizations.* All Governmental Authorizations, approvals, consents, licences, exemptions, filings, registrations, notarizations and other requirements of any Governmental Authority or any other Person reasonably necessary to, or in connection with, the execution and delivery by the Loan Parties of, and performance of their respective obligations under, this Agreement and each of the other Credit Documents to which it is a party, and to carry on the businesses of the Loan Parties, have been obtained and are in full force and effect.
- (g) *Ownership of Assets.* The Loan Parties:

- (i) have good and marketable title to all of their property and assets, subject only to Permitted Liens and defects in title which are not general in application and which individually or in the aggregate do not materially detract from the value of such property and assets or any significant part thereof or materially impair the use of any thereof in the operation of the businesses of each of the Loan Parties; and
 - (ii) own, lease or have the lawful right to use all of the property, assets and undertaking necessary for the conduct of the businesses of each of the Loan Parties.
- (h) *No Default.* No Default or Event of Default has occurred and is continuing.
- (i) *Financial Condition.* The most recent audited and unaudited consolidated Financial Statements of the Borrower on a consolidated basis delivered to the Agent present fairly, in all material respects, the financial condition of the Borrower on a consolidated basis as at the date or dates thereof and the results of the consolidated operations thereof for the Fiscal Quarter or Fiscal Year then ending, all in accordance with GAAP consistently applied, and since the date of the most recent Financial Statements delivered to the Agent no event or circumstance has occurred and is continuing which would have a Material Adverse Effect (provided that matters related to the Debt Restructuring Transaction shall be deemed not to have resulted in a Material Adverse Effect).
- (j) *Books and Records.* All books and records of the Loan Parties have been fully, properly and accurately kept and completed and there are no material inaccuracies or discrepancies of any kind contained or reflected therein.
- (k) *Information Provided.* All information, materials and documents, including all projections, economic models, capital and operating budgets and other information and data:
 - (i) prepared and provided to the Agent by any Loan Party as required by the terms of this Agreement, were true, complete and correct in all material respects as of the respective dates thereof or, in the case of projections, were prepared in good faith based upon reasonable assumptions; and
 - (ii) prepared by Persons other than the Loan Parties and provided to the Agent by or on behalf of any Loan Party in respect of the transactions contemplated by this Agreement, or as required by the terms of this Agreement, were, to the Knowledge of the Borrower, true, complete and correct in all material respects as of the respective dates thereof or, in the case of projections, were prepared in good faith based upon reasonable assumptions.
- (l) *Litigation.* Except to the extent written notice has been provided to the Agent as required by Section 7.1(d), there are no actions, suits, proceedings or

Environmental Claims pending or, to the Knowledge of the Borrower, threatened against or affecting any Loan Party, which, if determined adversely, would have a Material Adverse Effect and in respect of which there is a reasonable possibility of a determination adverse to any Loan Party.

- (m) *Compliance.* The Loan Parties and their respective businesses and operations are in compliance with: all Applicable Laws (including, without limitation, all applicable Environmental Laws); all applicable directives, judgments, decrees, injunctions and orders rendered by any Governmental Authority or any court of competent jurisdiction; its and their constating or governing documents (including partnership agreements) and by-laws; all material agreements or instruments to which it is a party or by which any of its property or assets are bound; and any employee benefit plans, except to the extent failure to so comply would not have a Material Adverse Effect. No event has occurred which constitutes a default under, or which, with the giving of notice, lapse of time or both, would constitute a default under, or in respect of, any material agreement or instrument to which any Loan Party is a party or by which any of its property or assets are bound, and there exists no outstanding disputes regarding any such material agreements or instruments, except in each case to the extent such default or dispute would not have a Material Adverse Effect.
- (n) *Remittances.* All of the material remittances required to be made by the Loan Parties to any Governmental Authority (including, without limitation, in respect of Taxes and Other Taxes) have been made and are currently up to date, and there are no outstanding arrears other than those which are subject to a Permitted Contest.
- (o) *Taxes.* Each of the Loan Parties has duly filed on a timely basis all tax returns required to be filed and have paid all Taxes which are due and payable, and have paid all assessments and reassessments and all Other Taxes, governmental charges, governmental royalties, penalties, interest and fines claimed against them, other than those which, in each case, are subject to a Permitted Contest. Each of the Loan Parties has made adequate provision for, and all required instalment payments have been made in respect of, Taxes and Other Taxes in all material amounts payable for the current period for which returns are not yet required to be filed. There are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return by them or the payment of any Taxes or Other Taxes. There are no actions or proceedings being taken by any Governmental Authority to enforce the payment of any Taxes or Other Taxes by them, other than those which are subject to a Permitted Contest.
- (p) *Insurance.* All insurance policies required to be maintained by each of the Loan Parties pursuant to Section 7.1(g) have been obtained and are in full force and effect, and such insurance policies comply with the requirements of Section 7.1(g).
- (q) *Environmental Matters.*
 - (i) Each of the Loan Parties and their property and assets comply in all respects, and the businesses, activities and operations of each of the Loan Parties and

the use of their property and assets comply in all respects, with all Environmental Laws, Environmental Permits and Environmental Orders except to the extent failure to comply would not reasonably be expected to have a Material Adverse Effect; further, the Borrower does not have Knowledge of, and has no reasonable grounds to believe there exists, any facts which result in, or constitute, or are likely to give rise to, non-compliance with any Environmental Laws, Environmental Permits or Environmental Orders, which facts or non-compliance would have a Material Adverse Effect.

- (ii) Each of the Loan Parties has obtained all Environmental Permits which currently are required in relation to their property and assets or in respect of their respective businesses, activities, and operations except to the extent failure to do so would not have a Material Adverse Effect; all such Environmental Permits are valid and in full force and effect, and no violations thereof have occurred which are continuing and which would have a Material Adverse Effect; no proceedings are pending and, to the Knowledge of the Borrower, no proceedings have been or are being taken by any Governmental Authority to remove or invalidate any of the Environmental Permits, the removal or invalidation of which would have a Material Adverse Effect; and there is no reason to believe that any Environmental Permits required to be obtained after the date hereof will not be issued pursuant to applications made for such Environmental Permits.
- (iii) The businesses, activities and operations of each of the Loan Parties which have generated, manufactured, refined, treated, transported, stored, handled, disposed, transferred, produced or processed Hazardous Materials have done so in compliance in all respects with all Environmental Laws, Environmental Permits and Environmental Orders, except to the extent such failure to so comply would not have a Material Adverse Effect.
- (iv) All contaminants and other Hazardous Materials owned or controlled by any of the Loan Parties and disposed of, treated or stored on or in relation to their property and assets have been or are in the process of being disposed of, treated and stored in compliance in all respects with all Environmental Laws, Environmental Permits and Environmental Orders, except where such failure to so comply would not have a Material Adverse Effect.
- (v) Except as previously disclosed to the Agent in writing, the Borrower has not received written notice of any material non-compliance under any Environmental Laws, Environmental Permits or Environmental Orders, and has no Knowledge of any facts which could give rise to any notice of non-compliance with any Environmental Laws, Environmental Permits and Environmental Orders, which facts or non-compliance would have a Material Adverse Effect, or except as previously disclosed to the Agent in writing, any notice that any of the Loan Parties is a potentially responsible party for a federal, provincial, regional, municipal or local clean-up or

corrective action in connection with their property and assets which, if not complied with, would have a Material Adverse Effect.

- (vi) No Loan Party nor, to the Knowledge of the Borrower, any of their predecessor corporations or partnerships have, within the immediately preceding four (4) years, been convicted of an offence for non-compliance with any Environmental Laws, Environmental Permits or Environmental Orders, or been fined or otherwise sentenced or settled any prosecution short of conviction, except as otherwise advised in writing to the Agent or except to the extent that any of the foregoing would not have a Material Adverse Effect.
- (vii) To the Knowledge of the Borrower, each of the Loan Parties has maintained all environmental and operating documents and records in the manner and for the time periods required to comply in all respects with all Environmental Laws, Environmental Permits and Environmental Orders, except where failure to do so would not have a Material Adverse Effect.
- (viii) Each of the Loan Parties has in effect a management structure and policies and procedures that will permit the Borrower to effectively manage environmental risk and respond in a timely manner in compliance with the Environmental Laws, Environmental Orders and Environmental Permits in the event of Release of Hazardous Materials in, on or under property of any of the Loan Parties.
- (r) *Full Disclosure.* As of the Closing Date there is no information of which the Borrower has Knowledge which has not been fully disclosed to the Agent which would have a Material Adverse Effect or cause the information referred to in Section 6.1(k) to be incorrect or misleading in any material respect.
- (s) *Liens.* Other than Permitted Liens, there are no Liens against the Loan Parties or their respective assets, property and undertaking.
- (t) *Organization Chart.* As at the date hereof, Schedule B (and as updated from time to time by the Borrower as required under this Agreement) sets forth the names and jurisdictions of incorporation, continuance or formation of the Borrower and its Subsidiaries, and the details of the material ownership of the outstanding shares or ownership interests of each such Person.
- (u) *Consolidated EBITDA; Ownership of Assets.* As of the Closing Date:
 - (i) Consolidated EBITDA, adjusted to exclude any portion thereof attributable to Unrestricted Subsidiaries, is equal to at least 95% of Consolidated EBITDA; and
 - (ii) the Loan Parties directly own at least 95% of Consolidated Total Assets.

- (v) *First Lien Facilities.* No default or event of default under or in respect of the First Lien Facilities has occurred and is continuing.
- (w) *Sanctions.*
 - (i) The Borrower has implemented and maintains in effect policies or codes of conduct intended to ensure compliance in all material respects by its directors, officers and employees with, in each case, Anti-Corruption Laws and Sanctions applicable to such Persons.
 - (ii) None of the Loan Parties, nor, to the knowledge of any Loan Party, any of their respective directors, officers and employees, is a Sanctioned Person.
 - (iii) No part of the proceeds of the Loan will be used intentionally by the Borrower (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation in any material respect of any Anti-Corruption Laws, (B) for the purpose of funding (including payments made to) or financing any activities, investments, business or transaction of or with any Person known to the Borrower to be a Sanctioned Person, where such Sanctions relate to the business activities of the Borrower or its Restricted Subsidiaries, or (C) in any manner that would result in the violation in any material respect of any Sanctions applicable to the Borrower or its Subsidiaries.
- (x) *PPP Loan.* (a) Stoneham is eligible to receive the PPP Loan under the CARES Act, (b) Stoneham intends to use the proceeds of the PPP Loan for CARES Payroll Costs and other CARES Forgivable Uses, (c) Stoneham agrees to comply with the rules and regulations of the SBA, the Small Business Act, and the CARES Act in all material respects, and (d) all disclosures and representations made by Stoneham on its PPP Loan application form (SBA Form 2483) are true and correct in all material respects.
- (y) *BDC Credit Documents.* No default under or Event of Default (as such term is defined in the BDC Credit Agreement) under the BDC Credit Documents has occurred and is continuing.
- (z) *Debt Restructuring Transaction.* As of the Closing Date, neither the execution and delivery of this Agreement or the Debt Restructuring Agreement or any of the other documents in connection therewith, nor the consummation of the transactions contemplated therein:
 - (i) will violate or conflict with:
 - (A) Applicable Laws, rule, regulation, order, judgment, injunction, award or decree;
 - (B) the First Lien Credit Documents;

- (C) the articles, by-laws or other constating or governing documents of the Borrower or any other Loan Party or any resolutions passed by the directors, shareholders or partners (as applicable) thereof;
 - (ii) requires any approval or consent of any Governmental Authority having jurisdiction, other than (i) the approvals by the Toronto Stock Exchange contemplated by the Debt Restructuring Agreement, (ii) the issuance of receipts by the applicable Securities Commissions (as defined in the Debt Restructuring Agreement) in respect of the Prospectus (as defined in the Debt Restructuring Agreement), and (iii) such as has already been obtained; or
 - (iii) will result in the creation of, or the obligation to create, any Lien on, against or in respect of any of the property, assets or undertaking of the Borrower (other than Liens in favour of the Agent or the First Lien Agent).
- (aa) *Equity Issuance.* As of the Closing Date, all Equity Securities to be issued or delivered by the Borrower to AIMCo under or as described in the Debt Restructuring Agreement shall be issued as fully paid and non-assessable common shares of the Borrower, free and clear of any Liens.

6.2 Survival of Representations and Warranties

Unless expressly stated to be made as of a specific date, the representations and warranties made in this Agreement shall survive the execution of this Agreement and all other Credit Documents, and shall be deemed to be repeated as of the date of the Loan, subject to modifications made by the Borrower to the Agent and the Lenders in writing and accepted by the Agent and the Lenders. The Agent and the Lenders shall be deemed to have relied upon such representations and warranties at each such time as a condition of making a Loan hereunder.

ARTICLE 7 COVENANTS

7.1 Positive Covenants

During the term of this Agreement, the Borrower covenants and agrees with each of the Lenders and the Agent that:

- (a) *Payment and Performance.* The Borrower shall duly and punctually pay the principal amount the Loan, all interest thereon and all fees and other amounts required to be paid by the Borrower hereunder at the times and in the manner specified hereunder and the Borrower shall, and shall cause each of the other Loan Parties to, perform and observe all of their respective obligations under this Agreement and under any other Credit Document to which it or any other Loan Party is a party.
- (b) *Existence and Conduct of Business.* The Borrower shall, and shall cause each of the other Loan Parties to:

- (i) except as permitted by Section 7.2(c), maintain its respective corporate, partnership and trust existences in good standing;
 - (ii) register and qualify, and remain duly registered and qualified as a corporation, partnership or trust authorized to carry on business under the laws of each jurisdiction in which the nature of any business transacted by it or the character of any property and assets owned or leased by it requires such registration and qualification, except where failure to obtain and maintain such registration or qualification would have a Material Adverse Effect;
 - (iii) preserve and keep in full force and effect all franchises, licences, rights, privileges and permits necessary to enable the Borrower and each of the other Loan Parties to operate and conduct its respective businesses in accordance with good industry practice, except to the extent such failure to comply or to preserve or keep in full force and effect would have a Material Adverse Effect; and
 - (iv) maintain, protect and defend title to all property and assets held by the Borrower or any other Loan Party and take all such acts and steps as are necessary or advisable at any time from time to time to maintain such property and assets in good standing, except to the extent the failure to so maintain, protect and defend or to take any such acts or steps would have a Material Adverse Effect.
- (c) *Compliance with Applicable Laws and Material Contracts.* The Borrower shall, and shall cause each of the other Loan Parties to:
- (i) carry on and conduct its business, and keep, maintain and operate its assets and properties, in accordance with all Applicable Laws and prudent industry practice;
 - (ii) observe and conform to all requirements of any approval by any Governmental Authority relative to any of its properties and assets and all covenants, terms and conditions of all agreements upon or under which any of such properties or assets are held; and
 - (iii) comply with all material contracts to which it is a party;
- except to the extent failure to so comply or failure to so observe and conform would not have a Material Adverse Effect.
- (d) *Material Litigation.* The Borrower shall promptly give written notice to the Agent of any litigation, proceeding, dispute or investigation affecting any of the Loan Parties involving:
- (i) a claim in excess of the Threshold Amount, or

- (ii) a claim in respect of which there is a reasonable possibility of a determination adverse to a Loan Party and which, if adversely determined, would have a Material Adverse Effect,

and, in each such case, shall from time to time furnish to the Agent all reasonable information requested by the Agent concerning the status of any such litigation, proceeding, dispute or investigation.

- (e) *Financial Statements and Other Reporting.* The Borrower shall keep, and shall cause each of the other Loan Parties to keep, proper books of record and account in which full and correct entries shall be made in respect of the business, affairs, financial condition, property and assets of the Loan Parties, and shall deliver to the Agent, with sufficient copies for each of the Lenders:

- (i) as soon as available and, in any event, within 90 days after the end of each of its Fiscal Years (unless a shorter filing period is required by any Governmental Authority, in which case within 5 Business Days after such shorter period), the audited annual Financial Statements of the Borrower on a consolidated basis, for each such Fiscal Year, together with the notes thereto, all prepared in accordance with GAAP consistently applied, together with an unqualified report of the Borrower's auditors thereon;

- (ii) as soon as available and, in any event, within 45 days after the end of each of its first, second and third Fiscal Quarters in each Fiscal Year (unless a shorter filing period is required by any Governmental Authority, in which case 5 Business Days after such shorter period), the unaudited quarterly Financial Statements of the Borrower on a consolidated basis, for each such Fiscal Quarter, all in reasonable detail and stating in comparative form the figures for the corresponding date and period in the previous Fiscal Year, all prepared in accordance with GAAP consistently applied and certified by the Borrower's president, chief executive officer, chief financial officer, treasurer or vice president finance to present fairly, in all material respects, the consolidated financial condition of the Borrower;

- (iii) by the earlier of January 31 in each Fiscal Year or within 15 days following approval by the Borrower's board of directors, an annual consolidated operating and capital expenditure budget for the Borrower containing reasonable detail, for the such Fiscal Year;

- (iv) promptly upon transmission thereof, copies of all proxy statements, information circulars, notices and reports as the Borrower shall send to its shareholders, and copies of all prospectuses, registration statements and material change reports (or the equivalent) filed on a non-confidential basis by or on behalf of the Borrower with Canadian or United States regulatory authorities (except, in the case of material change reports, to the extent notice of such change has otherwise been provided pursuant to Section 7.1(j));

- (v) concurrently with furnishing the Financial Statements pursuant to Sections 7.1(e)(i) and 7.1(e)(ii), an updated Schedule B;
- (vi) concurrently with delivery thereof to the First Lien Agent, copies of any Compliance Certificate (as defined in the First Lien Credit Agreement) provided pursuant to the First Lien Credit Agreement; and
- (vii) at the request of the Agent, such other information, reports, certificates or other matters affecting the business, affairs, financial condition, property or assets of the Loan Parties as the Agent may reasonably request.

The Financial Statements, budgets, descriptions, reports and other documents to be delivered pursuant to this Section 7.1(e):

- (A) may be delivered by transmitting an electronic version of the same to the Agent and confirming receipt thereof by the Agent and the ability of the Agent to access the same; and
 - (B) shall be deemed to be delivered by the posting of such information on www.sedar.com, and the Borrower advising the Agent of such posting.
- (f) *Inspection.* At any reasonable time and from time to time upon reasonable prior notice and during reasonable business hours, the Borrower shall permit the Agent or any representative thereof (at the expense of the Borrower) to examine and make copies of and abstracts from the records and books of account of any Loan Party and to visit and inspect the premises and properties of any of the Loan Parties and to discuss the affairs, finances and accounts of any of the Loan Parties with any of the officers or auditors and other professional advisors of any Loan Party.
- (g) *Insurance.* The Borrower shall, and shall cause each of the other Loan Parties to, maintain all-risks property insurance in connection with their respective assets and businesses and other types of insurance and liability insurance with respect to claims for personal injury, death or property damage, with respect to the operation of their businesses, all in accordance with prudent industry standards and with creditworthy and reputable insurance companies in such amounts and with such deductibles as are in accordance with prudent industry standards. The Borrower shall, from time to time at the request of the Agent acting reasonably, promptly deliver to the Agent evidence of the insurance required to be maintained pursuant to this Section 7.1(g), including originals or copies as the Agent may request of policies, certificates of insurance, riders, endorsements and proof of premium payments.
- (h) *Payment of Taxes and Other Amounts.* The Borrower shall, and shall cause each of the other Loan Parties to, from time to time, file all tax returns that are required to be filed, pay or cause to be paid, all rents, Taxes, Other Taxes, rates, levies, assessments (ordinary or extraordinary), governmental fees and dues, wages,

workers' compensation arrangements, government royalties, pension fund obligations and any other amounts which may result in a Lien on their property and assets arising under statute or regulation (any of which being a "Levy") and to make and remit all withholdings lawfully levied, assessed or imposed upon it, or any of the other Loan Parties or any of its assets, or any of the other Loan Parties, as and when the same become due and payable, except when and for so long as the validity of such Levy or withholding is subject to a Permitted Contest.

- (i) *Notice of Default.* The Borrower shall deliver to the Agent, forthwith upon becoming aware of the occurrence of a Default or the occurrence of an Event of Default, an Officer's Certificate describing in detail such Default or such Event of Default and specifying the steps, if any, being taken to cure or remedy the same.
- (j) *Notice of Material Adverse Change or Material Adverse Effect.* The Borrower shall promptly notify the Agent of any event, circumstance or condition that has had or would have a Material Adverse Effect or that has constituted or would constitute a Material Adverse Change.
- (k) *Compliance with Environmental Matters.* Without limiting the generality of Section 7.1(c), the Borrower shall, and shall cause each of the other Loan Parties to, conduct their business and operations so as to so comply at all times with all Environmental Laws, Environmental Permits and Environmental Orders, except to the extent failure to so comply would not have a Material Adverse Effect.
- (l) *Notice re Environmental Matters.* If any Loan Party shall:
 - (i) receive or give any notice that a violation of any Environmental Laws, Environmental Permit or Environmental Order has or may have been committed or is about to be committed by the Borrower or any other Loan Party, or in respect of any of their property and assets;
 - (ii) receive any notice that a complaint, proceeding or order has been filed or is about to be filed against a Loan Party, or in respect of any of their property and assets, alleging a violation of any Environmental Laws, Environmental Permit or Environmental Order; or
 - (iii) receive any notice requiring any Loan Party, to take any action in connection with the Release of Hazardous Materials into the environment or alleging that a Loan Party may be liable or responsible for costs associated with a response to, or to clean-up, a Release of Hazardous Materials into the environment, or any damages caused thereby;

which would have a Material Adverse Effect, the Borrower shall promptly provide the Agent with a copy of such notice and shall furnish to the Agent details of any action taken or proposed to be taken in respect of such notice and, from time to time, all reasonable information requested by the Agent relating to the same.

- (m) *Notice of Environmental Damage.* The Borrower shall promptly provide the Agent with written notice of the discovery of any Release of Hazardous Materials into the environment from or upon the land or property of any Loan Party, which Release could reasonably be expected to result in liability of Loan Parties exceeding the Threshold Amount in aggregate in any Fiscal Year.
- (n) *Environmental Audit.* Upon the occurrence or discovery of any circumstance, condition or event which, in the opinion of the Agent, acting reasonably, could result in any Environmental Claim which would have a Material Adverse Effect, the Agent may (unless such an audit is already being undertaken by the Borrower and the Lenders are entitled to rely thereon) arrange, after consultation with the Borrower, for an environmental audit to be conducted by an independent environmental engineer or other environmental consultant at the expense of the Borrower in respect of such circumstance, condition or event. The Borrower shall, and shall cause each other Loan Party to, upon reasonable notice, provide access to its property and assets in order for such engineer or consultant to conduct such environmental and other inspections as it deems advisable and in that connection to examine the books, records, assets, affairs and business operations of such Loan Party and to make inquiries of governmental offices concerning compliance by such Loan Party with Environmental Laws.
- (o) *Further Assurances.* The Borrower, at its expense, shall, and shall cause each other Loan Party to promptly cure any default by it in the execution and delivery of this Agreement or of any of the other Credit Documents to which it is a party, and after notice thereof from the Agent, promptly take all such further action, do all such further things and execute and deliver all such other and further deeds, agreements, opinions, certificates, instruments, affidavits, registration materials and other documents reasonably necessary for compliance with, or accomplishment of, the covenants and agreements hereunder or to more fully state the obligations set out herein or to make any registration, recording, file any notice or obtain any consent, all as may be reasonably necessary or appropriate in connection therewith.
- (p) *Use of Credit Facilities.* The Borrower shall only use the Credit Facilities as prescribed by Section 2.3.
- (q) *Consolidated EBITDA; Ownership of Assets.* The Borrower shall ensure at all times that:
 - (i) Consolidated EBITDA, adjusted to exclude any portion thereof attributable to Unrestricted Subsidiaries, is equal to at least 95% of Consolidated EBITDA; and
 - (ii) the Loan Parties directly own at least 95% of Consolidated Total Assets.
- (r) *First Lien Facilities.* The Borrower will promptly furnish to the Agent copies of:
 - (i) all amendments to the First Lien Credit Agreement or any material document relating thereto; and
 - (ii) all material notices given or received, and all material

reports delivered, by the Borrower or any Loan Party pursuant to or in connection with the First Lien Credit Agreement to the extent not already delivered pursuant to this Agreement.

- (s) *PPP Loan.* The Borrower shall, and shall cause Stoneham to ensure that the PPP Loan will be an unsecured obligation of Stoneham.
- (t) *BDC Credit Documents.* The Borrower will promptly furnish to the Agent copies of: (i) all amendments to any BDC Credit Document; and (ii) all material notices given or received, and all material reports delivered, by the Borrower or any Loan Party pursuant to or in connection with the BDC Credit Documents to the extent not already delivered pursuant to this Agreement.
- (u) *Shareholdings.* By not later than May 27, 2022, the Borrower shall deliver to the Agent an officer's certificate setting forth the percentage ownership of each Person that holds greater than 10% of the Voting Securities of the Borrower.

7.2 Negative Covenants

During the term of this Agreement, the Borrower covenants and agrees with each of the Lenders and the Agent that:

- (a) *Negative Pledge.* The Borrower shall not, and shall not permit any other Loan Party to, create, issue, incur, assume, have outstanding or permit to exist any Liens on any of its or their present or future property, assets or undertaking, other than Permitted Liens.
- (b) *Limitation on Dispositions.* The Borrower shall not, and shall not permit any other Loan Party to, directly or indirectly, make any sale, exchange, lease, transfer or other disposition to any Person of any of its present or future property, assets or undertaking, except for Permitted Dispositions.
- (c) *Restriction on Amalgamation etc.* The Borrower shall not, and shall not permit any other Loan Party to enter into any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other Person whether by way of reconstruction, reorganization, recapitalization, consolidation, amalgamation, merger, transfer, sale, wind-up, dissolution or otherwise unless (i) such Person is another Loan Party or (ii) such transaction is otherwise permitted under Section 7.2(b).
- (d) *Limitation on Financial Assistance.* The Borrower shall not, and shall not permit any other Loan Party to, provide any form of Financial Assistance to any Person, other than to: (i) another Loan Party; (ii) guarantees in favour of the First Lien Lenders pursuant to the First Lien Credit Agreement and guarantees in favour of the BDC Creditor pursuant to the BDC Credit Agreement; or (iii) any other Person, provided that such Financial Assistance does not in the aggregate exceed \$20,000,000 at any time; provided that in any event no Default or Event of Default

shall have occurred and be continuing immediately prior to providing such Financial Assistance, or will occur as a result of providing such Financial Assistance.

- (e) *Limitation on Hedge Agreements.* The Borrower shall not, and shall not permit any other Loan Party to, enter into any Hedge Agreements other than in the ordinary course of business on commercially reasonable terms; provided that, no Hedge Agreement shall be entered into for speculative purposes, and each Hedge Agreement may only be entered into with creditworthy counterparties, as reasonably determined by the applicable Loan Party at the time such Hedge Agreement is entered into.
- (f) *Change of Business.* The Borrower shall not, and shall not permit any other Loan Party to, change the nature of its business or operations, or conduct businesses or operations which are materially different from the businesses and operations carried on by the Borrower and the other Loan Parties on the date hereof.
- (g) *Debt.* The Borrower shall not, and shall not permit any other Loan Party to, without the prior written consent of the Agent incur, assume or otherwise become liable under any indebtedness for borrowed money or indebtedness of the types referred to in paragraphs (a) through (g) inclusive of the definition of Consolidated Debt, other than Permitted Debt.
- (h) *Distributions.* The Borrower shall not, and shall not permit any other Loan Party to make any Distribution at any time (other than (i) a Distribution to another Loan Party (save and except for any Foreign Subsidiary) and (ii) Distributions by the Borrower payable solely in Equity Securities).
- (i) *Acquisitions.*
 - (i) So long as the Consolidated Debt to Consolidated EBITDA Ratio for the previous Fiscal Quarter exceeds 4.00:1.00, the Borrower shall not, and shall not permit any other Loan Party to, complete any Acquisition without the prior written consent of the Agent.
 - (ii) Following the delivery to the Agent of a Compliance Certificate which evidences that the Consolidated Debt to Consolidated EBITDA Ratio is less than or equal to 4.00:1.00, the Loan Parties may complete any Acquisition without the prior written consent of the Lenders, provided that:
 - (A) in the case of a Material Acquisition, the target of the Acquisition carries on business in the same industry as the Loan Parties or the assets being acquired as a result of the Acquisition are utilized in the same industry as the Loan Parties;
 - (B) in the case of a Material Acquisition, prior to the completion of the Acquisition, the Borrower shall provide an Officer's Certificate to

the Agent certifying pro forma compliance (giving effect to the Acquisition) with the financial covenants in the First Lien Credit Agreement; and

- (C) immediately following such Acquisition, no Default or Event of Default shall have occurred and be continuing.
- (j) *Securitization Program.* The Borrower shall not, and shall not permit and other Loan Party to, enter into any asset securitization program.

7.3 Most Favoured Lender

If at any time after the Closing Date either of the First Lien Credit Agreement or the BDC Credit Agreement (the “**Other Credit Agreements**”) is amended to include: (a) any one or more covenants or events of default that are not provided for in the Credit Documents (other than affirmative covenants as to reporting obligations provided in the Other Credit Agreements and financial covenants) taking into account the different relevant circumstance between the Other Credit Agreements and the Credit Documents, or (b) any one or more covenants or events of default that are more restrictive, taken as a whole, than the same or similar covenants or events of default provided in this Agreement or the other Credit Documents taking into account the different relevant circumstances between the Other Credit Agreements and the Credit Documents, then: (i) such additional or more restrictive covenants or events of default shall be deemed to be incorporated by reference in this Agreement as if set forth fully herein, mutatis mutandis, and no such provision may thereafter be waived, amended or modified under this Agreement except pursuant to the provisions of Section 9.9, unless the Agent, on the instruction of the Majority Lenders, notifies the Borrower within 30 days after receipt of the Amendment Notice (as defined below) that the Lenders do not wish to incorporate such additional or more restrictive covenants or events of default herein and (ii) the Loan Parties shall promptly, and in any event within 30 days after entering into any such additional or more restrictive covenants or events of default so advise the Agent in writing (the “**Amendment Notice**”). Thereafter, upon the request of the Majority Lenders, the Borrower, Agent and Majority Lenders shall enter into an amendment to this Agreement evidencing the incorporation of such additional or more restrictive covenants or events of default, it being agreed that any failure to make such request or to enter into any such amendment shall in no way qualify or limit the incorporation by reference described in clause (i) of the immediately preceding sentence.

ARTICLE 8 DEFAULT

8.1 Events of Default

The occurrence of any one or more of the following events shall constitute an “**Event of Default**”:

- (a) *Principal Default:* if the Borrower fails to pay the principal amount of any Loan when due and payable hereunder;
- (b) *Other Payment Default:* if the Borrower fails to pay:

- (i) any interest (including, if applicable, default interest) on any Loan; or
- (ii) any other amount not specifically referred to herein payable by the Borrower hereunder (except the costs and expenses referred to in Section 11.12(a));

in each case when due and payable, and such default is not remedied within three days;

- (c) *Breach of Other Covenants*: if any Loan Party fails to observe or perform any covenant or obligation herein or in any other Credit Document on its part to be observed or performed (other than a covenant or obligation whose breach or default in performance is specifically dealt with elsewhere in this Section 8.1) and:
 - (i) such breach or default is not capable of being cured; or
 - (ii) if such breach or default is capable of being cured, such Loan Party shall fail to cure such breach or default within a period of 30 days after written notice thereof is given by the Agent to the Borrower specifying such breach or default and requiring the Borrower to remedy or cure the same;
- (d) *Incorrect Representations*: if any representation or warranty made or deemed to be made by any Loan Party herein or in any other Credit Document, certificate or other document at any time delivered hereunder to the Agent shall prove to have been incorrect on and as of the date made (except for any inaccuracies which are immaterial in the aggregate) and:
 - (i) the circumstances giving rise to the incorrect representation or warranty are not capable of modification or rectification (such that the representation or warranty would be correct); or
 - (ii) if the circumstances giving rise to the incorrect representation or warranty are capable of modification or rectification (such that the representation or warranty would be correct), the representation or warranty remains incorrect or misleading for a period of 30 days after written notice thereof is given by the Agent to the Borrower specifying the representation or warranty and requiring the Borrower to modify or rectify the circumstances giving rise to the incorrect representation or warranty;
- (e) *Involuntary Insolvency*: if any case, proceeding or other action shall be instituted in any court of competent jurisdiction against any Loan Party seeking in respect of such Person an adjudication in bankruptcy, reorganization of its indebtedness, dissolution, winding up, liquidation, a composition, proposal or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, liquidator or any Person with similar powers with respect to such Person or of all or any substantial part of its assets, or any other like relief in respect of such Person under the *Bankruptcy and Insolvency*

Act (Canada), the Companies' Creditors Arrangement Act (Canada), the Winding-Up and Restructuring Act (Canada) or any other bankruptcy, insolvency or analogous law and:

- (i) such case, proceeding or other action results in an entry of an order for relief or any such adjudication or appointment; or
 - (ii) if such case, proceeding or other action is subject to a Permitted Contest, the same shall continue undismissed, or unstayed and in effect, for any period of 30 consecutive days;
- (f) *Voluntary Insolvency:* if any Loan Party:
- (i) makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors;
 - (ii) makes any proposal under the *Bankruptcy and Insolvency Act (Canada)* or any comparable law, seeks relief under the *Companies' Creditors Arrangement Act (Canada)*, the *Winding-Up and Restructuring Act (Canada)* or any other bankruptcy, insolvency or analogous law, or files a petition or proposal to take advantage of any act of insolvency;
 - (iii) consents to or acquiesces in the appointment of a trustee in bankruptcy, receiver, receiver and manager, interim receiver, custodian, sequestrator or other person with similar powers of itself or of all or any portion of its assets which is, in the opinion of the Majority Lenders, material;
 - (iv) files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition, administration or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights;
 - (v) commits or threatens to commit an act of bankruptcy under the *Bankruptcy and Insolvency Act (Canada)* or any statute passed in substitution thereof;
 - (vi) becomes insolvent or is not able to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due; or
 - (vii) consents to, or acquiesces in, the filing of such assignment, proposal, relief, petition, proposal, appointment or proceeding or takes any action to authorize or effect any of the foregoing;
- (g) *Dissolution:* except as permitted under Section 7.2(c), if proceedings are commenced for the dissolution, liquidation or winding-up of any Loan Party unless such proceedings are being actively and diligently contested in good faith to the satisfaction of the Majority Lenders, or if a decree or order is enacted for the dissolution, liquidation or winding-up of any Loan Party;

- (h) *Security Realization*: if any secured creditors of any Loan Party realize upon or enforce their security against property of such Loan Party having an aggregate fair market value in excess of the Threshold Amount and such realization or enforcement shall continue in effect and not be released, discharged or stayed within 30 days;
- (i) *Seizure*: if property of any Loan Party having an aggregate fair market value in excess of the Threshold Amount is seized or otherwise attached by anyone pursuant to any legal process or other means, including, without limitation, distress, execution or any other step or proceeding with similar effect and such attachment, step or other proceeding shall continue in effect and not be released, discharged or stayed within 30 days;
- (j) *Judgments*: if final judgments or orders for the payment of money aggregating in excess of the Threshold Amount are rendered against any Loan Party and the same remain undischarged and not effectively stayed or appealed for a period of 30 days after entry thereof or shall remain undischarged for a period of 30 days after expiration of any such stay;
- (k) *Writs of Execution*: if writs of execution or attachment or similar process in respect of any judgments or claims which, in the aggregate, are in excess of the Threshold Amount, are levied against all or a substantial portion of the property of a Loan Party and such writs, execution, attachment or similar processes are not released, bonded, satisfied, discharged, vacated or stayed within 30 days after their entry, commencement or levy;
- (l) *Cross Default*: if any Loan Party (i) defaults in respect of the payment of any principal, interest or other amount under agreement evidencing indebtedness of the types referred to in paragraphs (a) through (g) inclusive of the definition of Consolidated Debt (which for the purposes of this paragraph shall exclude the First Lien Credit Agreement and this Agreement) or any Hedge Agreement, or (ii) defaults in the observance or performance of any non-monetary obligation, covenant or condition to be observed or performed by it pursuant to any such agreement evidencing such indebtedness (which for the purposes of this paragraph shall exclude the First Lien Credit Agreement and this Agreement) or any Hedge Agreement such that the counterparty thereto is permitted to accelerate the maturity of the Indebtedness thereunder, and:
 - (A) the aggregate amount of all such obligations or indebtedness outstanding at any one time to which all such defaults or demands relate is in excess of the Threshold Amount; or
 - (B) the Loan Parties have provided Financial Assistance for such indebtedness, which Financial Assistance is in the aggregate in excess of the Threshold Amount;

- (m) *Change of Control*: if a Change of Control occurs without the prior written consent of the Majority Lenders;
- (n) *Invalidity*: if any Credit Document or any material provision thereof shall at any time for any reason cease to be in full force and effect, be declared to be void or voidable (and the same is not forthwith effectively rectified or replaced by the applicable Loan Party forthwith on demand by the Agent to the Borrower) or shall be repudiated, or the validity or enforceability thereof shall at any time be contested by any Loan Party, or any Loan Party shall deny that it has any or any further liability or obligation thereunder, or at any time it shall be unlawful or impossible for it to perform any of its obligations under the Credit Documents;
- (o) *Cessation of Business*: if any Loan Party shall cease or threaten to cease to carry on all or any material part of its business as now conducted;
- (p) *Qualified Auditor's Report*: if the audited Financial Statements of the Borrower are issued with a report of the auditors which is qualified in any material respect or otherwise noted with respect to the Borrower as a "going concern" and such qualification is not removed or otherwise remedied to the satisfaction of the Lenders within 30 days after the delivery of such Financial Statements;
- (q) *Material Adverse Change*: if a Material Adverse Change occurs and is not remedied to the satisfaction of the Majority Lenders within 30 days;
- (r) *First Lien Credit Agreement*: if any event of default has occurred under the First Lien Credit Agreement after the expiry of any applicable grace period in respect thereof;
- (s) *BDC Credit Documents*: if any Event of Default (as defined in the BDC Credit Agreement) has occurred and is continuing after the expiry of any applicable grace period in respect thereof.

8.2 Acceleration and Termination of Rights

If any Default or Event of Default occurs, which is continuing, no Lender shall be under any further obligation to make the Loan and, upon the occurrence and during the continuance of an Event of Default, the Majority Lenders may instruct the Agent to give notice to the Borrower or any other Loan Party (i) declaring the Lenders' obligations to make the Loan to be terminated, whereupon the same shall forthwith terminate, and/or (ii) declaring the Obligations under the Credit Agreement to be forthwith due and payable, whereupon they shall become and be forthwith due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; provided however, the Agent shall be deemed to give such notice to the Borrower immediately upon the occurrence of an Event of Default described in Section 8.1(e) or Section 8.1(f).

8.3 Remedies

Upon the making of a declaration contemplated by Section 8.2, the Security shall become immediately enforceable (subject to the terms of the Intercreditor Agreement) and the Agent may take such action or proceedings as the Lenders in their sole discretion deem expedient to enforce the same, all without any additional notice, presentment, demand, protest or other formality, all of which are hereby expressly waived by the Borrower.

8.4 Saving

Neither the Lenders nor the Agent shall be under any obligation to any Loan Party or any other person to realize any property or enforce the Security or any part thereof or to allow any of the property subject to the Security to be sold, dealt with or otherwise disposed of. The Lenders shall not be responsible or liable to any Loan Party or any other person for any loss or damage upon the realization or enforcement of, the failure to realize or enforce the property subject to the Security or any part thereof or the failure to allow any of such property to be sold, dealt with or otherwise disposed of or for any act or omission on their respective parts or on the part of any director, officer, agent, servant or adviser in connection with any of the foregoing, except that a Lender will be responsible or liable for any loss or damage arising from the wilful misconduct or gross negligence of that Lender.

8.5 Perform Obligations

If an Event of Default has occurred and is continuing and if a Loan Party has failed to perform any of its covenants or agreements in the Credit Documents, the Lenders, may (subject to the terms of the Intercreditor Agreement), but shall be under no obligation to, instruct the Agent on behalf of the Lenders to perform any such covenants or agreements in any manner deemed fit by the Lenders without thereby waiving any rights to enforce the Credit Documents. The reasonable expenses (including any legal costs) paid by the Agent and/or the Lenders in respect of the foregoing shall be added to and become part of the Obligations and shall be secured by the Security.

8.6 Third Parties

No Person dealing with the Agent, the Lenders or any of them, or any agent of the Lenders shall be concerned to inquire whether the Security has become enforceable, or whether the powers which the Agent or the Lender is purporting to exercise have been exercisable, or whether any Obligations remain outstanding upon the security thereof, or as to the necessity or expediency of the stipulations and conditions subject to which any sale shall be made, or otherwise as to the propriety or regularity of any sale or other disposition or any other dealing with the collateral charged by such Security or any part thereof.

8.7 Remedies Cumulative

The rights and remedies of the Agent and the Lenders (or any of them) under the Credit Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by the Agent and the Lenders (or any of them) of any right or remedy for a default or breach of any term, covenant, condition or agreement herein contained

shall not be deemed to be a waiver of or to alter, affect, or prejudice any other right or remedy or other rights or remedies to which the Agent or the Lenders (or any of them) may be lawfully entitled for the same default or breach. Any waiver by the Agent or the Lenders (or any of them) of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained, and any indulgence granted by the Agent or the Lenders (or any of them) shall be deemed not to be a waiver of any subsequent default.

8.8 Set-Off or Compensation

In addition to and not in limitation of any rights now or hereafter granted under Applicable Laws, the Lenders, or any of them, may at any time and from time to time after an Event of Default has occurred which is continuing and without notice to any Loan Party or any other person, any notice being expressly waived by the Borrower, set-off, combine accounts and compensate and apply any and all deposits, general or special, time or demand, provisional or final, matured or unmatured, in any currency, and any other indebtedness at any time owing by the Lenders, or any of them, to or for the credit of or the account of the Borrower, against and on account of the Obligations notwithstanding that any of them are contingent or unmatured.

ARTICLE 9 THE AGENT AND THE LENDERS

9.1 Authorization of Agent and Relationship

Each Lender hereby appoints AIMCo as agent and AIMCo hereby accepts such appointment. The appointment may only be terminated as expressly provided in this Agreement. Each Lender hereby authorizes the Agent to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Agent by the terms of this Agreement and the other Credit Documents, together with all powers reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Agent shall have no duties or obligations except those expressly set forth herein and no other duties or obligations of the Agent shall be implied in this Agreement or in any other Credit Documents. The Agent may perform such duties or obligations by or through its agents or employees. The Agent shall not by reason of this Agreement or any of the other Credit Documents have a fiduciary duty in respect of any Lender. As to any matters not expressly provided for by this Agreement, the Agent is not required to exercise any discretion or to take any action, but is required to act or to refrain from acting (and is fully protected in so acting or refraining from acting) upon the instructions of the Lenders or the Majority Lenders, as the case may be. Those instructions shall be binding upon all Lenders, but the Agent is not required to take any action which exposes the Agent to personal liability or which is contrary to this Agreement or Applicable Law.

9.2 Disclaimer of Agent

The Agent makes no representation or warranty, and assumes no responsibility with respect to the due execution, legality, validity, sufficiency, enforceability or collectability of this Agreement or any other Credit Document. The Agent assumes no responsibility for the financial condition of the Borrower or any Subsidiary, or for the performance of the obligations of the Borrower or any

Subsidiary under this Agreement or any other Credit Document. The Agent assumes no responsibility with respect to the accuracy, authenticity, legality, validity, sufficiency or enforceability of any documents, papers, materials or other information furnished by the Borrower or any Subsidiary to the Agent. The Agent shall not be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained herein or as to the use of the proceeds of the Credit Facility or of the existence or possible existence of any Default or Event of Default unless the officers or employees of the Lender acting as Agent active in their capacity as officers or employees of the Borrower have actual knowledge thereof, or have been notified thereof in writing by the Borrower or a Lender. Neither the Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them as Agent under or in connection with the Agreement except for its or their own gross negligence or wilful misconduct. With respect to its Commitment, the Lender acting as Agent shall have the same rights and powers hereunder as any other Lender, and may exercise the same as though it were not performing the duties and functions delegated to it as Agent hereunder.

9.3 Agent's Clawback

- (a) *Funding by Lenders; Presumption by Agent.* Unless the Agent shall have received notice from a Lender prior to the proposed date of any Loan that such Lender will not make available to the Agent such Lender's share of such Loan, the Agent may assume that such Lender has made such share available on such date in accordance with the provisions of this Agreement concerning funding by Lenders and may, but is under no obligation to, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Loan available to the Agent, then such Lender and the Borrower severally agree to pay or in the case of the Borrower, repay, to the Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Agent, at the interest rate applicable to such Loan. If the Borrower and such Lender shall pay such interest to the Agent for the same or overlapping period, the Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays such amount to the Agent, then such amount shall constitute such Lender's share included in such Loan and if the Borrower has previously paid such amount to the Agent, the Agent will re-advance such share to the Borrower. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that has failed to make such payment to the Agent.
- (b) *Payments by the Borrower; Presumptions by the Agent.* Unless the Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Agent for the account of any Lender hereunder that the Borrower will not make such payment, the Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute the amount due to the applicable Lenders. In such event, if the Borrower has not in fact made such payment, then each of the applicable Lenders severally agrees to repay to the Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including

the date such amount is distributed to it to but excluding the date of payment to the Agent, at a rate equal to the rate determined by the Agent in accordance with prevailing banking industry practice on interbank compensation.

9.4 Cash Collateral and Withholding from Defaulting Lenders

- (a) *Cash Collateral.* To the extent permitted by Applicable Laws, each Defaulting Lender shall be required to provide to the Agent cash in an amount, as shall be determined from time to time by the Agent in its discretion, equal to all obligations of such Defaulting Lender to the Agent that are owing or may become owing pursuant to this Agreement, including such Defaulting Lender's obligation to pay, on a *pro rata* basis, any indemnification or expense reimbursement amounts not paid by the Borrower. Such cash shall be held by the Agent in one or more cash collateral accounts, which accounts shall be in the name of the Agent and shall not be required to be interest bearing.
- (b) *Indemnity.* Each Lender agrees to indemnify the Agent and hold it harmless (to the extent not reimbursed by the Borrower) on a *pro rata* basis (and, in calculating the *pro rata* basis, the Commitment of any Defaulting Lender shall be excluded) any amount that a Defaulting Lender fails to pay the Agent and which is due and owing to the Agent. Each Defaulting Lender agrees to indemnify each other Lender for any amounts paid by such Lender and which would otherwise be payable by the Defaulting Lender.
- (c) *Payments.* The Agent shall be entitled to withhold and deposit in one or more non-interest bearing cash collateral accounts in the name of the Agent amounts (whether principal, interest, fees or otherwise) received by the Agent and due to a Defaulting Lender pursuant to this Agreement, which amounts shall be used by the Agent:
 - (i) first, to reimburse the Agent for any amounts owing to it by the Defaulting Lender pursuant to any Credit Document; and
 - (ii) second, to cash collateralize all other obligations of such Defaulting Lender to the Agent owing pursuant to this Agreement in such amount as shall be determined from time to time by the Agent in its discretion, including such Defaulting Lender's obligation to pay, on a *pro rata* basis, any indemnification or expense reimbursement amounts not paid by the Borrower,

provided that if a Lender, pursuant to Applicable Laws, is not permitted to grant security to the Agent with respect to such amounts held by the Agent, then such Lender hereby authorizes and directs the Agent to withhold such amounts and apply, by way of set-off, such amounts being held by the Agent against the amounts described in paragraphs (i) and (ii) above.

- (d) *No Liability.* For greater certainty and in addition to the foregoing, neither the Agent nor any of its Affiliates nor any of its respective shareholders, officers, directors,

employees, agents or representatives shall be liable to any Lender (including, without limitation, a Defaulting Lender) for any action taken or omitted to be taken by it in connection with amounts payable by the Borrower to a Defaulting Lender and received and deposited by the Agent in a cash collateral account and applied in accordance with the provisions of this Agreement, save and except for the gross negligence or wilful misconduct of the Agent.

- (e) *Agent's Discretion.* Without limiting the foregoing, if any Lender becomes a Defaulting Lender as a result of the failure to fund any payment or its portion of any Loan required to be made by it hereunder or to purchase any participation required to be purchased by it hereunder and under the other Credit Documents, then the Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Agent for the account of such Lender to satisfy such Lender's obligations until all such unsatisfied obligations are fully paid in cash.
- (f) *Set Off.* Without limiting the foregoing, if a Defaulting Lender as a result of the exercise of a set off shall have received a payment in respect of its outstanding applicable Loan or participation required hereunder which results in its outstanding applicable Loan and participation share being less than its *pro rata* share thereof, then no payments will be made to such Defaulting Lender until such time as all amounts due and owing to the Lenders have been equalized in accordance with each Lender's Proportionate Share. Further, if at any time prior to the acceleration or maturity of the Loan, the Agent shall receive any payment in respect of principal while one or more Defaulting Lenders shall be party to this Agreement, the Agent shall apply such payment first to the Obligations for which such Defaulting Lender(s) shall have failed to fund its Proportionate Share until such time as such Obligations are paid in full or each Lender (including each Defaulting Lender) is owed its Proportionate Share of all Obligations. After acceleration or maturity of the Loan, subject to clause (e) above, all principal will be paid ratably as otherwise provided herein.

9.5 Funding if there is a Defaulting Lender

- (a) *Defaulting Lender Exclusions.* Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:
 - (i) a Defaulting Lender shall not be included in determining whether, and the Commitments and Proportionate Share of such Defaulting Lender shall be excluded in determining whether the Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 9.9); and
 - (ii) for certainty, the Borrower, the Agent and the Lenders shall retain and reserve its other rights and remedies respecting each Defaulting Lender;

provided that the Agent shall only be required to give effect to (i) and (ii) above if the Agent has actual knowledge that a Lender is a Defaulting Lender. If the Agent acquires actual knowledge that a Lender is a Defaulting Lender, then the Agent shall promptly notify the Borrower and the other Lenders that such Lender is a Defaulting Lender (and such Lender shall be deemed to have consented to such disclosure); provided that, for certainty, the Agent shall have no duty to inquire as to whether any Lender is a Defaulting Lender.

- (b) *Ceasing to be Defaulting Lender.* If any Lender shall cease to be a Defaulting Lender (as determined by the Agent, the Borrower and the Lenders, each acting reasonably), then, upon becoming aware of such change, the Agent shall notify the non-Defaulting Lenders and on such date of notice such Lender (which has ceased to be a Defaulting Lender) is deemed to have purchased from the other Lenders at par, and the other Lenders are deemed to have sold to such Lender, portions of Loan equal in total to such Lender's Proportionate Share thereof-without regard to this Section 9.5.
- (c) *Indemnity.* Each Defaulting Lender hereby indemnifies the Borrower for any losses, claims, costs, damages or liabilities (including reasonable out-of-pocket expenses and reasonable legal fees on a solicitor and his own client basis) incurred by the Borrower as a result of such Defaulting Lender failing to comply with the terms of this Agreement including any failure to fund its portion of any Loan required to be made by it hereunder.

9.6 Payments by the Loan Parties

All payments made by or on behalf of a Loan Party pursuant to this Agreement or the other Credit Documents shall be made to and received by the Agent on behalf of the Lenders and shall be distributed by the Agent to the Lenders as soon as possible upon receipt by the Agent. Subject to the provisions of Section 9.7 hereof, the Agent shall distribute in the following order:

- (a) unpaid fees, costs and expenses of the Agent;
- (b) payments of interest and fees: (i) in accordance with each Lender's Proportionate Share of the Credit Facility, or (ii) after a declaration is made pursuant to Section 8.2, the Agent shall distribute payments of interest and fees (including without limitation any payment of interest or fees obtained by the Agent as a result of the enforcement of the Security) in accordance with each Lender's Proportionate Share of the then outstanding Obligations owing to all of the Lenders at the time of such declaration;
- (c) repayments of principal: (i) in accordance with each Lender's Proportionate Share of the Credit Facility, or (ii) after a declaration is made pursuant to Section 8.2, the Agent shall distribute repayments of principal (including without limitation any repayments of principal obtained by the Agent as a result of the enforcement of the Security) in accordance with each Lender's Proportionate Share of the aggregate of

all of the then outstanding Obligations owed to all of the Lenders at the time of such declaration;

- (d) amounts received (net of all relevant costs and expenses of the Agent) by the Agent as a result of the exercise of any right of set-off, combination or consolidation of accounts, or by counterclaim or cross-action, in accordance with each Lender's Proportionate Share of the then outstanding Obligations owing to all of the Lenders at the time of such set-off, combination or consolidation of accounts or if applicable, at the time of the receipt of such amounts from any counterclaim or cross-action; and
- (e) all other payments received by the Agent under this Agreement, in accordance with what would otherwise be each Lender's Proportionate Share of the Credit Facility.

Subject to Section 9.7, if the Agent does not distribute a Lender's Proportionate Share of a payment made by the Borrower to or for the benefit of that Lender for value on the day that payment is made or deemed to have been made to the Agent, the Agent shall pay to the Lender on demand an amount equal to the product of (i) the Agent's rate per annum applicable to overnight deposits for amounts approximately equal to the amount of the payment multiplied by (ii) the Lender's Proportionate Share of the amount received by the Agent from the Borrower and not so distributed, multiplied by (iii) a fraction, the numerator of which is the number of days that have elapsed from and including the date of receipt of the payment by the Agent to but excluding the date on which the payment is made by the Agent to such Lender and the denominator of which is 365 or 366 (as applicable).

Without limiting the generality of the foregoing, without notice to or the consent of any such Person, the Lenders hereunder may:

- (a) permit any increase or decrease, however significant, of the Credit Facility or the Obligations or otherwise supplement, amend, restate, substitute, in whole or in part, however significant, the Obligations, this Agreement, the Security or any other Credit Document, or in whole or in part, terminate the availability of Credit Facility or demand payment or performance of all or any of the Obligations;
- (b) enforce or take any action under or abstain from enforcing or taking action under this Agreement or any other Credit Document;
- (c) take, give up, subordinate, release or discharge any Security, supplement, amend, restate, substitute, renew, abstain from receiving, perfect or abstain from perfecting or maintaining the perfection of any Security, enforce, take action under or realize in any manner or abstain from enforcing, taking action under or realizing any Security, deal with or abstain from dealing with all or any part of the undertaking, property and assets subject to the Security or allow the Borrower and its Subsidiaries or others to deal with such undertaking, properly;
- (d) renew all or any part of the Credit Facility or the Obligations or grant extensions of time or any other indulgences to the Loan Parties or any other Person;

- (e) accept or make compromises or arrangements with or release, discharge or otherwise deal with or abstain from dealing with the Loan Parties or any other Person;
- (f) in whole or in part prove or abstain from proving a claim in any insolvency proceeding of or affecting the Loan Parties or any other Person; and
- (g) agree with the Loan Parties or any other Person to do anything described in Subsections (a) to (f) above.

9.7 Payments by Agent

- (a) *General.* For greater certainty, the following provisions shall apply to any and all payments made by the Agent to the Lenders hereunder:
 - (i) the Agent shall be under no obligation to make any payment (whether in respect of principal, interest, fees or otherwise) to any Lender until an amount in respect of such payment has been received by the Agent from the Borrower;
 - (ii) the Agent receives less than the full amount of any payment of principal, interest, fees or other amount owing by the Borrower under this Agreement, the Agent shall have no obligation to remit to each Lender any amount other than such Lender's Proportionate Share (based on the then outstanding Obligations of the Borrower hereunder) of that amount which is the amount actually received by the Agent;
 - (iii) if any Lender advances more or less than its Proportionate Share of the Credit Facility, such Lender's entitlement to such payment shall be increased or reduced, as the case may be, in proportion to the amount actually advanced by such Lender;
 - (iv) if a Lender's Proportionate Share of a Loan has been advanced for less than the full period to which any payment by the Borrower relates, such Lender's entitlement to such payment shall be reduced in proportion to the length of time such Lender's Proportionate Share of the Loan has actually been outstanding;
 - (v) the Agent acting reasonably and in good faith shall, after consultation with the Lenders in the case of any dispute, determine in all cases the amount of all payments to which each Lender is entitled and such determination shall, in the absence of manifest error, be binding and conclusive;
 - (vi) upon request, the Agent shall deliver a statement detailing any of the payments to the Lenders referred to herein; and
 - (vii) all payments by the Agent to a Lender hereunder shall be made to such Lender at its address set forth opposite such Lender's name on the signature

pages hereto unless notice to the contrary is received by the Agent from such Lender.

- (b) *Borrower Non-Payment.* Unless the Agent has actual knowledge that the Borrower has not made or will not make a payment to the Agent for value on the date in respect of which the Borrower has notified the Agent that the payment will be made, the Agent shall be entitled to assume that such payment has been or will be received from the Borrower when due and the Agent may (but shall not be obliged to), in reliance upon such assumption, pay the Lenders' corresponding amounts. If the payment by the Borrower is in fact not received by the Agent on the required date and the Agent has made available corresponding amounts to the Lenders, the Borrower shall, without limiting its other obligations under this Agreement, indemnify the Agent against any and all liabilities, obligations, losses (other than loss of profit), damages, penalties, and all reasonable costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on or incurred by the Agent as a result of such non-payment. A certificate of the Agent with respect to any amount owing under this Section 9.7 shall be *prima facie* evidence of the amount owing in the absence of manifest error. If a payment is not in fact received by the Agent from the Borrower and the Agent has paid to a Lender a corresponding amount, such Lender shall pay to the Agent on demand an amount equal to the aggregate of the amount of such payment made to the Lender plus the product of (i) the Lender's rate per annum applicable to overnight deposits for amounts approximately equal to the amount paid by the Agent to such Lender and not so received from the Borrower multiplied by (ii) the amount paid by the Agent to such Lender and not so received from the Borrower, multiplied by (iii) a fraction, the numerator of which is the number of days that have elapsed from and including the date of payment by the Agent to the Lender to but excluding the date on which payment is made by such Lender to the Agent and the denominator of which is 365 or 366 (as applicable).

9.8 Direct Payments

The Lenders agree among themselves that, except as otherwise provided for in this Agreement and except as necessary to adjust for Loan that are not in each Lender's Proportionate Share under the Credit Facility, all sums received by a Lender relating to this Agreement, by virtue of the other Credit Documents, whether received by voluntary payment, by the enforcement of the Security, the exercise of the right of set-off, combination or consolidation of accounts, or compensation or by counterclaim, cross-action or otherwise, shall be shared by each Lender in its Proportionate Share of the Credit Facility or the Obligations then outstanding, as applicable, in accordance with Section 9.6 and each Lender undertakes and agrees to do all such things as may be reasonably required to give full effect to this Section 9.8, including, without limitation, the purchase from other Lenders of a portion of any Loan by the Lender who has received an amount in excess of its Proportionate Share as shall be necessary to cause such purchasing Lender to share the excess amount rateably in its Proportionate Share with the other Lenders. If any sum which is so shared is later recovered from the Lenders who originally received it, the Lender shall restore its Proportionate Share of such sum to such Lenders, without interest. If any Lender (a "**Receiving Lender**") shall obtain any payment of the Obligations as referred to above, the Receiving Lender

shall forthwith remit such payment to the Agent and, upon receipt, the Agent shall distribute such payment in accordance with the provisions of Section 9.6.

9.9 Administration of the Credit Facility

- (a) *Duties of Agent.* Unless otherwise specified herein, the Agent shall perform the following duties under this Agreement:
- (i) take delivery of each Lender's Proportionate Share of a Loan and make all Loan hereunder in accordance with the procedures set forth herein;
 - (ii) use reasonable efforts to collect promptly all sums due and payable by the Borrower pursuant to this Agreement;
 - (iii) make all payments to the Lenders in accordance with the provisions hereof;
 - (iv) hold all legal documents relating to the Credit Facility, maintain complete and accurate records showing all Loan made by the Lenders, all remittances and payments made by the Borrower to the Agent, all remittances and payments made by the Agent to the Lenders and allow each Lender and their respective advisors to examine such accounts, records and documents at their own expense, and provide any Lender, upon reasonable notice, with such copies thereof as such Lender may reasonably require from time to time at its expense;
 - (v) except as otherwise specifically provided for in this Agreement, promptly advise each Lender upon receipt of each notice and deliver to each Lender, promptly upon receipt, all other written communications furnished by the Borrower to the Agent pursuant to this Agreement, including without limitation copies of financial reports and certificates which are to be furnished to the Agent;
 - (vi) forward to each of the Lenders, one copy each of this Agreement and other Credit Documents;
 - (vii) promptly forward to each Lender, upon request, an up-to-date loan status report and any other information respecting the Borrower reasonably requested by such Lender; and
 - (viii) upon learning of same, promptly advise each Lender in writing of the occurrence of an Event of Default or the occurrence of any event, condition or circumstance which could be expected to have a Material Adverse Effect, provided that, except as aforesaid, the Agent shall be under no duty or obligation whatsoever to provide any notice to the Lenders and further provided that each Lender hereby agrees to notify the Agent of any Default or Event of Default of which it may reasonably become aware.

- (b) *Majority Lender Consent.* The Agent may take the following actions only with the prior consent of the Majority Lenders, unless otherwise specified in this Agreement:
- (i) subject to Section 9.9(c), exercise any and all rights of approval and consent specifically conferred upon the Lenders (and not the Agent) by this Agreement;
 - (ii) amend, modify or waive any of the terms of this Agreement (including waiver of an Event of Default) if such action is not otherwise provided for in Section 9.9(c);
 - (iii) declare an Event of Default or take action to enforce performance of the Obligations of the Loan Parties under and in respect of the Credit Documents, enforce the Security and/or pursue any other legal remedy necessary; and
 - (iv) pay insurance premiums, taxes and any other sums as may be reasonably required to protect the interests of the Lenders.
- (c) *Unanimous Lender Consent.* The Agent may take the following actions only if the prior unanimous consent of the Lenders is obtained, unless otherwise contemplated or provided for in this Agreement:
- (i) amend, modify, discharge, release, terminate or waive the Security or any material terms thereof (other than as permitted in accordance with Section 4.1(e));
 - (ii) amend, modify, discharge, terminate or waive any of the terms of this Agreement if such amendment, modification, discharge, termination or waiver would increase the amount of the Credit Facility, reduce the interest rate applicable to the Credit Facility, reduce the fees payable with respect to the Credit Facility, extend any date fixed for payment of principal or interest relating to the Credit Facility (including a waiver of any requirement of the Borrower to repay outstanding Obligations pursuant to Section 3.1 and a waiver of an Event of Default described in Section 8.1(a)), extend the Maturity Date, or affect the priority of the Security;
 - (iii) amend, modify terminate or waive the provisions of Sections 3.1 and 3.2; and
 - (iv) amend the definition of “Majority Lenders” or this Section 9.9(c).
- (d) *General.* As between the Borrower, on the one hand, and the Agent and the Lenders, on the other hand:
- (i) all statements, certificates, consents and other documents which the Agent purports to deliver on behalf of the Lenders or the Majority Lenders shall

be binding on each of the Lenders, and the Borrower shall not be required to ascertain or confirm the authority of the Agent in delivering such documents;

- (ii) all certificates, statements, notices and other documents which are delivered by the Borrower to the Agent in accordance with this Agreement shall be deemed to have been delivered to each of the Lenders;
 - (iii) all payments which are delivered by the Borrower to the Agent in accordance with this Agreement shall be deemed to have been duly delivered to each of the Lenders; and
 - (iv) unless a Default or an Event of Default has occurred and is continuing, the consent of the Borrower to the appointment of any Successor Agent must be obtained, but such consent shall not be unreasonably withheld.
- (e) *Certain References.* Any reference herein to action to be taken by “the Lenders” and not “all of the Lenders” shall mean the Majority Lenders.

9.10 Rights of Agent

- (a) *Counsel.* In administering the Credit Facility or in realizing on the rights available under this Agreement or the other Credit Documents, the Agent may retain, at the expense of the Lenders if such expenses are not recoverable from the Borrower, such solicitors, counsel, auditors and other experts and agents as the Agent may select, in its sole discretion, acting reasonably and in good faith after consultation with the Lenders.
- (b) *Reliance.* The Agent shall be entitled to rely on any communication, instrument or document believed by it to be genuine and correct and to have been signed by the proper individual or individuals, and shall be entitled to rely and shall be protected in relying as to legal matters upon opinions of independent legal advisors selected by it. The Agent may also assume that any representation made by the Borrower is true and that no Default or Event of Default has occurred unless the officers or employees of the Lender acting as Agent, active in their capacity as officers or employees responsible for the Borrower’s accounts have actual knowledge to the contrary or have received notice to the contrary from any other party to this Agreement.
- (c) *Other Activities.* The Agent may, without any liability to account, but subject to the terms of this Agreement, enter into swap agreements, futures contracts and other similar agreements with the Borrower, accept deposits from and lend money to and generally engage in any kind of banking, or other business with the Borrower, as if it were not the Agent.
- (d) *No Requirement to Pay Certain Amounts.* The Agent shall not be required to advance its own funds for any purpose, and in particular, shall not be required to

pay with its own funds insurance premiums, taxes or public utility charges or the cost of repairs or maintenance with respect to any of the property of the Borrower or any Subsidiary nor shall it be required to pay with its own funds the fees of solicitors, counsel, auditors, experts, or agents engaged by it as permitted hereby.

9.11 Acknowledgements, Representations and Covenants of Lenders

- (a) *Lender Decisions.* It is acknowledged and agreed by each Lender that it has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigations into the financial condition, creditworthiness, property, affairs, status and nature of the Loan Parties. Accordingly, each Lender confirms to the Agent that it has not relied, and will not hereafter rely, on the Agent (i) to check or inquire on its behalf into the adequacy or completeness of any information provided by any Loan Party under or in connection with this Agreement, the other Credit Documents or the transactions herein contemplated (whether or not such information has been or is hereafter distributed to such Lender by the Agent) or (ii) to assess or keep under review on its behalf the financial condition, creditworthiness, property, affairs, status or nature of any Loan Party.
- (b) *Authority of Lenders.* Each Lender represents and warrants that it has the legal capacity to enter into this Agreement pursuant to its charter and any Applicable Laws and has not violated its charter, constating documents or any Applicable Laws by so doing.
- (c) *Indemnity.* Each Lender agrees to indemnify the Agent (to the extent not reimbursed by the Borrower), rateably according to its Proportionate Share of the Credit Facility from and against any and all liabilities and obligations (whether direct or indirect, contingent or otherwise), losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of the Credit Documents or the transactions therein contemplated, provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, each Lender agrees to reimburse the Agent promptly upon demand rateably according to its Proportionate Share of the Credit Facility for any out-of-pocket expenses (including counsel fees) incurred by the Agent in connection with the preservation of any rights of the Agent or the Lenders under, or the enforcement of, or legal advice in respect of rights or responsibilities under this Agreement or under the other Credit Documents, to the extent that the Agent is not promptly reimbursed for such expenses by the Borrower. The obligation of the Lenders to indemnify the Agent shall survive the termination of this Agreement.
- (d) *No Recourse to Agent.* Each of the Lenders acknowledges and confirms that in the event that the Agent does not receive payment in accordance with this Agreement, it shall not be the obligation of the Agent to maintain the Credit Facility in good

standing nor shall any Lender have recourse to the Agent in respect of any amounts owing to such Lender under this Agreement.

- (e) *Loan.* Each Lender acknowledges and agrees that its obligation to advance its Proportionate Share of Loan in accordance with the terms of this Agreement is independent and in no way related to the obligation of any other Lender hereunder.
- (f) *Receipt of Credit Documents.* Each Lender hereby acknowledges receipt of a copy of this Agreement and the other Credit Documents (to the extent that such Credit Documents have been delivered) and acknowledges that it is satisfied with the form and content of such documents.
- (g) *Costs.* Except to the extent recovered by the Agent from the Borrower, promptly following demand therefor, each Lender shall pay to the Agent an amount equal to such Lender's Proportionate Share of the Credit Facility of any and all reasonable costs, expenses, claims, losses and liabilities incurred by the Agent in connection with this Agreement and the other Credit Documents (including, without limitation, the collection or enforcement thereof, which shall be based on each Lender's Proportionate Share of the Obligations) except for those incurred by reason of the Agent's gross negligence or wilful misconduct.
- (h) *Consents.* Each Lender shall respond promptly to each request by the Agent for the consent of such Lender required hereunder.

9.12 Action of the Lenders

Each of the Lenders hereby acknowledges that to the extent permitted by Applicable Law, the remedies available to the Lenders under the Credit Agreement and the other Credit Documents are for the benefit of the Lenders collectively and that its rights hereunder and under the Security are to be exercised by the Agent as required by this Agreement. Accordingly, except as otherwise expressly provided herein, each of the Lenders hereby covenants and agrees that it shall not take any action hereunder or under the Security, but that any such action shall be taken only by the Agent with the prior written agreement of the Majority Lenders or all of the Lenders, as required. Each of the Lenders hereby further covenants and agrees that upon any written agreement being given by the Majority Lenders or all of the Lenders, as required, it shall co-operate fully with the Agent to the extent requested by the Agent. Notwithstanding the foregoing, in the absence of the instructions from the Lenders and where in the sole opinion of the Agent, acting reasonably and in good faith, the exigencies of the situation warrant such action, the Agent may without notice to or consent of the Lenders take such action on behalf of the Lenders as it deems appropriate or desirable in the interest of the Lenders.

9.13 Successor Agent

The Agent may, as hereinafter provided, resign at any time by giving 30 days' prior written notice thereof to the Lenders and the Borrower. Upon any such resignation, the Lenders shall, after soliciting the views of the Borrower, have the right to appoint another Lender as a successor agent (the "**Successor Agent**") who shall be acceptable to the Borrower, acting reasonably. If no

Successor Agent shall have been so appointed by the Lenders and shall have accepted such appointment within 30 days after the retiring Agent's giving of notice of resignation, then the retiring Agent shall, on behalf of the Lenders, appoint a Successor Agent who shall be a Lender acceptable to the Borrower, acting reasonably. Upon the acceptance of any appointment as Agent hereunder by a Successor Agent, such Successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall thereupon be discharged from its further duties and obligations as Agent under this Agreement. After any retiring Agent's resignation hereunder as Agent, the provisions of this Article shall continue to enure to its benefit as to any actions taken or omitted to be taken by it as Agent, or in its capacity as Agent, while it was Agent hereunder.

9.14 Provisions Operative Between Lenders and Agent Only

Except for the provisions of Sections 9.11(b) and 9.11(e), the provisions of this Article relating to the rights and obligations of the Lenders and the Agent inter se shall be operative as between the Lenders and the Agent only, and the Borrower shall not have any rights or obligations under or be entitled to rely for any purpose upon such provisions.

ARTICLE 10 ADDITIONAL LENDERS, SUCCESSORS AND ASSIGNS

10.1 Successors and Assigns

The Credit Documents shall be binding upon and enure to the benefit of the Agent, each Lender, the Borrower and their successors and assigns (including without limitation, any successor resulting from the amalgamation of the Borrower with one or more corporations or resulting from the winding-up of one or more corporations into the Borrower), except that, other than as provided herein, the Borrower shall not assign any rights or obligations with respect to this Agreement or any of the other Credit Documents without the prior written consent of the Lenders, in their sole discretion.

The collective rights and obligations of the Lenders under this Agreement are assignable in whole or in part and any Lender shall be entitled to assign in whole or in part its individual rights and obligations hereunder or to permit other financial institutions to participate in the Credit Facility, all in accordance with the provisions of Section 10.2 and the other terms of this Agreement. The Borrower hereby consents to the disclosure of any information and opinions relating to it to any potential Lender or participant provided that the potential Lender or participant agrees in writing to keep the information confidential and to return such information if it does not become a Lender or a participant.

Each assignment shall be of a uniform, and not a varying, percentage of all rights and obligations of the assignor(s) under or in respect of the Credit Facility. Prior to a declaration being made pursuant to Section 8.2, no assignment, except in the case of an assignment by a Lender to an Affiliate of that Lender, may be in an amount less than \$25,000,000 (and in integral multiples of \$1,000,000) unless such assignment is of the entire Commitment of a Lender, or result in the Commitment of any Lender, determined as of the effective date of the Assignment Agreement with respect to such assignment, being less than \$25,000,000.

Notwithstanding any other provisions of this Agreement, each Lender agrees that it shall not offer to assign or offer to sell or sell a participation in any portion of its rights and obligations under this Agreement including, without limitation, any portion of its Commitment without the prior written consent of and five (5) Business Days' prior notice to the Agent, and except in the case of (a) an assignment in accordance with Section 10.2, or (b) an assignment to an Affiliate of the Lender, without the prior consent of and notice to, the Borrower. The consent of the Borrower and the Agent shall not be unreasonably withheld. No assignment shall be made to any Person that is a natural person, a Defaulting Lender, a Loan Party or any Affiliate of a Loan Party.

10.2 Assignments

- (a) *Assignment by Lenders.* Subject to Section 10.1 and the other terms of this Agreement, the Lenders collectively or individually may assign to one or more assignees (other than a natural person, a Defaulting Lender or a Loan Party or any Affiliate of a Loan Party) all or a portion of their respective rights and obligations under this Agreement (including, without limitation, all or a portion of their respective Commitments) with the consent of the Agent and the Borrower, in each case not to be unreasonably withheld; provided that, a Lender may assign any of its rights and obligations under this Agreement to (x) an Affiliate at any time or (y) any Person after a declaration is made pursuant to Section 8.2. The parties to each such assignment shall execute and deliver an Assignment Agreement to the Agent for its consent and, unless an Event of Default has occurred and is continuing, to the Borrower, for its acknowledgement and for recording by the Agent in the Register and, except in the case of an assignment by a Lender to an affiliate of that Lender, the assigning Lender shall pay a processing and recording fee of \$3,500 to the Agent. After such execution, delivery, consent, acknowledgement and recording (i) the assignee thereunder shall be a party to this Agreement and, to the extent that rights and obligations hereunder have been assigned to it, have the rights and obligations of a Lender hereunder and (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, relinquish its rights and be released from its obligations under this Agreement, other than obligations in respect of which it is then in default or which arose prior to its assignment, and, in the case of an Assignment Agreement covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto.
- (b) *Assignment Agreement.* The agreements of an assignee contained in an Assignment Agreement shall benefit the assigning Lender thereunder, the other Lenders, the Agent and the Borrower in accordance with the terms of the Assignment Agreement.
- (c) *Register.* The Agent shall maintain at its address referred to herein a copy of each Assignment Agreement delivered to and acknowledged by it and a register for recording the names and addresses of the Lenders and the Commitment under the Credit Facility of each Lender from time to time (the "**Register**"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error.

The Borrower, the Agent and each of the Lenders may treat each person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement, and need not recognize any person as a Lender unless it is recorded in the Register as a Lender. The Register shall be available for inspection by the Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice.

- (d) *Acknowledgement, etc.* Within five (5) Business Days after receipt by the Agent of (i) the processing and recording fee required pursuant to Section 10.2(a), and (ii) an Assignment Agreement executed by an assigning Lender and an assignee and approved by the Borrower (if applicable) and the Agent, the Agent shall, if the Assignment Agreement has been completed and is in the required form with such immaterial changes as are acceptable to the Agent:
- (i) acknowledge the Assignment Agreement;
 - (ii) record the information contained therein in the Register; and
 - (iii) give prompt notice thereof to the Borrower and the other Lenders, and provide them with an updated list of the respective Commitments of each Lender.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Headings and Table of Contents

The headings of the Articles and Sections and the Table of Contents are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

11.2 Accounting Terms; GAAP; Changes in Generally Accepted Accounting Principles

Each accounting term used in this Agreement, unless otherwise defined herein, has the meaning assigned to it under GAAP. For greater certainty, all accounting terms and financial covenants and thresholds hereunder have been based upon GAAP in effect on the Closing Date.

If there occurs a material change in generally accepted accounting principles and such change would require disclosure under GAAP in the Financial Statements of the Borrower and would cause any amount required to be determined hereunder (a “**Relevant Amount**”) to be materially different than the amount that would be determined without giving effect to such change, the Borrower shall notify the Agent of such change (an “**Accounting Change**”). Such notice (an “**Accounting Change Notice**”) shall describe the nature of the Accounting Change, its effect on the current and immediately prior year’s Financial Statements in accordance with GAAP and state whether the Borrower desire to revise the method of calculating one or more of the Relevant Amounts (including the revision of any of the defined terms used in the determination of such Relevant Amount) in order that amounts determined after giving effect to such Accounting Change and the revised method of calculating such Relevant Amount will approximate the amount that would be determined without giving effect to such Accounting Change and without giving effect

to the revised method of calculating such Relevant Amount. The Accounting Change Notice shall be delivered to the Agent within 45 days of the end of the Fiscal Quarter in which the Accounting Change is implemented or, if such Accounting Change is implemented in the fourth Fiscal Quarter or in respect of an entire Fiscal Year, within 90 days of the end of such period. Promptly after receipt from the Borrower of an Accounting Change Notice, the Agent shall deliver to each Lender a copy of such Accounting Change Notice.

If, pursuant to the Accounting Change Notice, the Borrower do not indicate that they desire to revise the method of calculating one or more of the Relevant Amounts, the Lenders may, within 30 days of their receipt of the Accounting Change Notice, notify the Agent that they wish to revise the method of calculating one or more of the Relevant Amounts in the manner described above. If the Majority Lenders so notify the Agent, the Agent shall promptly notify the Borrower.

If either the Borrower or the Majority Lenders so indicate that they wish to revise the method of calculating one or more of the Relevant Amounts, the Borrower, the Agent and the Majority Lenders shall in good faith attempt to agree on a revised method of calculating such Relevant Amounts. If, however, within 30 days of the foregoing notice by the Borrower or the Agent (on behalf of the Majority Lenders) of the desire to revise the method of calculating one or more of the Relevant Amounts, the Borrower, the Agent and the Majority Lenders have not reached agreement in writing on such revised method of calculation, such method of calculation shall not be revised and all amounts to be determined hereunder shall be determined without giving effect to the Accounting Change. For greater certainty, if no notice of a desire to revise the method of calculating the Relevant Amounts in respect of an Accounting Change is given by either the Borrower or the Majority Lenders within the applicable time period described above, the method of calculating a Relevant Amount shall not be revised in response to such Accounting Change and all amounts to be determined pursuant to such Relevant Amounts shall be determined after giving effect to such Accounting Change.

Any Event of Default arising as a result of the Accounting Change and which is cured by this Section 11.2 shall be deemed to be of no effect *ab initio*.

For the purposes of this Agreement, any lease which would be accounted for as an operating lease under GAAP as in effect on December 31, 2018 shall be, notwithstanding any subsequent change in GAAP, deemed to be accounted for as an operating lease and not as a capital lease (whether such lease is entered into or assumed before or after December 31, 2018).

11.3 Capitalized Terms

All capitalized terms used in any of the Credit Documents (other than this Agreement) which are defined in this Agreement shall have the meaning defined herein unless otherwise defined in such other Credit Document.

11.4 Severability

Any provision of this Agreement which is or becomes prohibited or unenforceable in any Relevant Jurisdiction shall not invalidate or impair the remaining provisions hereof which shall be deemed severable from such prohibited or unenforceable provision and any such prohibition or

unenforceability in any such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Should this Agreement fail to provide for any relevant matter, the validity, legality or enforceability of this Agreement shall not hereby be affected.

11.5 Number and Gender

Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, words importing any gender include all genders and references to agreements and other contractual instruments shall be deemed to include all present or future amendments, supplements, restatements or replacements thereof or thereto.

11.6 Amendment, Supplement or Waiver

No amendment, supplement or waiver of any provision of the Credit Documents, nor any consent to any departure by a Loan Party therefrom, shall in any event be effective unless it is in writing, makes express reference to the provision affected thereby and is signed by the Agent for and on behalf of the Lenders or the Majority Lenders, as the case may be as required under Subsections 9.9(b) or 9.9(c) and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No waiver or act or omission of the Lender shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or breach by any Loan Party of any provision of the Credit Documents or the rights resulting therefrom.

11.7 Governing Law

This Agreement shall be conclusively deemed to be a contract made under, and shall for all purposes be governed by and construed in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in Alberta, provided that the general security agreement granted by Loan Parties with Property in the United States shall be conclusively deemed to be a contract made under, and shall for all purposes be governed by and construed in accordance with, the laws of the State of Oklahoma, United States of America, in each case without prejudice to or limitation of any other rights or remedies available under the laws of any jurisdiction where Property of a Loan Party may be found. Each party to this Agreement hereby irrevocably and unconditionally attorns to the non-exclusive jurisdiction of the courts of Alberta and all courts competent to hear appeals therefrom.

11.8 This Agreement to Govern

In the event of any conflict between the terms of this Agreement and the terms of any other Credit Document, the provisions of this Agreement shall govern to the extent necessary to remove the conflict. Provided however, a conflict or inconsistency shall not be deemed to occur if one Credit Document provides for a matter and another Credit Document does not.

11.9 Permitted Liens

The designation of a Lien as a Permitted Lien is not, and shall not be deemed to be, an acknowledgment by the Lenders that such Lien shall have priority over the Security.

11.10 Currency

All payments made hereunder shall be made in the currency in respect of which the obligation requiring such payment arose. Unless the context otherwise requires, all amounts expressed in this Agreement in terms of money shall refer to Canadian Dollars.

11.11 Liability of Lenders

The liability of the Lenders in respect of all matters relating to this Agreement and the other Credit Documents is several and not joint or joint and several. Without limiting that statement, the obligations of the Lenders to make the Loan is limited to their respective Proportionate Shares of any Loan that is requested, and, in the aggregate, to their respective Proportionate Shares of the total amount of the Credit Facility.

11.12 Expenses and Indemnity

- (a) All statements, reports, certificates, opinions, appraisals and other documents or information required to be furnished to the Agent, or the Lenders, or any of them, by a Loan Party under this Agreement shall be supplied without cost to the Lenders, the Agent, or any of them. The Borrower shall pay on demand all reasonable out of pocket costs and expenses of the Agent (including, without limitation, long distance telephone and courier charges and the reasonable fees and expenses of counsel for the Agent) and the reasonable out of pocket expenses of the Lenders, incurred in connection with (i) the preparation, execution, delivery, administration, periodic review, modification or amendment of the Credit Documents; (ii) any enforcement of the Credit Documents; (iii) obtaining advice as to their rights and responsibilities in connection with the Credit Facility and the Credit Documents; (iv) reviewing, inspecting and appraising the collateral that is the subject of the Security at reasonable intervals; and (v) other matters relating to the Credit Facility. Such costs and expenses shall be payable whether or not a Loan is made under this Agreement.
- (b) The Borrower shall indemnify the Lenders and the Agent against any liability, obligation, loss or expense which they may sustain or incur as a consequence of (i) any representation or warranty made by a Loan Party which was incorrect at the time it was made or deemed to have been made, (ii) a default by a Loan Party in the payment of any sum due from it, including, but not limited to, all sums (whether in respect of principal, interest or any other amount) paid or payable to lenders of funds borrowed by the Lenders in order to fund the amount of any such unpaid amount to the extent the Lender is not reimbursed pursuant to any other provisions of this Agreement, (iii) the failure of the Borrower to complete any Loan or make any payment after notice therefor has been given under this Agreement, and (iv) any other default by a Loan Party under any Credit Document. A certificate of the Lender as to the amount of any such loss or expense shall be prima facie evidence as to the amount thereof, in the absence of manifest error.
- (c) In addition, the Borrower shall indemnify the Lenders, the Agent and their directors, officers, employees and representatives (the “**Indemnified Parties**”)

from and against any and all actions, proceedings, claims, losses, damages, liabilities, expenses and obligations of any kind that may be incurred by or asserted against any of them as a result of or in connection with the making of any Loan hereunder and the Agent taking, holding and enforcing the Security, other than arising from the gross negligence or wilful misconduct of the Agent or any other Indemnified Party. Whenever any such claim shall arise, the Indemnified Party shall promptly notify the Borrower of the claim and, when known, the facts constituting the basis for such claim, and if known, the amount or an estimate of the amount of the claim. The failure of an Indemnified Party to give notice of a claim promptly shall not adversely affect the Indemnified Party's rights to indemnity hereunder.

The agreements in this Section shall survive the termination of this Agreement and repayment of the Obligations.

11.13 Environmental Indemnity

Without limiting the generality of the provisions of Section 11.12, the Borrower hereby agrees to indemnify, defend and hold harmless the Lenders, the Agent and each of them from and against any and all administrative, regulatory or judicial actions, suits, demands, claims, liens, notices of non-compliance or violation, investigations, inspections, inquiries, proceedings, losses, costs, expenses, damages, claims and liabilities incurred by the Lenders, the Agent and any of them relating in any way to any Environmental Laws or to any permit issued under such Environmental Laws in respect of any Loan Party or any of its or their property, including without limitation, as a result of:

- (a) any breach of Environmental Laws which relates to the property or operations of a Loan Party;
- (b) any Release, presence, use, creation, transportation, storage or disposal of Hazardous Materials which relate to the property or operations of a Loan Party; or
- (c) any claim or order for any clean-up, restoration, detoxification, reclamation, repair or other securing or remedial action which relates to the property or operations of a Loan Party.

This indemnity shall extend to the officers, directors, employees, agents and assignees of the Lenders, the Agent, and each of them as well as to the Lenders, the Agent and each of them itself, and the Lenders, the Agent and each of them will hold the benefit of this indemnity in trust for such other indemnified Persons to the extent necessary to give effect thereto.

The agreements in this Section shall survive the termination of this Agreement and repayment of the Obligations.

11.14 Manner of Payment and Taxes

- (a) *Payments Subject to Taxes.* If any Loan Party, the Agent, or any Lender is required by Applicable Laws to deduct or pay any Indemnified Taxes (including any Other

Taxes) in respect of any payment by or on account of any obligation of a Loan Party hereunder or under any other Credit Document, then:

- (i) the sum payable shall be increased by that Loan Party (and in the case of a Restricted Subsidiary, the Borrower shall cause such Restricted Subsidiary to do so) when payable as necessary so that after making or allowing for all required deductions and payments (including deductions and payments applicable to additional sums payable under this Section) the Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or payments been required;
 - (ii) the Borrower shall, and shall cause any Restricted Subsidiary to make any such deductions required to be made by it under Applicable Law; and
 - (iii) the Borrower shall, and shall cause any Restricted Subsidiary to timely pay the full amount required to be deducted to the relevant Governmental Authority in accordance with Applicable Law.
- (b) *Payment of Other Taxes by the Borrower.* Without limiting the provisions of Section 11.14(a), the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.
- (c) *Indemnification by the Borrower.* The Borrower shall indemnify the Agent and each Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Agent or such Lender and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. In the event the Borrower have made a payment to the Agent or a Lender pursuant to this Section 11.14(c) and the Agent or Lender is thereafter granted or receives a credit, refund or remission in respect of the Indemnified Taxes or Other Taxes, then the Agent or the Lender, as the case may be, shall, subject to the Borrower having paid the relevant amount payable under this Section 11.14(c) and to the extent it is satisfied that it can do so without prejudice to the retention of the amount of such credit or refund, refund to the Borrower such amount (if any) as the Agent or the Lender determines in good faith will leave the Agent or the Lender in no worse position than would have been the case if there had been no obligation to pay the Indemnified Taxes or Other Taxes in the first place. The Agent or Lender shall not be obligated to provide to the Borrower copies of all or any part of its tax returns, financial statements or other corporate financial data by reason of any such matter.

- (d) **Evidence of Payments.** As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.

- (e) **Status of Lenders.** Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Credit Document shall, at the request of the Borrower or the Agent, deliver to each of the Borrower and the Agent, no later than the date such Foreign Lender becomes a party hereto (or designates a new lending office) under this Agreement, at the time or times prescribed by Applicable Laws or reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by Applicable Laws as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, (i) any Lender, if requested by the Borrower or the Agent, shall deliver such other documentation prescribed by Applicable Laws or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to withholding or information reporting requirements, and any Lender that ceases to be, or to be deemed to be, resident in Canada for purposes of Part XIII of the *Income Tax Act* (Canada) or any successor provision thereto shall within five days thereof notify the Borrower and the Agent in writing.

- (f) **Treatment of Certain Refunds and Tax Reductions.** If the Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which a Loan Party has paid additional amounts pursuant to this Section or that, because of the payment of such Taxes or Other Taxes, it has benefited from a reduction in Excluded Taxes otherwise payable by it, it shall pay to the applicable Loan Party, an amount equal to such refund or reduction (but only to the extent of indemnity payments made, or additional amounts paid, by the applicable Loan Party under this Section with respect to the Taxes or Other Taxes giving rise to such refund or reduction), net of all out-of-pocket expenses of the Agent or such Lender, as the case may be, and without interest (other than any net after-Tax interest paid by the relevant Governmental Authority with respect to such refund). The Borrower shall, and shall cause each Restricted Subsidiary, as applicable, to, upon the request of the Agent or such Lender, repay the amount paid over to the applicable Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender if the Agent or such Lender is required to repay such refund or reduction to such Governmental Authority. This paragraph shall not be construed to require the Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to

the Borrower or any other Person, to arrange its affairs in any particular manner or to claim any available refund or reduction.

- (g) **FATCA.** If a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Taxes imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of Code, as applicable), or the *Income Tax Act* (Canada), such Lender shall deliver to the Borrower at the time or times prescribed by Applicable Laws and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by Applicable Laws (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Agent as may be necessary for the Borrower to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or the *Income Tax Act* (Canada) or to determine the amount to deduct and withhold from such payment.
- (h) **Survival.** The provisions of this Section 11.14 shall survive the repayment of the Obligations and the cancellation of the Credit Facility.

11.15 Increased Costs

If the introduction of or any change in or in the interpretation of, or any change in its application to a Loan Party of, any law or any regulation or guideline from any central bank or other governmental authority (whether or not having the force of law), including but not limited to any reserve or special deposit requirement or any Tax (other than Excluded Taxes) or exemption from any tax or any capital requirement, has due to the compliance by any Lender therewith the effect, directly or indirectly, of (i) increasing the cost to the Lenders (or any of them) of performing its obligations hereunder; (ii) reducing any amount receiving or receivable by the Lenders (or any of them) hereunder or its effective return hereunder or on its capital; or (iii) causing the Lenders (or any of them) to make any payment or to forego any return based on any amount received or receivable by the Lenders (or any of them) hereunder, then upon demand from time to time such Loan Party shall pay such amount as shall compensate the Lenders (or any of them) for any such cost, reduction, payment or foregone return that is not fully offset by an increase in the applicable interest rate or rates or fees hereunder. Any certificate of such affected Lender in respect of the foregoing will be prima facie evidence of the foregoing, except for manifest error, provided that such Lender determines the amounts owing to it in good faith using any reasonable averaging and attribution methods and provides a reasonably detailed description of its calculation of the amounts owing to it.

11.16 Interest on Miscellaneous Amounts

If the Borrower fails to pay any amount payable hereunder (other than principal, interest thereon or interest upon interest which is payable as otherwise provided in this Agreement) on the due date, the Borrower shall, on demand, pay interest on such overdue amount to the Agent from and including such due date up to but excluding the date of actual payment, both before and after

demand, default or judgment, at a rate of interest per annum equal to 9.25%, calculated daily and compounded monthly.

11.17 Address for Notice

Notice to be given under the Credit Documents to any of the Borrower or the Agent shall, except as otherwise specifically provided, be in writing addressed to the party for whom it is intended and, unless the law deems a particular notice to be received earlier, a notice shall not be deemed received until actual receipt by the other party of an original of such notice, an email or a facsimile thereof if sent by email or facsimile transmission, as applicable. The addresses of the parties hereto for the purposes hereof shall be the addresses specified beside their respective signatures to this Agreement, or such other mailing, email or facsimile addresses as each party from to time may notify the other as aforesaid.

11.18 Time of the Essence

Time shall be of the essence in this Agreement.

11.19 Further Assurances

The Borrower shall, and shall cause each other Loan Party to, at the request of the Agent acting on the instructions of the Lenders, do all such further acts and execute and deliver all such further documents as may, in the reasonable opinion of the Lenders, be necessary or desirable in order to fully perform and carry out the purpose and intent of the Credit Documents.

11.20 Term of Agreement

Except as otherwise provided herein, this Agreement shall remain in full force and effect until the payment and performance in full of all of the Obligations and the termination of this Agreement.

11.21 Payments on Business Day

Whenever any payment or performance under the Credit Documents would otherwise be due on a day other than a Business Day, such payment shall be made on the following Business Day.

11.22 Illegality

If a Lender determines, in good faith, that (i) the introduction of or any change in any Applicable Laws or in the interpretation or application thereof by any court or by any Governmental Authority charged with the interpretation or administration thereof that has occurred after the date hereof, or (ii) compliance by such Lender with any Applicable Laws or any request or directive from any Governmental Authority, central bank or other fiscal, monetary or other authority (whether or not having the force of law) issued after the date hereof, has, in either case, made it unlawful for such Lender to make, maintain or fund all or any portion of its Commitment or to perform its obligations in respect of the Credit Facility or any relevant portions thereof as contemplated hereby, such Lender may, by notice in writing to the Borrower, declare that its obligations hereunder in respect of its Commitment or the Credit Facility so affected shall be terminated forthwith, whereupon such obligations shall be so terminated and the applicable Borrower shall:

- (a) prepay such Loan; or
- (b) provided no Default shall have occurred and is continuing, provide irrevocable written notice to such Lender requiring such Lender to sell and assign to a bank or other financial institution chosen by the Borrower and acceptable to the Agent, acting reasonably, all of such Lender's rights and obligations hereunder in the same manner described in Section 10.2 upon receipt by such Lender from such bank or financial institution of all amounts owing to such Lender under the Credit Documents, including without limitation, all unpaid interest accrued thereon to the date of payment and all other amounts, if any, payable for the account of such Lender hereunder in respect of any Loan made by it and in respect of all losses, costs and expenses suffered or incurred by such Lender hereunder as a result of such Lender complying with this Subsection 11.22(b).

If a Lender determines, in good faith, that any Applicable Laws has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender to hold or benefit from an Lien over real property, such Lender may notify the Agent and disclaim any benefit of such security interest to the extent of such illegality, provided that such determination or disclaimer shall not invalidate or render unenforceable such Lien for the benefit of any other Lender.

11.23 Currency Indemnity

In the event of a judgment or order being rendered by any court or tribunal for the payment of any amounts owing under this Agreement or for the payment of damages in respect of any breach of this Agreement or under or in respect of a judgment or order of another court or tribunal for the payment of such amounts or damages, such judgment or order being expressed in a currency (the "**Judgment Currency**") other than the currency payable hereunder or thereunder (the "**Agreed Currency**"), each party against whom the judgment or order is made shall indemnify and hold each party in whose favour the judgment or order is made harmless against any deficiency in terms of the Agreed Currency in the amounts received by such party arising or resulting from any variation as between (i) the exchange rate at which the Agreed Currency is converted into the Judgment Currency for the purposes of such judgment or order, and (ii) the exchange rate at which such party is able to purchase the Agreed Currency with the amount of the Judgment Currency actually received by such party on the date of such receipt. The indemnity in this Section shall constitute a separate and independent obligation from the other obligations of the parties hereunder, shall apply irrespective of any indulgence granted hereunder.

11.24 Non-Merger

The Borrower covenants and agrees with the Agent and the Lenders that, in the case of any judicial or other proceeding to enforce the rights and remedies of the Agent of the Lenders under the Credit Documents (or any part thereof), judgment may be rendered against any Loan Party in favour of the Lenders, or any of them, for any amount owing by them under the Credit Documents (or for which any Loan Party may be liable thereunder after the application to the payment thereof of the proceeds of any sale of any of the property, assets or undertaking of such Loan Party).

11.25 Confidentiality

The Agent or any Lender may in their sole discretion, deliver copies of any financial statements and other documents delivered to the Agent or the Lenders, and disclose any other information disclosed to the Agent or the Lenders, by or on behalf of the Borrower in connection with or pursuant to the Credit Documents to:

- (a) each of the Agent's and the Lenders' directors, officers, affiliates, employees, agents and professional consultants, provided that the Agent and each Lender shall not disclose such information to any person, division, department or Lender Parent that does not have a direct relationship to the Credit Documents;
- (b) any regulatory authority having jurisdiction over the Agent or Lenders; or
- (c) any other person to whom such delivery or disclosure may be necessary or appropriate (i) in connection with any assignment or proposed assignment by the Agent or a Lender of any of its interests under the Credit Documents, (ii) in compliance with any Applicable Laws applicable to a Lender, (iii) in response to any subpoena or other legal process, (iv) in connection with any litigation to which a Lender is a party in any way relating to any Loan Party or the Credit Documents and the transactions contemplated therein; or (v) with the prior written consent of the Borrower.

Any of the financial statements, other documents or other information to be sent to any of the Persons described above, may be sent by e-mail or other electronic means and none of the Agent or any of the Lenders shall be liable for any losses, costs, expenses, damages, claims or liabilities that any Loan Party may suffer if such financial statements, other documents or other information is disclosed to any other Persons inadvertently as a result of the Agent sending the same by e-mail or other electronic means.

11.26 Anti-Money Laundering Legislation

- (a) The Borrower acknowledges that, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" Applicable Laws (collectively, including any guidelines or orders thereunder, "**AML Legislation**"), the Lenders and the Agent may be required to obtain, verify and record information regarding the Borrower, and their respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or the Agent, or any prospective assignee or participant of a Lender or the Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

- (b) If the Agent has ascertained the identity of the Borrower or any authorized signatories of the Borrower for the purposes of applicable AML Legislation, then the Agent:
 - (i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a “written agreement” in such regard between each Lender and the Agent within the meaning of applicable AML Legislation; and
 - (ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that the Agent has no obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Borrower or any such authorized signatory in doing so.

11.27 Entire Agreement

This Agreement constitutes the entire agreement between the parties hereto concerning the matters addressed in this Agreement, and cancel and supersede any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof.

11.28 Counterparts and Facsimile

This Agreement may be executed in any number of counterparts (including by facsimile or other electronic transmission), each of which when executed and delivered will be deemed to be an original, but all of which when taken together constitutes one and the same instrument. Any party hereto may execute this Agreement by signing any counterpart. The words “execution”, “execute”, “executed”, “signed”, “signature” and words of like import in this Agreement or in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby, shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, in accordance with Applicable Law including, without limitation, as in provided Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario), the *Electronic Transactions Act* (Alberta), or any other similar laws based on the *Uniform Electronic Commerce Act* of the Uniform Law Conference of Canada. The Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Address For Notice

1700, 215 - 9th Avenue S.W.
Calgary, AB T2P 1K3

Attention: Senior Vice President, Finance
and Chief Financial Officer

Facsimile: 
Email:

**WESTERN ENERGY SERVICES
CORP., as Borrower**

By: *(signed) "Alex MacAusland"*

Name: Alex R.N. MacAusland

Title: President and Chief
Executive Officer

By: *(signed) "Jeffrey Bowers"*

Name: Jeffrey K. Bowers

Title: Senior Vice President
Finance, Chief Financial
Officer and Corporate
Secretary

SCHEDULE A
COMMITMENTS OF LENDERS

Lender	Commitment
AIMCo	\$108,497,349

SCHEDULE B

ORGANIZATIONAL INFORMATION

Borrower

Legal Name	Jurisdiction of Incorporation or Formation	Ownership of Issued Securities
Western Energy Services Corp.	Alberta	Publicly Traded

Subsidiaries

Legal Name	Jurisdiction of Incorporation or Formation	Ownership of Issued Securities
Western Production Services Corp.	Alberta	100% owned by Western Energy Services Corp.
Stoneham Drilling Corporation	Oklahoma	100% owned by Western Energy Services Corp.

SCHEDULE C
ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT made this • day of •.

B E T W E N:

• (the “Lender”)

OF THE FIRST PART

- and -

• (the “Assignee”)

OF THE SECOND PART

WHEREAS the Lender is a party to the amended and restated senior secured second lien credit agreement made as of May 18, 2022, among Western Energy Services Corp., as Borrower, the lenders party thereto from time to time, and Alberta Investment Management Corporation, as Agent (as amended, supplemented, restated or replaced from time to time the “**Credit Agreement**”);

AND WHEREAS the Lender desires to assign to the Assignee a portion of its rights and obligations under the Credit Agreement (including, without limitation, that same portion of the Commitments) and the other Credit Documents;

AND WHEREAS pursuant to the terms of the Credit Agreement, the Lender has paid to the Agent a processing and recording fee, receipt of which shall be evidenced by the Agent’s acknowledgement and approval hereof and the Lender has otherwise complied with the provisions set out in Article 10 of the Credit Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSES that the parties hereto agree as follows:

1. All capitalized terms used herein and not defined shall have the meaning ascribed thereto in the Credit Agreement.
2. Pursuant to and in accordance with Article 10 of the Credit Agreement, the Lender hereby irrevocably assigns and transfers to the Assignee and the Assignee hereby purchases from the Lender and assumes, all rights and obligations of the Lender under the Credit Agreement with respect to that portion of its Commitment(s) set forth opposite such Lender’s name on the signature page thereto.
3. The Assignee agrees to be bound by the terms and conditions of the Credit Agreement and to perform all of the obligations of a Lender thereunder from and after the effective date of this assignment.

4. The Assignee hereby confirms and agrees to the appointment of AIMCo as Agent.
5. All of the acknowledgements and representations of a Lender contained in Section 9.11 of the Credit Agreement are true and correct with respect to the Assignee and the Assignee hereby agrees to be bound by the covenants of a Lender under the Credit Agreement.
6. The representations, warranties, covenants and agreements contained herein shall survive the execution and delivery of this Assignment Agreement.
7. The parties hereto acknowledge and agree that the provisions of this Assignment Agreement shall enure to benefit the Lender, the Agent and such other Lenders as may from time to time become parties to the Credit Agreement.
8. This Assignment Agreement shall be construed in accordance with, and all the rights of the parties hereto, shall be governed by, the laws of the Province of Alberta and the laws of Canada applicable therein.
9. This Assignment Agreement and any acknowledgements and approvals thereof may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same agreement.

■ [Lender]

Name

Name

■ [Assignee]

Name

Name

Acknowledged and Consented to this ■
day of [■]

**ALBERTA INVESTMENT
MANAGEMENT CORPORATION,**
As Agent

By: _____

If no Default has occurred:

The Borrower hereby confirm that the representations and warranties set forth in Article 6 of the Credit Agreement are true and correct on the date hereof and that no Default or Event of Default has occurred thereunder, which is continuing. The Borrower hereby consent to the foregoing as of this ■ day of ■.

**WESTERN ENERGY SERVICES
CORP.**

By: _____
Name: _____
Title: _____