
**FOURTH AMENDED AND RESTATED CREDIT
AGREEMENT**

Dated as of October 16, 2019

Among

HIGH LINER FOODS INCORPORATED
as Canadian Borrower,

and

HIGH LINER FOODS (USA), INCORPORATED
as U.S. Borrowers,

and

HIGH LINER FOODS INCORPORATED, HIGH LINER FOODS
(USA), INCORPORATED, [Names of Subsidiary Guarantors Redacted]

as Guarantors,

THE FINANCIAL INSTITUTIONS NAMED HEREIN
as Lenders,

ROYAL BANK OF CANADA
as Administrative Agent and Collateral Agent,

and

JPMORGAN CHASE BANK, N.A., TORONTO BRANCH
as Syndication Agent

and

ROYAL BANK OF CANADA AND RBC CAPITAL MARKETS
as Lead Arranger

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FOURTH AMENDED AND RESTATED CREDIT AGREEMENT

This **Fourth Amended and Restated Credit Agreement**, dated as of October 16, 2019 (this "**Agreement**"), among the financial institutions from time to time parties hereto (such financial institutions, together with their respective successors and assigns, are referred to hereinafter each individually as a "**Lender**" and collectively as the "**Lenders**"), Royal Bank of Canada, as administrative agent and collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, (the "**Agent**"), Royal Bank of Canada, as lead arranger (in such capacity, the "**Arranger**"), JPMorgan Chase Bank, N.A., Toronto branch, as syndication agent (in such capacity (the "**Syndication Agent**"), High Liner Foods Incorporated, a body corporate incorporated under the laws of the Province of Nova Scotia, as the Canadian borrower (the "**Canadian Borrower**"), High Liner Foods (USA), Incorporated, a Delaware corporation, as the U.S. borrowers (the "**U.S. Borrowers**") (Canadian Borrower and U.S. Borrowers, each a "**Borrower**" and collectively, the "**Borrowers**"), the Borrowers and each of their Subsidiaries identified on the signature pages hereto as guarantors (the "**Guarantors**") and each Subsidiary of the Borrowers that pursuant to the provisions hereof becomes a Guarantor hereunder after the Effective Date.

WITNESSETH:

WHEREAS, amongst others, the Borrowers and the Guarantors party thereto, the Lenders party thereto, Royal Bank of Canada, as Administrative Agent and Collateral Agent for the Lenders, are party to that certain Third Amended and Restated Credit Agreement dated as of April 24, 2014 (in effect and as amended pursuant to a First Amendment dated as of May 15, 2017, a Second Amendment dated as of April 24, 2018, a Third Amendment dated as of November 15, 2018, and a Fourth Amendment dated as of December 5, 2018, the "**Existing Credit Agreement**"); and

WHEREAS, the Commitments of certain Persons who are Lenders under the Existing Credit Agreement and are continuing as Lenders under this Agreement are being modified as provided herein; and

WHEREAS, the Borrowers, the Guarantors, the Agent, the Lenders hereunder and all other parties hereto desire to amend and restate the Existing Credit Agreement as provided herein; and

WHEREAS the Borrowers have requested that the Lenders continue to make available and provide to the Borrowers the revolving credit facilities by way of loans and letters of credit not exceeding \$150,000,000 to, in part, provide for the ongoing working capital and other requirements of the Borrowers and Guarantors permitted hereunder (including permitted acquisitions and capital expenditures);

WHEREAS the Canadian Borrower, amongst others, is entering into an amendment and restatement of the Term Loan Facility, (such Term Loan Facility amendment and restatement, together with this Agreement, collectively, the "**Effective Date Transactions**");

WHEREAS, capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings ascribed thereto in Annex A which is attached hereto and incorporated herein; the rules of construction contained therein shall govern the interpretation of this Agreement, and all Annexes, Exhibits and Schedules attached hereto are incorporated herein by reference;

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree that the Existing Credit Agreement shall be amended and restated, without novation, in its entirety to read as follows:

ARTICLE 1 – LOANS AND LETTERS OF CREDIT

1.1 Total Facility.

Subject to all of the terms and conditions of this Agreement, the Lenders agree to make available a total credit facility of up to \$150,000,000 (the "**Total Facility**") to the Borrowers from time to time during the term of this Agreement. The Total Facility shall be composed of a revolving line of credit consisting of Revolving Loans and Letters of Credit.

1.2 Canadian Revolving Loans.

- (a) Amounts. Subject to the satisfaction of the conditions precedent set forth in Article 8, each Canadian Lender severally, but not jointly, agrees, upon the Canadian Borrower's request from time to time on any Business Day during the period from the Effective Date to the Termination Date, to make revolving loans in Dollars and in U.S. Dollars (the "**Canadian Revolving Loans**") to the Canadian Borrower in amounts not to exceed such Canadian Lender's Pro Rata Share of Canadian Availability. If any Borrowing by the Canadian Borrower would exceed Canadian Availability, the Canadian Lenders may refuse to make or may otherwise restrict the making of Canadian Revolving Loans as the Canadian Lenders determine until such excess has been eliminated, subject to the Agent's authority, in its sole discretion, to make Canadian Agent Advances pursuant to the terms of Section 1.2(j).
- (b) Procedure for Borrowing.
 - (i) Each Borrowing by the Canadian Borrower shall be made upon the Canadian Borrower's irrevocable written notice delivered to the Agent in the form of a notice of borrowing ("**Canadian Notice of Borrowing**") in the form of Exhibit D-1 attached hereto and made a part hereof, which must be received by the Agent prior to (i) 2:00 p.m. (Toronto time) three (3) Business Days prior to the requested Funding Date (or such shorter notice time of which the Agent has notified the Canadian Borrower), in the case of BA Equivalent Revolving Loans, (ii) 11:00 a.m. (Toronto time) on the requested Funding Date, in the case of Canadian Prime Rate Revolving Loans, (iii) 2:00 p.m. (Toronto time) three (3) Business Days prior to the requested Funding Date (or such shorter notice time of which

the Agent has notified the Canadian Borrower), in the case of LIBOR Revolving Loans and (iv) 11:00 a.m. (Toronto time) on the requested Funding Date, in the case of Canadian Base Rate Revolving Loans, specifying:

- (A) the amount of the Borrowing, which (i) in the case of a BA Equivalent Revolving Loan must equal or exceed CDN\$1,000,000 and increments of CDN\$500,000 in excess of such amount and (ii) in the case of a LIBOR Revolving Loan must equal or exceed U.S. \$1,000,000 (and increments of U.S. \$500,000 in excess of such amount);
 - (B) the requested Funding Date, which must be a Business Day;
 - (C) whether the Canadian Revolving Loans requested are to be Canadian Prime Rate Revolving Loans, BA Equivalent Revolving Loans, LIBOR Revolving Loans or Canadian Base Rate Revolving Loans (and if not specified, it shall be deemed a request for a Canadian Prime Rate Revolving Loan); and
 - (D) (i) the duration of the BA Equivalent Interest Period for BA Equivalent Revolving Loans (and if not specified, it shall be deemed a request for a BA Equivalent Interest Period of one month) and (ii) the duration of the LIBOR Interest Period for LIBOR Revolving Loans (and if not specified, it shall be deemed a request for a LIBOR Interest Period of one month);
- (ii) After giving effect to any Borrowing, there may not be more than ten (10) different BA Equivalent Interest Periods in effect.
 - (iii) After giving effect to any Borrowing, there may not be more than ten (10) different LIBOR Interest Periods in effect (including those related to U.S. Revolving Loans).
 - (iv) The Canadian Borrower may give the Agent telephonic or electronic notice of such request for advances to the applicable Canadian Designated Account on or before the deadline set forth above, such notice shall be confirmed in writing on the same day by delivery to Agent of a Canadian Notice of Borrowing confirming same. The Agent at all times shall be entitled to rely on telephonic or electronic notice in making such Canadian Revolving Loans, regardless of whether any written confirmation is received.
 - (v) The Canadian Borrower shall have no right to request a BA Equivalent Revolving Loan or a LIBOR Revolving Loan while a Default or Event of Default has occurred and is continuing.
- (c) Reliance upon Authority. Prior to the Effective Date, the Canadian Borrower shall deliver to the Agent a notice setting forth two (2) accounts in Canada of the

Canadian Borrower (each a "**Canadian Designated Account**") to which the Agent is authorized to transfer the proceeds of the Canadian Revolving Loans requested hereunder by the Canadian Borrower (one Canadian Designated Account to be for transfers of proceeds of BA Equivalent Revolving Loans and Canadian Prime Rate Revolving Loans and the other Canadian Designated Account to be for transfers of proceeds of LIBOR Revolving Loans and Canadian Base Rate Revolving Loans). The Canadian Borrower may designate a replacement account for either Canadian Designated Account from time to time by written notice to the Agent in the form set out in Exhibit F-1 duly executed by an officer of the Canadian Borrower. Each Canadian Designated Account must be reasonably satisfactory to the Agent. The Agent is entitled to rely conclusively on any person's request for Canadian Revolving Loans on behalf of the Canadian Borrower, so long as the proceeds thereof are to be transferred to a Canadian Designated Account. The Agent has no duty to verify the identity of any individual representing himself or herself as a person authorized by the Canadian Borrower to make such requests on its behalf.

- (d) No Liability. The Agent shall not incur any liability to the Canadian Borrower as a result of acting upon any notice referred to in Sections 1.2(b) and 1.2(c) which the Agent believes in good faith to have been given by an officer or other person duly authorized by the Canadian Borrower to request Canadian Revolving Loans on its behalf. The crediting of Canadian Revolving Loans to a Canadian Designated Account conclusively establishes the obligation of the Canadian Borrower to repay such Canadian Revolving Loans as provided herein.
- (e) Notice Irrevocable. Any Canadian Notice of Borrowing (or telephonic or electronic notice in lieu thereof) made pursuant to Section 1.2(b) shall be irrevocable. The Canadian Borrower shall be bound to borrow the funds requested therein in accordance therewith.
- (f) Intentionally deleted
- (g) Making of Canadian Revolving Loans. Promptly after receipt of a Canadian Notice of Borrowing or telephonic or electronic notice in lieu thereof, the Agent shall notify the Canadian Lenders by telecopy, telephone or e-mail of the requested Borrowing. Each Canadian Lender shall transfer its Pro Rata Share of the requested Borrowing to the Agent in immediately available funds (in Cdn. Dollars if the requested Borrowing is a Canadian Prime Rate Revolving Loan or a BA Equivalent Revolving Loan and in U.S. Dollars if the requested Borrowing is a Canadian Base Rate Revolving Loan or a LIBOR Revolving Loan), to the account in Canada from time to time designated by the Agent, not later than 1:00 p.m. (Toronto time) on the applicable Funding Date. After the Agent receives all proceeds of such Canadian Revolving Loans, the Agent shall make the proceeds of such Canadian Revolving Loans available to the Canadian Borrower on the applicable Funding Date by transferring same day funds to the Canadian Designated Account designated by the Canadian Borrower; provided, however, that the amount of Canadian Revolving Loans so made on any date to the Canadian Borrower shall not exceed Canadian Availability on such date.

- (h) Intentionally deleted
- (i) Intentionally deleted
- (j) Canadian Agent Advances.
 - (i) Subject to the limitations set forth below and provided same are not to be utilized to repay Bank Products, the Agent is authorized by the Canadian Borrower and the Canadian Lenders, from time to time in the Agent's sole discretion, while an Event of Default has occurred and is continuing, to make Canadian Prime Rate Revolving Loans to the Canadian Borrower on behalf of the Canadian Lenders in an aggregate amount outstanding at any time not to exceed \$2,500,000, less the aggregate amount outstanding at such time of Canadian Overdraft Accommodations, but not in excess of the Maximum Canadian Revolver Amount, which the Agent, in its reasonable business judgment, deems necessary or desirable (1) to maintain, preserve or protect the Collateral, or any portion thereof, or the Canadian Lenders' rights under any of the Loan Documents, (2) to enhance the likelihood of, or maximize the amount of, repayment of the Canadian Revolving Loans and other Obligations, or (3) to pay any other amount chargeable to the Canadian Borrower pursuant to the terms of this Agreement, including costs, fees and expenses as described in Section 14.7 (any of such advances are herein referred to as "Canadian Agent Advances"); provided, that (A) if there are three Lenders, any two of them may at any time revoke the authorization of the Agent to make Canadian Agent Advances and (B) if there are four or more Lenders, the Required Lenders may at any time revoke the authorization of the Agent to make Canadian Agent Advances. Any such revocation must be in writing and shall become effective prospectively upon the Agent's and Royal Bank's receipt thereof.
 - (ii) The Canadian Agent Advances shall be secured by the Agent's Liens in and to the Canadian Collateral and shall constitute Canadian Prime Rate Revolving Loans and Obligations hereunder.
- (k) Canadian Overdraft Accommodation.
 - (i) Subject to the limitations set forth below, the Agent is authorized by the Canadian Borrower and all Lenders, from time to time in the Agent's sole discretion, to make Canadian Prime Rate Revolving Loans to the Canadian Borrower on behalf of the Canadian Lenders by permitting Overdrafts to be created, in an aggregate amount outstanding at any time not to exceed The Canadian Overdraft Accommodation Maximum Amount, less the aggregate amount outstanding at such time of Canadian Agent Advances, but not in excess of the Maximum Canadian Revolver Amount (any of such advances are herein referred to as "**Canadian Overdraft Accommodations**"). If at any time the Canadian Borrower has outstanding any such Canadian Overdraft Accommodations, the

existence of same shall in the discretion of the Agent be deemed to be a Notice of Borrowing and the Agent may elect to have the provisions of Section 1.2(g) apply.

- (ii) The Canadian Overdraft Accommodations shall be secured by the Agent's Liens in and to the Collateral and shall constitute Canadian Prime Rate Revolving Loans and Obligations hereunder.

1.3 U.S. Revolving Loans.

- (a) Amounts. Subject to the satisfaction of the conditions precedent set forth in Article 8, each U.S. Lender severally, but not jointly, agrees, upon a U.S. Borrower's request from time to time on any Business Day during the period from the Effective Date to the Termination Date, to make revolving loans in U.S. Dollars (the "**U.S. Revolving Loans**") to such U.S. Borrower in amounts not to exceed such U.S. Lender's Pro Rata Share of U.S. Availability. If any Borrowing by a U.S. Borrower would cause the aggregate amount of Borrowings by the U.S. Borrowers to exceed U.S. Availability, the U.S. Lenders may refuse to make or may otherwise restrict the making of U.S. Revolving Loans to such U.S. Borrower as the U.S. Lenders determine until such excess has been eliminated, subject to the Agent's authority, in its sole discretion, to make U.S. Agent Advances pursuant to the terms of Section 1.3(i).
- (b) Procedure for Borrowing.
 - (i) Each Borrowing by a U.S. Borrower shall be made upon U.S. Borrower's irrevocable written notice delivered to the Agent in the form of a notice of borrowing ("**U.S. Notice of Borrowing**") in the form of Exhibit D 2 attached hereto and made a part hereof, which must be received by the Agent prior to (i) 2:00 p.m. (Toronto time) three (3) Business Days prior to the requested Funding Date (or such shorter notice time of which the Agent has notified the U.S. Borrower), in the case of LIBOR Revolving Loans and (ii) 11:00 a.m. (Toronto time) one (1) Business Day prior to the requested Funding Date, in the case of U.S. Prime Rate Revolving Loans, specifying:
 - (A) the amount of the Borrowing, which in the case of a LIBOR Revolving Loan must equal or exceed \$1,000,000 (and increments of \$500,000 in excess of such amount);
 - (B) the requested Funding Date, which must be a Business Day;
 - (C) whether the U.S. Revolving Loans requested are to be U.S. Prime Rate Revolving Loans or LIBOR Revolving Loans (and if not specified, it shall be deemed a request for a U.S. Prime Rate Revolving Loan); and

- (D) the duration of the LIBOR Interest Period for LIBOR Revolving Loans (and if not specified, it shall be deemed a request for a LIBOR Interest Period of one month);
 - (ii) After giving effect to any Borrowing, there may not be more than five (5) different LIBOR Interest Periods in effect for LIBOR Revolving Loans to the U.S. Borrowers.
 - (iii) U.S. Borrowers may give the Agent telephonic or electronic notice of such request for advances to the U.S. Designated Account for U.S. Borrowers on or before the deadline set forth above, such notice shall be confirmed in writing on the same day, by delivery to Agent of a U.S. Notice of Borrowing confirming the same. The Agent at all times shall be entitled to rely on such telephonic or electronic notice in making such U.S. Revolving Loans, regardless of whether any written confirmation is received.
 - (iv) No U.S. Borrower shall have the right to request a LIBOR Revolving Loan while a Default or Event of Default has occurred and is continuing.
- (c) Reliance upon Authority. Prior to the Effective Date, a U.S. Borrower (or the Canadian Borrower on behalf of each such U.S. Borrower) shall deliver to the Agent a notice setting forth the account for such U.S. Borrower (each, a "U.S. Designated Account") to which the Agent is authorized to transfer the proceeds of the U.S. Revolving Loans requested hereunder by such U.S. Borrower. A U.S. Borrower (or Canadian Borrower on behalf of such U.S. Borrower) may designate a replacement account from time to time by written notice to the Agent in the form set out in Exhibit F-2 duly executed by an officer of the Canadian Borrower. All such U.S. Designated Accounts must be reasonably satisfactory to the Agent. The Agent is entitled to rely conclusively on any person's request for U.S. Revolving Loans on behalf of a U.S. Borrower, so long as the proceeds thereof are to be transferred to a U.S. Designated Account. The Agent has no duty to verify the identity of any individual representing himself or herself as a person authorized by any U.S. Borrower to make such requests on its behalf.
- (d) No Liability. The Agent shall not incur any liability to U.S. Borrowers as a result of acting upon any notice referred to in Sections 1.3(b) and 1.3(c), which the Agent believes in good faith to have been given by an officer or other person duly authorized by any U.S. Borrower to request U.S. Revolving Loans on its behalf. The crediting of U.S. Revolving Loans to a U.S. Designated Account conclusively establishes the obligation of such U.S. Borrower to repay such U.S. Revolving Loans as provided herein.
- (e) Notice Irrevocable. Any U.S. Notice of Borrowing (or telephonic or electronic notice in lieu thereof) made pursuant to Section 1.3(b) shall be irrevocable. The U.S. Borrowers shall be bound to borrow the funds requested therein in accordance therewith.
- (f) Intentionally deleted

(g) Making of U.S. Revolving Loans. Promptly after receipt of a U.S. Notice of Borrowing or telephonic or electronic notice in lieu thereof, the Agent shall notify the U.S. Lenders by telecopy, telephone or e mail of the requested Borrowing. Each U.S. Lender shall transfer its Pro Rata Share of the requested Borrowing to the Agent in immediately available funds, to the account from time to time designated by the Agent, not later than 2:00 p.m. (Toronto time) on the applicable Funding Date. After the Agent's receipt of all proceeds of such U.S. Revolving Loans, the Agent shall make the proceeds of such U.S. Revolving Loans available to the U.S. Borrower on the applicable Funding Date by, not later than 4:00 p.m. (Toronto time) transferring same day funds to the U.S. Designated Account designated by U.S. Borrower; provided, however, that the amount of U.S. Revolving Loans so made on any date shall not exceed U.S. Availability on such date.

(h) Intentionally deleted

(i) U.S. Agent Advances.

(i) Subject to the limitations set forth below, the Agent, acting through the Bank, is authorized by the U.S. Borrowers and the U.S. Lenders, from time to time in the Agent's sole discretion, while an Event of Default has occurred and is continuing, to make U.S. Prime Rate Revolving Loans to the U.S. Borrowers on behalf of the U.S. Lenders in an aggregate amount outstanding at any time not to exceed \$2,500,000, less the aggregate amount outstanding at such time of U.S. Overdraft Accommodations but not in excess of the Maximum U.S. Revolver Amount, which the Agent, in its reasonable business judgment, deems necessary or desirable (1) to maintain, preserve or protect the Collateral, or any portion thereof, or the U.S. Lenders' rights under any of the Loan Documents, (2) to enhance the likelihood of, or maximize the amount of, repayment of the U.S. Revolving Loans and other Obligations, or (3) to pay any other amount chargeable to U.S. Borrowers pursuant to the terms of this Agreement, including costs, fees and expenses as described in Section 14.7 (any of such advances are herein referred to as "U.S. Agent Advances"); provided, that (A) if there are three Lenders, any two of them may at any time revoke the Agent's authorization to make U.S. Agent Advances and (B) if there are four or more Lenders, the Required Lenders may at any time revoke the Agent's authorization to make U.S. Agent Advances and further provided for greater certainty that Agent shall not be obliged to make any Agent Advances if after giving effect thereto the Bank's U.S. Revolving Credit Commitment would be exceeded. Any such revocation must be in writing and shall become effective prospectively upon the Agent's receipt thereof.

(ii) The U.S. Agent Advances shall be secured by the Agent's Liens in and to the Collateral and shall constitute U.S. Prime Rate Revolving Loans and Obligations hereunder.

(j) U.S. Overdraft Accommodation.

- (i) Subject to the limitations set forth below, the U.S. Cash Management Provider is authorized by the U.S. Borrowers and all Lenders, from time to time in the U.S. Cash Management Provider's sole discretion, to make U.S. Prime Rate Revolving Loans to the U.S. Borrowers on behalf of the U.S. Lenders by permitting U.S. Overdrafts to be created, in an aggregate amount outstanding at any time not to exceed the U.S. Overdraft Accommodation Maximum Amount, less the aggregate amount outstanding at such time of U.S. Agent Advances, but not in excess of the Maximum U.S. Revolver Amount (any of such advances are herein referred to as "**U.S. Overdraft Accommodations**"). If at any time any U.S. Borrower has outstanding any such U.S. Overdraft Accommodations, the existence of same shall in the discretion of the Agent be deemed to be a Notice of Borrowing and the Agent may elect to have the provisions of Section 1.3(g) apply. U.S. Cash Management Provider shall, by the third Business Day of each month, for the immediately preceding month, deliver a report to the Agent outlining the outstanding daily balances during such month, if any, of such U.S. Overdraft Accommodations.
- (ii) The U.S. Overdraft Accommodations shall be secured by the Agent's Liens in and to the Collateral and shall constitute U.S. Prime Rate Revolving Loans and Obligations hereunder.

1.4 Letters of Credit.

(a) Agreement to Issue or Cause to Issue.

- (i) Subject to the terms and conditions of this Agreement, the Agent agrees to (A) cause the Canadian Letter of Credit Issuer to issue for the account of the Canadian Borrower (i) by way of a secure online application system established between Canadian Borrower and Canadian Letter of Credit Issuer on terms and conditions satisfactory to the Canadian Letter of Credit Issuer (the "**Canadian Online LC Accommodation**"), or (ii) by way of direct application to Agent by Canadian Borrower (the "**Canadian Direct LC Accommodation**"), one or more standby or documentary letters of credit or letters of guarantee (each of the foregoing, a "**Canadian Letter of Credit**") and/or (B) provide credit support or other enhancement to a Canadian Letter of Credit Issuer reasonably acceptable to the Agent which issues a Canadian Letter of Credit for the account of the Canadian Borrower (any such credit support or enhancement being herein referred to as a "**Canadian Credit Support**") from time to time during the term of this Agreement.
- (ii) Subject to the terms and conditions of this Agreement, the Agent agrees to (A) cause the U.S. Letter of Credit Issuer to issue for the account of the U.S. Borrowers (i) by way of a secure online application system established between U.S. Borrowers and U.S. Letter of Credit Issuer on

terms and conditions satisfactory to the U.S. Letter of Credit Issuer (the "**U.S. Online LC Accommodation**"), or (ii) by way of direct application to Agent by any U.S. Borrower (the "**U.S. Direct LC Accommodation**"), one or more standby or documentary letters of credit or letters of guarantee (each of the foregoing, a "**U.S. Letter of Credit**") and/or (B) provide credit support or other enhancement to a U.S. Letter of Credit Issuer reasonably acceptable to the Agent which issues a U.S. Letter of Credit for the account of a U.S. Borrower (any such credit support or enhancement being herein referred to as a "**U.S. Credit Support**") from time to time during the term of this Agreement.

- (b) Amounts; Outside Expiration Date. The Agent shall not have any obligation to issue or cause to be issued, nor shall any Lender have an obligation to participate in, any Letter of Credit or to provide Credit Support for any Letter of Credit at any time if: (i) (x) in the case of a Canadian Letter of Credit, the maximum available amount of the requested Canadian Letter of Credit is greater than, as regards the Canadian Direct LC Accommodation, the Unused Canadian Letter of Credit Subfacility at such time and, as regards the Canadian Online LC Accommodation, the Unused Canadian Online LC Accommodation at such time; and (y) in the case of a U.S. Letter of Credit, the maximum available amount of the requested U.S. Letter of Credit is greater than, as regards the U.S. Direct LC Accommodation, the Unused U.S. Letter of Credit Subfacility at such time and, as regards the U.S. Online LC Accommodation, the Unused U.S. Online LC Accommodation at such time; (ii) the maximum available amount of the requested Letter of Credit and all commissions, fees, and charges due from the requesting Borrower in connection with the opening thereof (to the extent such commissions, fees and charges are not paid in cash prior to or at the time of the opening thereof) would exceed U.S. Availability or Canadian Availability, as applicable, at such time; or (iii) such Letter of Credit has an expiration date (inclusive of any acceptance period) on or after the Stated Termination Date or more than 12 months from the date of issuance; for the avoidance of doubt, this provision does not apply to any "evergreen" or automatic renewal provision; provided, however, no such automatic renewal shall extend beyond the Stated Termination Date. With respect to any Letter of Credit which contains any "evergreen" or automatic renewal provision, each applicable Lender shall be deemed to have consented to any such extension or renewal unless any such Lender shall have provided to the Agent written notice that it declines to consent to any such extension or renewal at least thirty (30) days prior to the date on which the applicable Letter of Credit Issuer is entitled to decline to extend or renew such Letter of Credit. If all of the requirements of this Section 1.4 are met and no Default or Event of Default has occurred and is continuing, no applicable Lender shall decline to consent to any such extension or renewal.
- (c) Other Conditions. In addition to conditions precedent contained in Article 8, the obligation of the Agent to issue or to cause to be issued any Letter of Credit or to provide Credit Support for any Letter of Credit is subject to the following conditions precedent having been satisfied in a manner reasonably satisfactory to the Agent:

- (i) The applicable Borrower shall have delivered to the applicable Letter of Credit Issuer, at such times and in such manner as such Letter of Credit Issuer may prescribe, an application in form and substance satisfactory to such Letter of Credit Issuer and reasonably satisfactory to the Agent for the issuance of the Letter of Credit and such other documents as may be reasonably required pursuant to the terms thereof in connection with such issuance, and the form, terms and purpose of the proposed Letter of Credit shall be reasonably satisfactory to the Agent and the applicable Letter of Credit Issuer; and
- (ii) As of the date of issuance, no order of any court, arbitrator or Governmental Authority shall purport by its terms to enjoin or restrain money center banks generally from issuing letters of credit of the type and in the amount of the proposed Letter of Credit, and no law, rule or regulation applicable to money center banks generally and no request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over money center banks generally shall prohibit, or request that the proposed Letter of Credit Issuer refrain from, the issuance of letters of credit generally or the issuance of such Letters of Credit.

(d) Issuance of Letters of Credit.

- (i) Request for Issuance. When requesting the issuance of a U.S. Letter of Credit pursuant to the U.S. Direct LC Accommodation or the issuance of a Canadian Letter of Credit pursuant to the Canadian Direct LC Accommodation, the Borrower for whose account the Letter of Credit is to be issued must notify the Agent of such requested Letter of Credit at least two (2) Business Days prior to the proposed issuance date. Such notice shall be irrevocable and must specify the original face amount of the Letter of Credit requested, the Business Day of issuance of such requested Letter of Credit, whether such Letter of Credit may be drawn in a single or in partial draws, the Business Day on which the requested Letter of Credit is to expire, the purpose for which such Letter of Credit is to be issued, and the beneficiary of the requested Letter of Credit. The applicable Borrower shall attach to such notice the proposed form of the Letter of Credit. As regards the Canadian Online LC Accommodation, the Canadian Borrower shall request a Letter of Credit in accordance with the terms and conditions set forth in the agreements between the Canadian Borrower and the Canadian Letter of Credit Issuer, in connection therewith. As regards the U.S. Online LC Accommodation, the U.S. Borrower shall request a Letter of Credit in accordance with the terms and conditions set forth in the agreements between the U.S. Borrower and the U.S. Letter of Credit Issuer, in connection therewith.
- (ii) Responsibilities of the Agent; Issuance. As of the Business Day immediately preceding the requested issuance date of the Letter of Credit, the Agent shall determine the amount of the applicable Unused

Canadian Letter of Credit Subfacility, the Unused Canadian Online LC Accommodation, the Unused U.S. Letter of Credit Subfacility or the Unused U.S. Online LC Accommodation, as applicable, and applicable Availability as of such date. If (A) the face amount of the requested Letter of Credit is less than the Canadian Unused Letter of Credit Subfacility, the Unused Canadian Online LC Accommodation, the Unused U.S. Letter of Credit Subfacility or the Unused U.S. Online LC Accommodation, as applicable, and (B) the amount of such requested Letter of Credit and all commissions, fees, and charges due from the requesting Borrower in connection with the opening thereof (to the extent such commissions, fees and charges are not paid in cash prior to or at the time of the opening thereof) would not exceed applicable Availability, the Agent shall cause the applicable Letter of Credit Issuer to issue the requested Letter of Credit on the requested issuance date so long as the other conditions hereof are met.

(iii) No Extensions or Amendment. The Agent shall not be obligated to cause the applicable Letter of Credit Issuer to extend or amend any Letter of Credit issued pursuant hereto unless the requirements of this Section 1.4 are met as though a new Letter of Credit were being requested and issued.

(e) Payments Pursuant to Letters of Credit. Each Borrower agrees to reimburse immediately the applicable Letter of Credit Issuer for any draw under any Letter of Credit issued for the account of such Borrower and the Agent for the account of the applicable Lenders upon any payment pursuant to any Credit Support related to such Letter of Credit, and to pay the applicable Letter of Credit Issuer the amount of all other charges and fees payable to such Letter of Credit Issuer in connection with such Letter of Credit immediately when due, irrespective of any claim, setoff, defence or other right which such Borrower may have at any time against such Letter of Credit Issuer or any other Person. Each Borrower hereby irrevocably authorizes (x) Royal Bank, as Canadian Letter of Credit Issuer to debit the respective Canadian or any other bank account (including any deposit, disbursement or operating account, other than any Receipt Account) of the Canadian Borrower for the purpose of paying all amounts due by the Canadian Borrower from time to time for each drawing under any Letter of Credit, including all charges and fees pursuant to such issuance or amendment, and (y) the U.S. Cash Management Provider, if such entity is also the U.S. Letter of Credit Issuers to debit the respective U.S. or any other bank account (including any deposit, disbursement or operating account, other than any Receipt Account) of any U.S. Borrower for the purpose of paying all amounts due by such U.S. Borrower from time to time for each drawing under any Letter of Credit, including all charges and fees pursuant to such issuance or amendment. Furthermore, each Borrower hereby irrevocably authorizes the Agent, at its option, to (i) debit the respective Canadian or U.S. Designated Account or any other bank account (including any deposit, disbursement or operating account, other than any Receipt Account) of the Canadian Borrower or U.S. Borrowers, or (ii) charge the Loan Account for the purpose of paying all amounts due by the

Canadian Borrower or U.S. Borrowers from time to time to a Letter of Credit Issuer for each drawing under any Letter of Credit, including all charges and fees pursuant to such issuance or amendment of letters of Credit. Each drawing under any Canadian Letter of Credit shall constitute a request by the Canadian Borrower to the Agent for a Borrowing of a Canadian Prime Rate Revolving Loan in the amount of such drawing. Each drawing under any U.S. Letter of Credit shall constitute a request by the U.S. Borrower for whose account such U.S. Letter of Credit was issued to the Agent for a Borrowing of a U.S. Prime Rate Revolving Loan in the amount of such drawing. In each case, the Funding Date with respect to such Borrowing shall be the date of such drawing.

(f) Indemnification; Exoneration; Power of Attorney.

- (i) Indemnification. In addition to amounts payable as elsewhere provided in this Section 1.4, each Borrower agrees to protect, indemnify, pay and hold harmless each Letter of Credit Issuer, the Lenders and the Agent from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable attorneys' fees) which any such indemnified Person may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit for the account of such Borrower or the provision of any Credit Support or enhancement in connection therewith, except to the extent they are found by a final decision of a court of competent jurisdiction to have resulted from such indemnified Person's, as the case may be, gross negligence, wilful misconduct or material breach of any Loan Document. The Borrowers' obligations under this Section shall survive payment of all other Obligations.
- (ii) Assumption of Risk by the Borrowers. As among the Borrowers, each Letter of Credit Issuer, the Lenders and the Agent, each Borrower assumes all risks of the acts and omissions of, or misuse of any of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Letter of Credit Issuer, the Lenders and the Agent shall not be responsible for: (A) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any officer or authorized signatory of any Borrower in connection with the application for and issuance of and presentation by a beneficiary of drafts with respect to any drawing of any of the Letters of Credit believed in good faith by the applicable Letter of Credit Issuer and Agent to be a valid, sufficient and correct document, even if it should prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (B) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, believed in good faith by the Agent and the applicable Letter of Credit Issuer to be a valid, sufficient and correct document which may prove to be invalid or ineffective for any reason; (C) the failure of the beneficiary of any Letter of Credit to comply

strictly with conditions required in order to draw upon such Letter of Credit; (D) errors, omissions, interruptions, or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (E) errors in interpretation of technical terms; (F) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any Letter of Credit or of the proceeds thereof; (G) the misapplication by the beneficiary of any Letter of Credit of the proceeds of any drawing under such Letter of Credit; (H) any consequences arising from causes beyond the control of the applicable Lenders or the Agent, including any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Authority or (I) the applicable Letter of Credit Issuer's honour of a draw for which the draw or any certificate fails to comply, in any respect, strictly with the terms of the Letter of Credit. None of the foregoing shall affect, impair or prevent the vesting of any rights or powers of any Letter of Credit Issuer, the Agent or any Lender under this Section 1.4(f).

- (iii) Exoneration. Without limiting the foregoing, no action or omission whatsoever by any Letter of Credit Issuer, the Agent or any Lender shall result in any liability of any Letter of Credit Issuer, the Agent or any Lender to any Borrower, or relieve any Borrower of any of its obligations hereunder to any such Person, under or with respect to any Letter of Credit or Credit Support issued or provided for the account of any Borrower.
- (iv) Intentionally deleted.
- (v) Account Party. Each Borrower hereby authorizes and directs each applicable Letter of Credit Issuer to name such Borrower as the "Account Party" therein and to deliver to the Agent all instruments, documents and other writings and property received by such Letter of Credit Issuer pursuant to the Letter of Credit issued or to be issued for the account of such Borrower, and to accept and rely upon the Agent's instructions and agreements with respect to all matters arising in connection with such Letter of Credit or the application therefor.
- (g) Supporting Letter of Credit; Cash Collateral. If, notwithstanding the provisions of Section 1.4(b) and Section 10.1, any Letter of Credit or Credit Support is outstanding upon the termination of this Agreement, then upon such termination each applicable Borrower shall deposit with the Agent, for the ratable benefit of the Agent and the applicable Lenders, with respect to each Letter of Credit issued for the account of such Borrower or related Credit Support then outstanding, a standby letter of credit (a "**Supporting Letter of Credit**") in form and substance satisfactory to the Agent, issued by an issuer satisfactory to the Agent in an amount equal to 105% of the greatest amount for which such Letter of Credit or such Credit Support may be drawn plus any fees and expenses associated with such Letter of Credit or such Credit Support, under which Supporting Letter of

Credit the Agent is entitled to draw amounts necessary to reimburse the Agent and the applicable Lenders for payments to be made by the Agent and such Lenders under such Letter of Credit or Credit Support and any fees and expenses associated with such Letter of Credit or Credit Support. Such Supporting Letter of Credit shall be held by the Agent, for the ratable benefit of the Agent and the applicable Lenders, as security for, and to provide for the payment of, the aggregate undrawn amount of such Letters of Credit or such Credit Support remaining outstanding.

- (h) Paramourncy. In the event that any provisions of any Letter of Credit application or ancillary document under such applications contradict, are inconsistent with and are otherwise incapable of being construed in conjunction with the provisions of this Agreement, the provisions of this Agreement, as applicable, shall take precedence over those contained in such application and ancillary documentation.

1.5 Bank Products and Hedge Agreements.

Canadian Borrower and/or U.S. Borrowers may request and the Agent may, in its sole and absolute discretion, (x) arrange for such Borrower to obtain Bank Products, including Overdrafts (provided such Overdrafts are accounted for as Canadian Overdraft Accommodations), from Royal Bank or Royal Bank's Affiliates and/or (y) arrange for the U.S. Borrowers to obtain Bank Products that are cash management products (inclusive of the U.S. Overdrafts (provided such U.S. Overdrafts are accounted for as a U.S. Overdraft Accommodations)) from the U.S. Cash Management Provider (JPMorgan Chase Bank, N.A., as of the Effective Date (provided it is a Lender hereunder) and at all times when JPMorgan Chase Bank, N.A. is not the U.S. Cash Management Provider, a U.S. Lender hereunder) (the "**U.S. Cash Management Provider**") and/or (z) arrange for Borrowers to obtain Hedge Agreements from Lenders or their Affiliates. If Bank Products are provided by Royal Bank or an Affiliate of Royal Bank to Canadian Borrower and U.S. Borrowers, and/or Bank Products that are cash management products are provided by the U.S. Cash Management Provider to U.S. Borrowers, and/or Hedge Agreements are provided by Lenders or their Affiliates to any Borrower, Canadian Borrower and U.S. Borrowers, as applicable, agree to indemnify and hold the Agent, Royal Bank, the U.S. Cash Management Provider and the other Lenders harmless from any and all costs and obligations now or hereafter incurred by the Agent, Royal Bank, the U.S. Cash Management Provider or any other Lender which arise from any indemnity given by the Agent, Royal Bank, the U.S. Cash Management Provider or such other Lender, as the case may be, to its Affiliates related to such Bank Products; provided, however, (i) the foregoing indemnity shall not extend to any costs or obligations with respect to a Bank Product or Hedge Agreement provided by an Affiliate of Royal Bank or an Affiliate of such Lender for which Canadian Borrower or U.S. Borrowers, as applicable, would not be liable (without giving effect to the benefit of any setoff, defence or counterclaim available to any Borrower) and (ii) nothing contained herein is intended to limit Canadian Borrower's or any U.S. Borrower's rights, with respect to Royal Bank or its Affiliates, the U.S. Cash Management Provider or Lenders or their Affiliates, if any, which arise as a result of the execution of documents by and between Canadian Borrower and Royal Bank, which relate to Bank Products or between U.S. Borrowers and U.S. Cash Management Provider which relate to Bank Products that are cash management products or between Borrowers and Lenders which relate to Hedge Agreements. The agreements contained in this Section shall survive termination of this Agreement as to Bank Products outstanding on

the date of such termination. Each of the Canadian Borrower and U.S. Borrower acknowledges and agrees that the obtaining of the foregoing Bank Products from Royal Bank or any of its Affiliates or from the U.S. Cash Management Provider or from Lenders or their Affiliates (a) is in the sole and absolute discretion of Royal Bank and its Affiliates, the U.S. Cash Management Provider and any such Lender and its Affiliates, (b) is subject to all rules and regulations of Royal Bank or the Affiliate of Royal Bank, the U.S. Cash Management Provider or Lenders or their Affiliates, as the case may be, and (c) shall be for the account of the Borrower from whom such Bank Product may be provided (it being agreed that the Borrowers shall be jointly and severally liable for same).

Notwithstanding any other terms hereof:

- (a) The Canadian Borrower (in consultation with the particular Lender) may request that the Agent, and the Agent shall from time to time, allocate portions of the Hedging Sublimit between the Lenders (and their respective Affiliates) (each an "Allocated Amount"); provided that (y) the aggregate of all Allocated Amounts does not exceed the Hedging Sublimit, and (z) the Allocated Amount of a Lender (and its Affiliates) may not be reduced below such Lender's (and its Affiliates) Hedging Amount last reported to the Agent in writing; and
- (b) No distribution under Section 3.7 (or otherwise) shall be made in respect of any Hedging Amount or other amounts owing under Hedging Agreements due to any Lender in excess of the lesser of (i) the Hedging Amount previously advised to the Agent in writing and (ii) the Allocated Amount of such Lender, until all other Obligations (other than all such excesses) due to the Agent and Lenders have first been paid.

1.6 Adjustment of Overdraft Accommodations and LC Accommodations

- (a) The Canadian Borrower may, by written notice to the Agent, request that the Agent and the Lenders increase or decrease, respectively (i) the Canadian Overdraft Accommodation Maximum Amount and the Canadian Online LC Accommodation Maximum Amount, and/or (ii) the U.S. Overdraft Accommodation Maximum Amount and the U.S. Online LC Accommodation Maximum Amount (in each case, an "**Overdraft Accommodation Adjustment**"), which request shall be granted provided that each of the following conditions are satisfied: (i) only six Overdraft Accommodation Adjustments may be made in any Fiscal Year (such adjustment to be made within 30 days of the delivery of the Responsible Officer's Certificate contemplated by Section 5.2(e) (with respect to delivery under Section 5.2(c)) and a Borrowing Base Certificate contemplated by Section 5.2(k), in each case, for the most recently ended month, (ii) the written request for an Overdraft Accommodation Adjustment must be received by the Agent at least three (3) Business Days prior to the requested date (which shall be a Business Day) of the effectiveness of such Overdraft Accommodation Adjustment (such date of effectiveness, the "**Overdraft Adjustment Date**"), (iii) no Default or Event of Default shall have occurred and be continuing as of the date of such request or both immediately before and after giving effect thereto as of the Overdraft Adjustment Date, (iv) any increase in the

(w) Canadian Overdraft Accommodation Maximum Amount shall result in a Dollar-for-Dollar decrease in the Canadian Online LC Accommodation Maximum Amount pursuant to this Section, (x) Canadian Online LC Accommodation Maximum Amount shall result in a Dollar-for-Dollar decrease in the Canadian Overdraft Accommodation Maximum Amount pursuant to this Section, (y) U.S. Overdraft Accommodation Maximum Amount shall result in a Dollar for Dollar decrease in the U.S. Online LC Accommodation Maximum Amount pursuant to this Section, and (z) U.S. Online LC Accommodation Maximum Amount shall result in a Dollar-for-Dollar decrease in the U.S. Overdraft Accommodation Maximum Amount pursuant to this Section, (v) the aggregate of (y) the Canadian Overdraft Accommodation Maximum Amount plus the Canadian Online LC Accommodation Maximum Amount, after any such adjustments, shall not exceed \$10,000,000, and (z) the U.S. Overdraft Accommodation Maximum Amount plus the U.S. Online LC Accommodation Maximum Amount, after any such adjustments, shall not exceed \$10,000,000 (vi) no Overdraft Accommodation Adjustment shall be permitted if, after giving effect thereto, an overadvance (other than Overdraft Accommodations) would exist, and (vii) the Agent shall have received a certificate of the Canadian Borrower dated as of the Overdraft Adjustment Date certifying the satisfaction of all such conditions (including calculations thereof in reasonable detail) and otherwise in form and substance reasonably satisfactory to the Agent. Any such Overdraft Accommodation Adjustment shall be in an amount equal to \$1,000,000 or a multiple thereof.

- (b) If the conditions set forth in clause (a) above are not satisfied on the applicable Overdraft Adjustment Date (or, to the extent such conditions relate to an earlier date, such earlier date), the Agent shall notify the Canadian Borrower in writing that the requested Overdraft Accommodation Adjustment will not be effectuated; provided, however, that the Agent shall in all cases be entitled to rely (without liability) on the certificate delivered by the Canadian Borrower pursuant to clause (a) (vii) immediately above in making its determination as to the satisfaction of such conditions.

1.7 [Intentionally Deleted].

1.8 Adjustment of Revolver Commitments.

- (a) The Canadian Borrower may, by written notice to the Agent, request that the Agent and the Lenders increase or decrease the Maximum Canadian Revolver Amount (a "**Canadian Revolver Commitment Adjustment**"), which request shall be granted provided that each of the following conditions are satisfied: (i) only two Canadian Revolver Commitment Adjustments may be made in any Fiscal Year (such adjustment to be made within 30 days of the delivery of the Responsible Officer's Certificate contemplated by Section 5.2(e) (with respect to delivery under Section 5.2(c)) and a Borrowing Base Certificate contemplated by Section 5.2(k), in each case, for the most recently ended month, (ii) the written request for a Canadian Revolver Commitment Adjustment must be received by the Agent at least three (3) Business Days prior to the requested date (which shall be a Business Day) of the effectiveness of such Canadian Revolver Commitment

Adjustment (such date of effectiveness, the "Adjustment Date"), (iii) no Default or Event of Default shall have occurred and be continuing as of the date of such request or both immediately before and after giving effect thereto as of the Adjustment Date, (iv) any increase in the Maximum Canadian Revolver Amount shall result in a Dollar-for-Dollar decrease in the Maximum U.S. Revolver Amount, and vice-versa for any decrease in the Maximum Canadian Revolving Amount pursuant to this Section, (v) in no event shall the Canadian Revolving Credit Commitment plus the U.S. Revolving Credit Commitment exceed the Maximum Revolver Amount, (vi) each of the Maximum U.S. Revolver Amount and Maximum Canadian Revolver Amount shall at no time exceed, after any such adjustments, \$150,000,000, (vii) no Canadian Revolver Commitment Adjustment shall be permitted if, after giving effect thereto, an overadvance (other than Overdraft Accommodations) would exist, and (viii) the Agent shall have received a certificate of the Canadian Borrower dated as of the Adjustment Date certifying the satisfaction of all such conditions (including calculations thereof in reasonable detail) and otherwise in form and substance reasonably satisfactory to the Agent. Any such Canadian Revolver Commitment Adjustment shall be in an amount equal to \$5,000,000 or a multiple of \$1,000,000 in excess thereof and shall concurrently increase or reduce, as applicable, (1) the aggregate U.S. Revolving Credit Commitments then in effect pro rata among the U.S. Lenders and (2) the aggregate Canadian Revolving Credit Commitments then in effect pro rata among the Canadian Lenders. After giving effect to any Canadian Revolver Commitment Adjustment, the Canadian Revolving Credit Commitment of each Canadian Lender shall be equal to such Canadian Lender's Pro Rata Share of the amount of the Maximum Canadian Revolver Amount.

- (b) The Agent shall promptly inform the Lenders of any request for a Canadian Revolver Commitment Adjustment made by the Loan Party Representatives. If the conditions set forth in clause (a) above are not satisfied on the applicable Adjustment Date (or, to the extent such conditions relate to an earlier date, such earlier date), the Agent shall notify the Canadian Borrower in writing that the requested Canadian Revolver Commitment Adjustment will not be effectuated; provided, however, that the Agent shall in all cases be entitled to rely (without liability) on the certificate delivered by the Canadian Borrower pursuant to clause (a) (vii) immediately above in making its determination as to the satisfaction of such conditions. On each Adjustment Date, the Agent shall notify the Lenders and the Canadian Borrower, on or before 3:00 p.m. (Toronto time), by telecopier, e-mail or telex, of the occurrence of the Canadian Revolver Commitment Adjustment to be effected on such Adjustment Date, the amount of Revolving Loans held by each Lender as a result thereof, the amount of the U.S. Revolving Credit Commitment of each U.S. Lender and the amount of the Canadian Revolving Credit Commitment of each Canadian Lender as a result thereof.

ARTICLE 2 – INTEREST AND FEES

2.1 Interest.

- (a) Interest Rates. All outstanding Obligations of the Canadian Borrower (other than Obligations with respect to Bank Products, which shall be governed by the documents relating thereto) shall bear interest on the unpaid principal amount thereof (including, to the extent permitted by law, on interest thereon not paid when due) from the date made or incurred until paid in full in cash at a rate determined by reference to the Canadian Prime Rate, the BA Rate, the Canadian Base Rate or the LIBOR Rate plus the Applicable Margins as set forth in Annex A to this Agreement, but not to exceed the Maximum Rate. If at any time Canadian Revolving Loans are outstanding with respect to which the Canadian Borrower has not delivered to the Agent a notice specifying the basis for determining the interest rate applicable thereto in accordance herewith, those Canadian Revolving Loans shall bear interest at a rate determined by reference to the Canadian Prime Rate if such Canadian Revolving Loans are denominated in Dollars and by reference to the Canadian Base Rate if such Canadian Revolving Loans are denominated in U.S. Dollars, in each instance, until notice to the contrary has been given to the Agent in accordance with this Agreement and such notice has become effective. All outstanding Obligations of the U.S. Borrower (other than Obligations with respect to Bank Products which shall be governed by the documents relating thereto) shall bear interest on the unpaid principal amount thereof (including, to the extent permitted by law, on interest thereon not paid when due) from the date made or incurred until paid in full in cash at a rate determined by reference to the U.S. Prime Rate or the LIBOR Rate plus the Applicable Margins as set forth in Annex A to this Agreement, but not to exceed the Maximum Rate. If at any time U.S. Revolving Loans are outstanding with respect to which the U.S. Borrower has not delivered to the Agent a notice specifying the basis for determining the interest rate applicable thereto in accordance herewith, those U.S. Revolving Loans shall bear interest at a rate determined by reference to the U.S. Prime Rate until notice to the contrary has been given to the Agent in accordance with this Agreement and such notice has become effective. Except as otherwise provided herein, the outstanding Obligations (other than Obligations with respect to Bank Products, which shall be governed by the documents relating thereto) shall bear interest as follows:
- (i) For all Canadian Prime Rate Revolving Loans and other Obligations of the Canadian Borrower (other than LIBOR Revolving Loans, BA Equivalent Revolving Loans and Canadian Base Rate Revolving Loans) at a fluctuating per annum rate equal to the Canadian Prime Rate plus the Applicable Margin;
 - (ii) For all Canadian Base Rate Revolving Loans at a fluctuating per annum rate equal to the Canadian Base Rate plus the Applicable Margin;

- (iii) For all U.S. Prime Rate Revolving Loans and other Obligations of the U.S. Borrower (other than LIBOR Revolving Loans) at a fluctuating per annum rate equal to the U.S. Prime Rate plus the Applicable Margin;
- (iv) For all LIBOR Revolving Loans at a per annum rate equal to the LIBOR Rate plus the Applicable Margin; and
- (v) For all BA Equivalent Revolving Loans at a per annum rate equal to the BA Rate plus the Applicable Margin.

Each change in the U.S. Prime Rate shall be reflected in the interest rate applicable to U.S. Prime Rate Revolving Loans and other Obligations bearing interest based on the U.S. Prime Rate as of the effective date of such change, each change in the Canadian Prime Rate shall be reflected in the interest rate applicable to Canadian Prime Rate Revolving Loans and other Obligations bearing interest based on the Canadian Prime Rate as of the effective date of such change and each change in the Canadian Base Rate shall be reflected in the interest rate applicable to Canadian Base Rate Revolving Loans as of the effective date of such change. All interest charges on Canadian Prime Rate Loans, Canadian Base Rate Revolving Loans and BA Equivalent Loans shall be computed on the basis of a year of 365 or 366 days, as applicable, and actual days elapsed. All other interest charges shall be computed on the basis of a year of 360 days and actual days elapsed. U.S. Borrower shall pay to the Agent, for the ratable benefit of the U.S. Lenders, interest accrued on all U.S. Prime Rate Revolving Loans made to such U.S. Borrower in arrears on the fifth day of each month hereafter and on the Termination Date. Each Borrower shall pay to the Agent, for the ratable benefit of the U.S. Lenders or the Canadian Lenders, as applicable, interest on all LIBOR Revolving Loans made to such Borrower in arrears on each LIBOR Interest Payment Date. The Canadian Borrower shall pay to the Agent, for the ratable benefit of the Canadian Lenders, (i) interest accrued on all Canadian Prime Rate Revolving Loans and all Canadian Base Rate Revolving Loans in arrears on the fifth day of each month hereafter and on the Termination Date and (ii) interest on all BA Equivalent Revolving Loans in arrears on each BA Equivalent Interest Payment Date.

- (b) Default Rate. If any Event of Default occurs and is continuing and the Agent or the Required Lenders in their discretion so elect, then, while any such Event of Default is continuing, and, after notification of the Canadian Borrower and/or the U.S. Borrower, all of the Obligations shall bear interest at the Default Rate applicable thereto.

2.2 Continuation and Conversion Elections.

- (a) Canadian Revolving Loans.
 - (i) The Canadian Borrower may:
 - (A) elect, as of any Business Day, in the case of Canadian Prime Rate Revolving Loans made to the Canadian Borrower to convert any

such Canadian Prime Rate Revolving Loans (or any part thereof in an amount not less than CDN\$1,000,000 or that is in an integral multiple of CDN\$500,000 in excess thereof) into BA Equivalent Revolving Loans;

- (B) elect, as of the last day of the applicable BA Equivalent Interest Period, to continue any BA Equivalent Revolving Loans made to the Canadian Borrower having BA Equivalent Interest Periods expiring on such day (or any part thereof in an amount not less than CDN\$1,000,000 or that is in an integral multiple of CDN\$500,000 in excess thereof);
- (C) elect, as of any Business Day, in the case of Canadian Base Rate Revolving Loans made to the Canadian Borrower to convert any such Canadian Base Rate Revolving Loans (or any part thereof in an amount not less than \$1,000,000 or that is in an integral multiple of \$500,000 in excess thereof) into LIBOR Revolving Loans; or
- (D) elect, as of the last day of the applicable LIBOR Interest Period, to continue any LIBOR Revolving Loans made to the Canadian Borrower having LIBOR Interest Periods expiring on such day (or any part thereof in an amount not less than \$1,000,000 or that is in an integral multiple of \$500,000 in excess thereof);

provided, that if at any time the aggregate amount of BA Equivalent Revolving Loans or LIBOR Revolving Loans in respect of any Borrowing made to the Canadian Borrower is reduced, by payment or prepayment of part thereof, to be less than CDN or U.S., as applicable, \$1,000,000, such BA Equivalent Revolving Loans shall automatically convert into Canadian Prime Rate Revolving Loans and such LIBOR Revolving Loans shall automatically convert into Canadian Base Rate Revolving Loans; provided further that if the notice shall fail to specify the duration of the BA Equivalent Interest Period or the LIBOR Interest Period, such BA Equivalent Interest Period or LIBOR Interest Period shall be one month.

- (ii) The Canadian Borrower shall deliver a notice of continuation/ conversion ("**Canadian Notice of Continuation/Conversion**") in the form of Exhibit E-1 attached hereto and made a part hereof to the Agent not later than 2:00 p.m. (Toronto time) at least three (3) Business Days in advance of the Canadian Continuation/Conversion Date (or such shorter notice time of which the Agent has notified the Canadian Borrower), if the Canadian Revolving Loans of the Canadian Borrower are to be converted into or continued as BA Equivalent Revolving Loans, and at least three (3) Business Days in advance of the Canadian Continuation/Conversion Date (or such shorter notice time of which the Agent has notified the Canadian Borrower), if the Canadian Revolving

Loans of the Canadian Borrower are to be converted into or continued as LIBOR Revolving Loans, and specifying:

- (A) the proposed Canadian Continuation/Conversion Date;
 - (B) the aggregate amount and type of Canadian Revolving Loans of the Canadian Borrower to be converted or renewed;
 - (C) the type of Canadian Revolving Loans resulting from the proposed conversion or continuation; and
 - (D) the duration of the requested BA Equivalent Interest Period or LIBOR Interest Period, provided, however, the Canadian Borrower may not select a BA Equivalent Interest Period or LIBOR Interest Period that ends after the Stated Termination Date.
- (iii) If upon the expiration of any BA Equivalent Interest Period applicable to a BA Equivalent Revolving Loan of the Canadian Borrower, the Canadian Borrower has failed to select timely a new BA Equivalent Interest Period to be applicable to such BA Equivalent Revolving Loan or if any Default or Event of Default then exists and is continuing, the Canadian Borrower shall be deemed to have elected to convert such BA Equivalent Revolving Loan into a Canadian Prime Rate Revolving Loan effective as of the expiration date of such BA Equivalent Interest Period.
- (iv) If upon the expiration of any LIBOR Interest Period applicable to a LIBOR Revolving Loan of the Canadian Borrower, the Canadian Borrower has failed to select timely a new LIBOR Interest Period to be applicable to such LIBOR Revolving Loan or if any Default or Event of Default then exists and is continuing, the Canadian Borrower shall be deemed to have elected to convert such LIBOR Revolving Loan into a Canadian Base Rate Revolving Loan effective as of the expiration date of such LIBOR Interest Period.
- (v) The Agent will promptly notify each Canadian Lender of its receipt of a Canadian Notice of Continuation/Conversion. All conversions and continuations shall be made ratably according to the respective outstanding principal amounts of the Canadian Revolving Loans with respect to which the notice was given held by each Canadian Lender.
- (vi) There may not be more than ten (10) different BA Equivalent Interest Periods in effect hereunder at any time.
- (vii) There may not be more than ten (10) different LIBOR Interest Periods in effect hereunder at any time (including those related to U.S. Revolving Loans).

(b) U.S. Revolving Loans.

(i) U.S. Borrowers may:

- (A) elect, as of any Business Day, in the case of U.S. Prime Rate Revolving Loans made to U.S. Borrowers to convert any such U.S. Prime Rate Revolving Loans (or any part thereof in an amount not less than \$1,000,000 or that is in an integral multiple of \$500,000 in excess thereof) into LIBOR Revolving Loans; or
- (B) elect, as of the last day of the applicable LIBOR Interest Period, to continue any LIBOR Revolving Loans made to U.S. Borrowers having LIBOR Interest Periods expiring on such day (or any part thereof in an amount not less than \$1,000,000 or that is in an integral multiple of \$500,000 in excess thereof);

provided, that if at any time the aggregate amount of LIBOR Revolving Loans in respect of any Borrowing made to U.S. Borrowers is reduced, by payment or prepayment of part thereof, to be less than \$1,000,000, such LIBOR Revolving Loans shall automatically convert into U.S. Prime Rate Revolving Loans; provided further that if the notice shall fail to specify the duration of the LIBOR Interest Period, such LIBOR Interest Period shall be one month.

(ii) U.S. Borrowers shall deliver a notice of continuation/conversion ("U.S. Notice of Continuation/Conversion") in the form of Exhibit E-2 attached hereto and made a part hereof to the Agent not later than 2:00 p.m. (Toronto time) at least three (3) Business Days in advance of the U.S. Continuation/Conversion Date (or such shorter notice time of which the Agent has notified the U.S. Borrower), if the U.S. Revolving Loans of any U.S. Borrower are to be converted into or continued as LIBOR Revolving Loans and specifying:

- (A) the proposed U.S. Continuation/Conversion Date;
- (B) the aggregate amount of U.S. Revolving Loans of such U.S. Borrower to be converted or renewed;
- (C) the type of U.S. Revolving Loans resulting from the proposed conversion or continuation; and
- (D) the duration of the requested LIBOR Interest Period, provided, however, U.S. Borrower may not select a LIBOR Interest Period that ends after the Stated Termination Date.

(iii) If upon the expiration of any LIBOR Interest Period applicable to a LIBOR Revolving Loan of a U.S. Borrower, U.S. Borrower has failed to select timely a new LIBOR Interest Period to be applicable to such LIBOR Revolving Loan or if any Default or Event of Default then exists

and is continuing, such U.S. Borrower shall be deemed to have elected to convert such LIBOR Revolving Loan into a U.S. Prime Rate Revolving Loan effective as of the expiration date of such LIBOR Interest Period.

- (iv) The Agent will promptly notify each U.S. Lender of its receipt of a U.S. Notice of Continuation/Conversion. All conversions and continuations shall be made ratably according to the respective outstanding principal amounts of the U.S. Revolving Loans with respect to which the notice was given held by each U.S. Lender.
- (v) There may not be more than five (5) different LIBOR Interest Periods in effect hereunder, for LIBOR Revolving Loans to the U.S. Borrowers, at any time.

2.3 Maximum Interest Rate.

- (a) In no event shall any interest rate provided for hereunder exceed the maximum rate legally chargeable by any Lender under applicable law for such Lender with respect to loans of the type provided for hereunder by such Lender (the "Maximum Rate"). If, in any month, any interest rate for any Obligations, absent such limitation, would have exceeded the Maximum Rate for such Obligations, then the interest rate for such Obligations for that month shall be the Maximum Rate.
- (b) If the Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrowers. In determining whether the interest contracted for, charged, or received by the Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable law, (i) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (ii) exclude voluntary prepayments and the effects thereof, and (iii) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

2.4 Certain Fees.

The Borrowers agree, jointly and severally, to pay the Agent when due the fees set forth in the fee letter dated the date hereof by and among, amongst others, the Lead Arranger, the Canadian Borrower and the U.S. Borrowers (the "**Fee Letter**").

2.5 Unused Line Fee.

- (a) On the fifth day of each month and on the Termination Date, the Canadian Borrower agrees to pay to the Agent, for the account of the Canadian Lenders, in accordance with their respective Pro Rata Shares, an unused line fee (the "**Canadian Unused Line Fee**") at a per annum rate equal to * %, times the amount by which the Maximum Canadian Revolver Amount exceeded the sum of the average daily outstanding amount of Canadian Revolving Loans and the

[* Percentage Redacted]

average daily undrawn amount of outstanding Canadian Letters of Credit during the immediately preceding month or shorter period if calculated for the first month hereafter or on the Termination Date. The Canadian Unused Line Fee shall be computed on the basis of a 365 or 366 day year, as applicable, for the actual number of days elapsed and shall accrue daily. All principal payments received by the Agent shall be deemed to be credited to the Canadian Borrower's Loan Account immediately upon receipt for purposes of calculating the Canadian Unused Line Fee pursuant to this Section 2.5(a).

- (b) On the fifth day of each month and on the Termination Date, the U.S. Borrowers agree, to pay to the Agent, for the account of the U.S. Lenders, in accordance with their respective Pro Rata Shares, an unused line fee (the "**U.S. Unused Line Fee**") at a per annum rate equal to * %, times the amount by which the Maximum U.S. Revolver Amount exceeded the sum of the average daily outstanding amount of U.S. Revolving Loans and the average daily undrawn amount of outstanding U.S. Letters of Credit during the immediately preceding month or shorter period if calculated for the first month hereafter or on the Termination Date. The U.S. Unused Line Fee shall be computed on the basis of a 360 day year for the actual number of days elapsed and shall accrue daily. All principal payments received by the Agent shall be deemed to be credited to the applicable U.S. Borrower's Loan Account immediately upon receipt for purposes of calculating the U.S. Unused Line Fee pursuant to this Section 2.5(c).
- (c) The fee percentages set forth in Sections 2.5(a) and (c) shall be adjusted (up or down) prospectively, on a quarterly basis on the date that is the first day of the first calendar month following the calendar month in which Responsible Officer's Certificates (in the form of Exhibit G) are delivered to the Agent pursuant to Section 5.2(e) as at and for the fiscal quarter just ended, as the case may be, based upon the Average Adjusted Aggregate Availability for the Applicable Margin Test Period ending on the last day of such fiscal quarter. If an Event of Default has occurred and is continuing the Unused Line Fees shall, whether or not any default rates also apply, upon notice of such Event of Default by the Agent, revert to the highest fee percentage set forth in Sections 2.5(a) and (c) and during the continuance of any Default or Event of Default no reduction may occur until the first day of the first calendar month following the date on which such Default or Event of Default is waived by the Required Lenders or cured by the Borrowers. If the Responsible Officer's Certificate is not delivered in accordance with Section 5.2(e), the Unused Line Fees shall revert to the highest fee percentage set forth in Sections 2.5(a) and (c) and no reduction may occur until the Business Day following the date on which such Responsible Officer's Certificate is delivered.

2.6 Letter of Credit Fee.

- (a) The Canadian Borrower agrees to pay (x) to the Agent, for the account of the Canadian Lenders, in accordance with their respective Pro Rata Shares (provided, however, that * basis points per annum of such fee is payable to the Canadian Letter of Credit Issuer for its own account), for each Letter of Credit issued for the account of the Canadian Borrower, a fee (the "**Canadian Letter of Credit Fee**")

[* Percentage Redacted]

at a per annum rate equal to the Applicable Margin on LIBOR Revolving Loans in effect from time to time, times the undrawn amount of such Letter of Credit from time to time and (y) to the Canadian Letter of Credit Issuer, the * basis point upfront fee referred to above and all out of pocket costs, fees and expenses incurred or charged by the Canadian Letter of Credit Issuer in connection with the application for, processing of, issuance or extension of, drawing under, or amendment to, any Canadian Letter of Credit. The Canadian Letter of Credit Fee with respect to a Canadian Letter of Credit shall be payable, and shall be paid or caused to be paid, monthly in arrears on the fifth day of each month (provided that, in the Agent's discretion, such fees may be payable, and paid or caused to be paid, on a date prior) following the month in which such Canadian Letter of Credit is issued and on the Termination Date. The Canadian Letter of Credit Fee shall be computed on the basis of a 365 day year for the actual number of days elapsed.

- (b) U.S. Borrowers agree to pay (x) to the Agent, for the account of the U.S. Lenders, in accordance with their respective Pro Rata Shares (provided, however, that basis points per annum of such fee is payable to the U.S. Letter of Credit Issuer for its own account), for each Letter of Credit issued for the account of U.S. Borrowers, a fee (the "**U.S. Letter of Credit Fee**") at a per annum rate equal to the Applicable Margin on LIBOR Revolving Loans in effect from time to time, times the undrawn amount of such Letter of Credit from time to time and (y) to the U.S. Letter of Credit Issuer, the * basis point upfront fee referred to the above and all out of pocket costs, fees and expenses incurred or charged by the U.S. Letter of Credit Issuer in connection with the application for, processing of, issuance or extension of, drawing under, or amendment to, any U.S. Letter of Credit issued for the account of a U.S. Borrower. The U.S. Letter of Credit Fee payable by U.S. Borrowers with respect to a U.S. Letter of Credit issued for the account of U.S. Borrowers shall be payable, and shall be paid or caused to be paid, monthly in arrears on the fifth day of each month following the month in which such U.S. Letter of Credit is issued and on the Termination Date. The U.S. Letter of Credit Fee shall be computed on the basis of a 365 day year for the actual number of days elapsed.

2.7 [Intentionally Deleted].

2.8 Interest Act (Canada).

For purposes of the *Interest Act* (Canada), whenever any interest or fee payable by the Canadian Borrower under this Agreement is calculated using a rate based on a year of 360 days, such rate used pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360 days, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by 360. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement with respect to the Canadian Borrower, and the rates of interest stipulated in this Agreement payable by the Canadian Borrower are intended to be nominal rates and not effective rates or yields. Each Loan Party confirms that it fully understands and is able to calculate the rate of interest applicable to loans, advances, liabilities

[* Percentage Redacted]

and obligations under this Agreement based on the methodology for calculating per annum rates provided for in this Agreement. Each Loan Party hereby irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to this Agreement or any Loan Documents, that the interest payable under this Agreement and the calculation thereof has not been adequately disclosed to such Loan Party as required pursuant to Section 4 of the *Interest Act* (Canada).

ARTICLE 3 – PAYMENTS AND PREPAYMENTS

3.1 Revolving Loans.

- (a) The Canadian Borrower shall repay the outstanding principal balance of the Canadian Revolving Loans, plus all accrued but unpaid interest thereon, on the Termination Date. The Canadian Borrower may prepay Canadian Revolving Loans made to it at any time, and reborrow subject to the terms of this Agreement. In addition, and without limiting the generality of the foregoing, upon demand the Canadian Borrower shall pay to the Agent, for the account of the Canadian Lenders, the amount, without duplication, by which the Aggregate Canadian Revolver Outstandings exceeds the lesser of (x) the Canadian Borrowing Base plus the Canadian U.S. Borrowing Base Utilization and (y) the Maximum Canadian Revolver Amount.
- (b) U.S. Borrower shall repay the outstanding principal balance of the U.S. Revolving Loans made to it, plus all accrued but unpaid interest thereon, on the Termination Date. U.S. Borrower may prepay U.S. Revolving Loans made to it at any time, and reborrow subject to the terms of this Agreement. In addition, and without limiting the generality of the foregoing, upon demand the U.S. Borrower, shall pay to the Agent, for the account of the U.S. Lenders, the amount, without duplication, by which the Aggregate U.S. Revolver Outstandings exceeds the lesser of (x) the U.S. Borrowing Base plus the U.S. Canadian Borrowing Base Utilization and (y) the Maximum U.S. Revolver Amount.

3.2 Termination of Facility.

- (a) The Borrowers may terminate this Agreement upon at least sixty (60) Business Days' notice to the Agent and the Lenders, upon (a) the payment in full of all outstanding Revolving Loans, together with accrued interest thereon, and the cancellation and return of all outstanding Letters of Credit (or, to the extent not so cancelled and returned, the deposit with the Agent of Supporting Letters of Credit for such outstanding Letters of Credit (or related Credit Support) in accordance with and as required by Section 1.4(g)), (b) the payment in full in cash of all reimbursable expenses and other Obligations, and (c) with respect to any LIBOR Revolving Loans and BA Equivalent Revolving Loans prepaid, payment of the amounts due under Section 4.4, if any. In connection with any such permitted termination by the Borrowers, the Agent shall provide a customary form of payoff letter setting forth all amounts due to the Agent and the Lenders hereunder, which payoff letter shall include Agent's termination of Agent's Liens and release of all Collateral and agreement to execute and deliver, at Borrowers' sole expense, such

release documents as may be reasonably necessary to reflect such termination, release and repayment.

- (b) As a condition to the effectiveness of any such termination and, in any event, upon the Termination Date, the Loan Parties shall pledge and furnish to Agent cash collateral, other collateral or a written indemnity (from a financial institution that is acceptable to Agent), in each case acceptable to Agent for indemnity obligations under the Loan Documents as Agent may require.

3.3 Mandatory Prepayments of the Revolving Loans.

- (a) Immediately upon receipt by any of the Loan Parties of cash proceeds of any disposition of Collateral (excluding cash proceeds of asset dispositions permitted by clause (i) of Section 7.11(b)) or cash proceeds of the loss, damage or destruction of any Collateral, the Borrowers shall prepay the Revolving Loans in an amount equal to all such cash proceeds, in the manner set forth in Section 3.7, net of (i) commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by the relevant Loan Party in connection therewith (in each case, paid to non Affiliates), (ii) transfer taxes, (iii) in the case of an asset disposition, amounts payable to holders of Liens (to the extent such Liens constitute Permitted Liens hereunder and, if such Liens are on an asset of a Loan Party, only to the extent such Liens are senior to the Agent's Liens thereon), if any, on the asset disposed of and (iv) an appropriate reserve for income taxes in accordance with GAAP in connection therewith ("**Net Proceeds**"); provided, that, with respect to any such asset disposition or loss, damage or destruction, in each instance, (A) where the aggregate cash proceeds therefrom (or from a series of related such transactions) do not exceed \$250,000 and (B) no Event of Default then exists and is continuing, no such prepayment shall be required. Each such prepayment shall be applied in accordance with Section 3.3(b) and shall not reduce the Commitments.
- (b) Prepayments in accordance with Section 3.3(a) shall be applied as follows, subject to the Borrowers' ability to reborrow such amounts pursuant to the terms of this Agreement: (i) in the case of a transaction involving U.S. Borrower, first, to accrued interest then due and owing with respect to the U.S. Revolving Loans, second, to pay the principal of the U.S. Revolving Loans, and third, to cash collateralize outstanding U.S. Letters of Credit (so long as no Event of Default is then continuing, only to the extent such cash collateralization is necessary to comply with the requirements of the third sentence of Section 3.1(b) without giving effect to any demand requirement thereunder); provided, that upon the occurrence and during the continuance of an Event of Default, any and all amounts held as cash collateral pursuant to clause third above and any other monies received by the Agent (or received by the Canadian Borrower or the applicable Subsidiary and remitted to the Agent) in respect of such transactions shall be applied by the Agent to the payment of the Obligations in the order set forth in Section 3.7(b)(ii), and (ii) in the case of a transaction by or involving the Canadian Borrower, first, to accrued interest then due and owing with respect to the Canadian Revolving Loans, second, to pay the principal of the Canadian

Revolving Loans, and third, to cash collateralize outstanding Canadian Letters of Credit (so long as no Event of Default is then continuing, only to the extent such cash collateralization is necessary to comply with the requirements of the third sentence of Section 3.1(a) without giving effect to any demand requirement thereunder); provided, that upon the occurrence and during the continuance of an Event of Default, any and all amounts held as cash collateral pursuant to clause third above and any other monies received by the Agent (or received by the Canadian Borrower or applicable Subsidiary and remitted to the Agent) in respect of any such transactions shall be applied by the Agent to the payment of the Obligations in the order set forth in Section 3.7(a)(ii). No such prepayments shall reduce the Commitments. At the election of the applicable Borrower, if the application of any prepayment made in accordance with the provisions of this Section 3.3 at a time when no Event of Default or Default has occurred and is continuing would result in prepayment of a LIBOR Revolving Loan prior to the last day of the applicable LIBOR Interest Period or prepayment of a BA Equivalent Revolving Loans prior to the last day of the applicable BA Equivalent Revolving Loans prior to the last day of the BA Equivalent Interest Period, the amount of such prepayment shall not be applied to such LIBOR Revolving Loans or BA Equivalent Loans, as applicable, but will be held by the Agent in a non-interest bearing account at Royal Bank, which account is in the name of the Agent and from which account only the Agent can make any withdrawal, in each case to be applied as such amount would otherwise have been applied under this Section 3.3 at the earlier to occur of (i) the last day of the relevant LIBOR Interest Period or BA Equivalent Interest Period or (ii) the occurrence of a Default or an Event of Default.

- (c) No provision contained in this Section 3.3 shall constitute a consent to an asset disposition, equity sale or issuance or Debt issuance that is otherwise not permitted by the terms of this Agreement.

3.4 LIBOR Revolving Loan and BA Equivalent Revolving Loan Prepayments.

- (a) In connection with any prepayment, if any LIBOR Revolving Loan is prepaid prior to the expiration date of the LIBOR Interest Period applicable thereto, the Borrower that borrowed such LIBOR Revolving Loan shall pay to the applicable Lenders the amounts described in Section 4.4.
- (b) In connection with any prepayment, if any BA Equivalent Revolving Loan is prepaid prior to the expiration date of the BA Equivalent Interest Period applicable thereto, the Canadian Borrower shall pay to the Canadian Lenders the amounts described in Section 4.4(b).

3.5 Payments by the Borrowers.

- (a)
 - (i) All payments to be made by the Canadian Borrower shall be made without set off, recoupment or counterclaim. Except as otherwise expressly provided herein, all payments by the Canadian Borrower shall

be made to the Agent for the account of the Canadian Lenders at the account designated by the Agent acting and shall be made in Dollars or U.S. Dollars, as applicable, and in immediately available funds, no later than 2:00 p.m. (Toronto time) in the case of payments required to be made in Dollars or noon (Toronto time) in the case of payments required to be made in U.S. Dollars, in each case on the date specified herein. Any payment received by the Agent after such time shall be deemed (for purposes of calculating interest only) to have been received on the following Business Day and any applicable interest shall continue to accrue.

- (ii) All payments to be made by the U.S. Borrowers shall be made without set off, recoupment or counterclaim. Except as otherwise expressly provided herein, all payments by the U.S. Borrowers shall be made to the Agent for the account of the U.S. Lenders, at the account designated by the Agent and shall be made in U.S. Dollars and in immediately available funds, no later than 2:00 p.m. (Toronto time) on the date specified herein. Any payment received by the Agent after such time shall be deemed (for purposes of calculating interest only) to have been received on the following Business Day and any applicable interest shall continue to accrue.
- (b) Subject to the provisions set forth in the definition of "LIBOR Interest Period" and "BA Equivalent Interest Period", whenever any payment is due on a day other than a Business Day, such payment shall be due on the following Business Day, and such extension of time shall in such case be included in the computation of interest or fees, as the case may be.

3.6 Payments as Revolving Loans.

- (a) At the election of the Agent, all payments of principal of Canadian Revolving Loans, interest on Canadian Revolving Loans, reimbursement obligations in connection with Canadian Letters of Credit and Canadian Credit Support for Canadian Letters of Credit, fees, premiums, reimbursable expenses and other sums payable hereunder or under any other Loan Document by the Canadian Borrower may be paid from the proceeds of Canadian Revolving Loans made hereunder. The Canadian Borrower hereby irrevocably authorizes the Agent, at its option, to (i) debit any Canadian Designated Account or any other bank account (including any deposit, disbursement or operating account, other than any Receipt Account) of the Canadian Borrower maintained at Royal Bank for the purpose of paying all amounts from time to time due by the Canadian Borrower hereunder or under any other Loan Document, or (ii) charge the Loan Account of the Canadian Borrower for the purpose of paying all amounts from time to time due by the Canadian Borrower hereunder or under any other Loan Document and agrees that all such amounts charged shall constitute Canadian Revolving Loans (including Canadian Agent Advances and Canadian Overdraft Accommodations).

- (b) At the election of the Agent, all payments of principal of U.S. Revolving Loans, interest on U.S. Revolving Loans, reimbursement obligations in connection with U.S. Letters of Credit and U.S. Credit Support for U.S. Letters of Credit, fees, premiums, reimbursable expenses and other sums payable hereunder or under any other Loan Document by U.S. Borrowers may be paid from the proceeds of U.S. Revolving Loans made hereunder. U.S. Borrowers hereby irrevocably authorize the Agent, at its option, to (i) require U.S. Borrowers to direct the U.S. Cash Management Provider to debit any U.S. Designated Account or any other bank account (including any deposit, disbursement or operating account, other than any Receipt Account) of the U.S. Borrowers maintained at U.S. Cash Management Provider for the purpose of paying all amounts from time to time due by U.S. Borrowers hereunder or under any other Loan Document, or (ii) debit any U.S. Designated Account or any other bank account (including any deposit, disbursement or operating account, other than any Receipt Account) of the U.S. Borrowers maintained at Royal Bank for the purpose of paying all amounts from time to time due by the U.S. Borrowers hereunder or under any other Loan Document, or (iii) charge the Loan Account of U.S. Borrowers for the purpose of paying all amounts from time to time due by U.S. Borrowers hereunder or under any other Loan Document and agrees that all such amounts charged shall constitute U.S. Revolving Loans (including U.S. Agent Advances and U.S. Overdraft Accommodations).

3.7 Apportionment, Application and Reversal of Payments.

- (a) Principal and interest payments in respect of Canadian Revolving Loans shall be apportioned ratably among the Canadian Lenders (according to the unpaid principal balance of the Canadian Revolving Loans to which such payments relate held by each Canadian Lender) and payments of the fees shall, as applicable, be apportioned ratably among the Canadian Lenders, except for fees payable by the Canadian Borrower solely to the Agent, Royal Bank or the Canadian Letter of Credit Issuer. All payments by the Canadian Borrower in respect of Obligations (other than Obligations under Bank Products, which shall be remitted directly to Royal Bank and other than Obligations under Hedge Agreements, which shall be remitted directly to the Lender who is a counterparty to such Hedge Agreement with the Canadian Borrower) shall be remitted to the Agent (except as expressly provided herein otherwise) and all such payments (to the extent not relating to principal or interest of specific Canadian Revolving Loans, or not constituting payment of specific fees or expenses) and all proceeds of Accounts or other Collateral of the Canadian Borrower received by the Agent, shall be applied, ratably, subject to the provisions of this Agreement:
- (i) So long as no Event of Default has occurred and is continuing: first, to pay any fees, indemnities or expense reimbursements (other than relating to Bank Products), then due to the Agent or any of its Affiliates from the Canadian Borrower; second, to pay any fees or expense reimbursements (other than relating to Bank Products) then due to the Canadian Lenders from the Canadian Borrower; third, to pay interest due in respect of all Canadian Revolving Loans, including Canadian Agent Advances and

- Canadian Overdraft Accommodations; fourth, to pay or prepay principal of the Canadian Agent Advances and Canadian Overdraft Accommodations; fifth, to pay or prepay principal of the Canadian Revolving Loans (other than Canadian Agent Advances and Canadian Overdraft Accommodations) and unpaid reimbursement obligations in respect of Canadian Letters of Credit; sixth, to pay an amount to the Agent equal to all outstanding Obligations (contingent or otherwise) with respect to Canadian Letters of Credit to be held as cash collateral for such Obligations (but only to the extent such cash collateralization is necessary to comply with the requirements of the third sentence of Section 3.1(a) without giving effect to any demand requirement thereunder); seventh, to the payment of any Obligations relating to Bank Products (other than relating to Bank Products that are Hedge Agreements) then due to Royal Bank or any of its Affiliates by the Canadian Borrower; eighth, to the payment (for greater certainty, ratably amongst the Canadian Lenders and their affiliates providing Hedge Agreements to Canadian Borrower) of any Obligations relating to Hedge Agreements then due to any Lender or any of their Affiliates by the Canadian Borrower in a maximum amount to each such Lender that is the lesser of (i) the Hedging Amount previously advised to the Agent in writing and (ii) the Allocated Amount of such Lender; ninth, to the payment of any other Obligations (other than Hedge Agreements) then due by the Canadian Borrower; tenth, to the payment (for greater certainty, ratably amongst the Canadian Lenders and their affiliates providing Hedge Agreements to Canadian Loan Parties) of any Obligations relating to Hedging Agreements then due to any such Lender or any of their Affiliates by the Canadian Borrower or any other Canadian Loan Party which Obligations did not qualify under 3.7(a)(i) eighth; and eleventh, to the Canadian Borrower.
- (ii) Upon the occurrence and during the continuance of an Event of Default: first, to pay any fees, indemnities or expense reimbursements (other than any amounts relating to Bank Products) then due to the Agent from the Canadian Borrower; second, to pay any fees, indemnities or expense reimbursements (other than amounts relating to Bank Products) then due to the Canadian Lenders from the Canadian Borrower; third, to pay interest due in respect of all Canadian Revolving Loans, including Canadian Agent Advances and Canadian Overdraft Accommodations; fourth, to pay or prepay principal of the Canadian Agent Advances and Canadian Overdraft Accommodations; fifth, to pay or prepay principal of the Canadian Revolving Loans (other than Canadian Agent Advances and Canadian Overdraft Accommodations) and unpaid reimbursement obligations in respect of Canadian Letters of Credit; sixth, to pay an amount to the Agent equal to all outstanding Obligations (contingent or otherwise) with respect to Canadian Letters of Credit to be held as cash collateral for such Obligations; seventh, to the payment of any other Obligations relating to Bank Products (other than relating to Bank Products that are Hedge Agreements); eighth, to the payment (for greater

certainty, ratably amongst the Canadian Lenders and their affiliates providing Hedge Agreements to Canadian Borrower) of any Obligations relating to Hedge Agreements then due to any Lender or any of their Affiliates by the Canadian Borrower in a maximum amount to each such Lender that is the lesser of (i) the Hedging Amount previously advised to the Agent in writing and (ii) the Allocated Amount of such Lender; ninth, to the payment of any other Obligations (other than Hedge Agreements) of the Canadian Borrower then due; tenth, to the payment (for greater certainty, ratably amongst the Canadian Lenders and their Affiliates providing Hedge Agreements to Canadian Borrower) of any Obligations relating to Hedging Agreements then due to any such Lender or any of their Affiliates by the Canadian Borrower which Obligations did not qualify under 3.7(a)(ii) eighth; eleventh, to the payment of Obligations of the U.S. Borrowers in order of priority set forth in 3.7(b)(ii) (other than clause thirteenth thereof); twelfth, to the payment (for greater certainty, ratably amongst former Canadian Lenders and their Affiliates who provided Hedge Agreements to Canadian Borrower during such former Canadian Lender's tenure as a Canadian Lender hereunder) of any Obligations relating to Hedging Agreements (provided during such tenure) then due to any such former Lender or any of their Affiliates by the Canadian Borrower; and thirteenth, to the Canadian Borrower or as a court of competent jurisdiction may otherwise direct.

Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Canadian Borrower, or unless an Event of Default has occurred and is continuing, neither the Agent nor any Canadian Lender shall (i) apply any payments which it receives to Obligations unless such payments received are in the same currency in which such Obligations are denominated, provided that the Borrowings shall not exceed Availability as a consequence thereof, and provided further that the Agent may, in its sole discretion, nevertheless apply the Equivalent Amount of payments received in one currency to Obligations denominated in another currency, and (ii) apply any payments which it receives to any BA Equivalent Revolving Loan or LIBOR Revolving Loan of the Canadian Borrower, except (a) on the expiration date of the BA Equivalent Interest Period applicable to any such BA Equivalent Revolving Loan or the LIBOR Interest Period applicable to any such LIBOR Revolving Loan, or (b) in the event, and only to the extent, that there are no outstanding Canadian Prime Rate Revolving Loans owing by the Canadian Borrower (in the case of BA Equivalent Revolving Loans) or Canadian Base Rate Revolving Loans (in the case of LIBOR Revolving Loans) owing by the Canadian Borrower and, in any event, the Canadian Borrower shall pay BA Equivalent and LIBOR Rate breakage losses in accordance with Section 4.4(a). The Agent and the Canadian Lenders shall have the continuing and exclusive right to apply and reverse and reapply, in each instance in accordance with this Section 3.7, any and all such proceeds and payments to any portion of the Obligations. Agent shall have no obligation to calculate the amount to be distributed with respect to any Hedging Agreements, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the Lender (or its Affiliates). In the absence of such

notice, Agent may assume the amount to be distributed is the Hedging Amount last reported to it.

- (b) Principal and interest payments in respect of U.S. Revolving Loans shall be apportioned ratably among the U.S. Lenders (according to the unpaid principal balance of the U.S. Revolving Loans to which such payments relate held by each U.S. Lender) and payments of the fees shall, as applicable, be apportioned ratably among the U.S. Lenders, except for (i) fees payable by U.S. Loan Parties solely to the Agent, the Bank, the U.S. Cash Management Provider or the U.S. Letter of Credit Issuer, and (ii) expense reimbursements and indemnification payments owed to any U.S. Lender. All payments by U.S. Loan Parties in respect of Obligations (other than Obligations under Bank Products, which shall be remitted directly to Royal Bank or the U.S. Cash Management Provider and other than Obligations under Hedge Agreements, which shall be remitted directly to Lender that is a counterparty to such Hedge Agreement with U.S. Loan Parties) shall be remitted to the Agent (except as expressly provided herein otherwise) and all such payments (to the extent not relating to principal or interest of specific U.S. Revolving Loans, or not constituting payment of specific fees or expenses) and all proceeds of Accounts or other Collateral of U.S. Loan Parties received by the Agent, shall be applied, ratably, subject to the provisions of this Agreement:
- (i) So long as no Event of Default has occurred and is continuing, first, to pay any fees, indemnities or expense reimbursements (other than relating to Bank Products), then due to the Agent, the Bank or any of their Affiliates from the U.S. Borrowers; second, to pay any fees, indemnities or expense reimbursements (other than relating to Bank Products) then due to the U.S. Lenders from the U.S. Borrowers; third, to pay interest due in respect of all U.S. Revolving Loans, including U.S. Agent Advances and U.S. Overdraft Accommodations, made to the U.S. Borrowers; fourth, to pay or prepay principal of the U.S. Agent Advances and U.S. Overdraft Accommodations; fifth, to pay or prepay principal of the U.S. Revolving Loans (other than U.S. Agent Advances and U.S. Overdraft Accommodations) and unpaid reimbursement obligations in respect of U.S. Letters of Credit; sixth, to pay an amount to the Agent equal to all outstanding Obligations (contingent or otherwise) with respect to U.S. Letters of Credit to be held as cash collateral for such Obligations (but only to the extent such cash collateralization is necessary to comply with the requirements of the third sentence of Section 3.1(a) without giving effect to any demand requirement thereunder); seventh, to the payment of any Obligations relating to Bank Products (other than relating to Bank Products that are Hedge Agreements) then due to Royal Bank or any of its Affiliates or to the U.S. Cash Management Provider; eighth, to the payment (for greater certainty, ratably amongst the U.S. Lenders and their Affiliates providing Hedge Agreements to U.S. Borrowers) of any Obligations relating to Hedge Agreements then due to any such Lender or any of their Affiliates by the U.S. Borrowers in a maximum amount to each such Lender that is the lesser of (i) the Hedging Amount previously advised to the Agent in

writing and (ii) the Allocated Amount of such Lender; ninth, to the payment of any other Obligations (other than under Hedge Agreements) then due by U.S. Borrowers; tenth, to the payment (for greater certainty, ratably amongst the U.S. Lenders and their Affiliates providing Hedge Agreements to U.S. Borrowers) of any Obligations relating to Hedging Agreements then due to any such Lender or any of their Affiliates by the U.S. Borrowers which Obligations did not qualify under 3.7(b)(i) eighth; and eleventh, to the U.S. Borrowers.

- (ii) Upon the occurrence and during the continuance of an Event of Default: first, to pay any fees, indemnities or expense reimbursements (other than relating to Bank Products) then due to the Agent or the Bank from the U.S. Borrowers; second, to pay any fees, indemnities or expense reimbursements (other than amounts relating to Bank Products) then due to the U.S. Lenders from the U.S. Borrowers; third, to pay interest due in respect of all U.S. Revolving Loans, including U.S. Agent Advances and U.S. Overdraft Accommodations made to the U.S. Borrowers; fourth, to pay or prepay principal of the U.S. Agent Advances and U.S. Overdraft Accommodations; fifth, to pay or prepay principal of the U.S. Revolving Loans (other than U.S. Agent Advances and U.S. Overdraft Accommodations) and unpaid reimbursement obligations in respect of U.S. Letters of Credit; sixth, to pay an amount to the Agent equal to all outstanding Obligations (contingent or otherwise) with respect to U.S. Letters of Credit to be held as cash collateral for such Obligations; seventh, to the payment of any other Obligations relating to Bank Products (other than relating to Bank Products that are Hedge Agreements); eighth, to the payment (for greater certainty, ratably amongst the U.S. Lenders and their Affiliates providing Hedge Agreements to U.S. Borrowers) of any Obligations relating to Hedge Agreements then due to any such Lender or any of their Affiliates by the U.S. Borrower in a maximum amount to each such Lender that is the lesser of (i) the Hedging Amount previously advised to the Agent in writing and (ii) the Allocated Amount of such Lender; ninth, to the payment of any other Obligations (other than Hedge Agreements) of U.S. Borrowers then due; tenth, to the payment (for greater certainty, ratably amongst the U.S. Lenders and their Affiliates providing Hedge Agreements to U.S. Borrowers) of any Obligations relating to Hedging Agreements then due to any such Lender or any of their Affiliates by the U.S. Borrower which Obligations did not qualify under 3.7(b)(ii) eighth; eleventh, to the payment of Obligations of the Canadian Borrower in the order of priority set forth in Section 3.7(a)(ii) (other than clause thirteenth thereof); twelfth, to the payment (for greater certainty, ratably amongst former U.S. Lenders and their Affiliates provided Hedge Agreements to U.S. Borrowers during such for U.S. Lender's tenure as a U.S. Lender hereunder) of any Obligations relating to Hedging Agreements (provided during such tenure) then due to any such former Lender or any of their Affiliates by the U.S. Borrowers; and thirteenth,

to the U.S. Borrowers or as a court of competent jurisdiction may otherwise direct.

Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the U.S. Borrowers, or unless an Event of Default has occurred and is continuing, neither the Agent nor any U.S. Lender shall (i) apply any payments which it receives to Obligations unless such payments received are in the same currency in which such Obligations are denominated, provided that the Borrowings shall not exceed Availability as a consequence thereof, and provided further that the Agent may, in its sole discretion, nevertheless apply the Equivalent Amount of payments received in one currency to Obligations denominated in another currency, and (ii) apply any payments which it receives to any LIBOR Revolving Loan of U.S. Borrowers, except (a) on the expiration date of the LIBOR Interest Period applicable to any such LIBOR Revolving Loan, or (b) in the event, and only to the extent, that there are no outstanding U.S. Prime Rate Revolving Loans owing by the U.S. Borrowers and, in any event, the U.S. Borrowers shall pay LIBOR breakage losses in accordance with Section 4.4(b). The Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply, in each instance in accordance with this Section 3.7, any and all such proceeds and payments to any portion of the Obligations. Agent shall have no obligation to calculate the amount to be distributed with respect to any Hedging Agreements, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the Lender (or its Affiliates). In the absence of such notice, Agent may assume the amount to be distributed is the Hedging Amount last reported to it.

- (c) For purposes of this Section 3.7, Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to the Obligations otherwise set forth above in this Section 3.7.

3.8 Indemnity for Returned Payments.

If after receipt of any payment which is applied to the payment of all or any part of the Obligations, the Agent, any Lender, the Bank, Royal Bank or any Affiliate of the Bank or Royal Bank is compelled by any Requirement of Law to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason, then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Agent, such Lender, the Bank, Royal Bank or such Affiliate of the Bank or Royal Bank, as the case may be, and the applicable Borrower or Borrowers shall be liable to pay to the Agent, the applicable Lenders, the Bank, Royal Bank and any Affiliate of the Bank or Royal Bank, and hereby does indemnify the Agent, the applicable Lenders, the Bank, Royal Bank and any Affiliate of the Bank or Royal Bank and hold the Agent, the applicable Lenders, the Bank, Royal Bank and any Affiliate of the Bank or Royal Bank harmless for the amount of such actual payment or proceeds surrendered. The provisions of this

Section 3.8 shall be and remain effective notwithstanding any contrary action which may have been taken by the Agent, any applicable Lender, the Bank, Royal Bank and any Affiliate of the Bank or Royal Bank in reliance upon such payment or application of proceeds, and any such contrary action so taken shall be without prejudice to the Agent's, the applicable Lenders', the Bank's, Royal Bank's and their Affiliates' rights under this Agreement and shall be deemed to have been conditioned upon such payment or application of proceeds having become final and irrevocable. The provisions of this Section 3.8 shall survive the termination of this Agreement.

3.9 Agent's and Lenders' Books and Records; Monthly Statements.

The Agent shall record the principal amount of the Revolving Loans owing to each Lender, the undrawn amount of all outstanding Letters of Credit and the aggregate amount of unpaid reimbursement obligations outstanding with respect to the Letters of Credit from time to time on its books. In addition, each Lender may note the date and amount of each payment or prepayment of principal of such Lender's Revolving Loans in its books and records. Failure by the Agent or any Lender to make such notation or any error therein shall not affect the obligations of either Borrower with respect to the U.S. Revolving Loans or the U.S. Letters of Credit or U.S. Credit Support and either Borrower with respect to the Canadian Revolving Loans or the Canadian Letters of Credit or Canadian Credit Support. Each Borrower agrees that the Agent's and each Lender's books and records showing the Obligations and the transactions pursuant to this Agreement and the other Loan Documents shall be admissible in any action or proceeding arising therefrom, and shall constitute rebuttably presumptive proof thereof, irrespective of whether any Obligation is also evidenced by a promissory note or other instrument. The Agent will provide to the Canadian Borrower on behalf of the Borrowers a monthly interest and fee invoice which will also reflect the balances of all outstanding Revolving Loans, payments and other transactions pursuant to this Agreement. Such statement shall be deemed correct, accurate, and binding on the Borrowers and an account stated (except for reversals and reapplications of payments made as provided in Section 3.7 and corrections of errors discovered by the Agent), unless the Borrowers notify the Agent in writing to the contrary within ninety (90) days after such statement is rendered. In the event a timely written notice of objections is given by a Borrower, only the items to which exception is expressly made will be considered to be disputed by such Borrower.

3.10 Currency.

All Obligations of each Loan Party shall be payable by such Loan Party to the Agent, the Letter of Credit Issuer and the applicable Lenders in the currency in which such Obligations are denominated.

3.11 Excess Resulting From Exchange Rate Change.

If at any time following one or more fluctuations in the exchange rate of the Dollar against the CDN Dollar, (a) the aggregate outstanding principal balance of Canadian Revolving Loans and Canadian Letters of Credit of the Canadian Borrower exceeds the limit of the Canadian Borrowing Base or any other limitations hereunder based on Dollars or (b) the aggregate outstanding principal balance of Canadian Revolving Loans and/or Canadian Letters of Credit exceeds any other limit based on Dollars set forth herein for such Obligations, the Canadian Borrower shall, within five (5) Business Days of notice from the Agent (or, if an Event of Default has occurred and is continuing, within one (1) Business Day of such notice), (i) make

the necessary payments or repayments to reduce such Obligations to an amount necessary to eliminate such excess or (ii) maintain or cause to be maintained with the Agent deposits as continuing collateral security for the Obligations of the Canadian Borrower in an amount equal to or greater than the amount of such excess, such deposits to be maintained in such form and upon such terms as are acceptable to the Agent in its reasonable commercial judgment. Without in any way limiting the foregoing provisions, the Agent shall, weekly or more frequently in the sole discretion of the Agent, make the necessary exchange rate calculations to determine whether any such excess exists on such date and advise the Canadian Borrower if such excess exists.

ARTICLE 4 – TAXES, YIELD PROTECTION AND ILLEGALITY

4.1 Taxes.

- (a) Any and all payments by each Loan Party to each applicable Letter of Credit Issuer, other Lender or the Agent under this Agreement and any other Loan Document shall be made free and clear of, and without deduction or withholding for any Indemnified Taxes, except as required by law. In addition, Loan Parties shall promptly pay any and all Other Taxes.
- (b) If a Loan Party shall be required by law to deduct or withhold any Indemnified Taxes or Other Taxes from or in respect of any sum payable hereunder or under any other Loan Document to any Letter of Credit Issuer, other Lender or the Agent, then:
 - (i) the sum payable by such Loan Party shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this Section) such Lender or the Agent, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholdings been made; provided, however, that no amounts shall be payable by any Loan Party pursuant to this provision to the extent that the applicable deductions or withholdings resulted from the Letter of Credit Issuer's, other Lender's, or the Agent's, as appropriate, failure to comply with Section 12.10 hereof.
 - (ii) such Loan Party shall make such deductions and withholdings as are legally required;
 - (iii) such Loan Party shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law; and
 - (iv) such Loan Party shall also pay to each applicable Letter of Credit Issuer, other Lender or the Agent for the account of such Letter of Credit Issuer, other Lender or, if applicable, each of the Agent for their own account, at the time interest or fees are paid, all additional amounts which the respective Letter of Credit Issuer, other Lender or the Agent, as the case may be, reasonably specifies as necessary to preserve the actual after tax

yield such Letter of Credit Issuer, other Lender or the applicable Agent, as the case may be, would have received if such Indemnified Taxes or Other Taxes had not been imposed; provided, however, that no amounts shall be payable by any Loan Party to a Letter of Credit Issuer, other Lender or the Agent pursuant to this clause (iv) to the extent that the applicable deductions or withholdings resulted from such Person's, as appropriate, failure to comply with Section 12.10 hereof.

- (c) The Loan Parties agree, jointly and severally, to indemnify and hold harmless each Letter of Credit Issuer, other Lender and the Agent for the full amount of Indemnified Taxes or Other Taxes (including any Indemnified Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section) paid by any Letter of Credit Issuer, other Lender or any Agent and any liability (including penalties, interest, additions to tax and reasonable expenses) arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally asserted.
- (d) Payment under the indemnification provided in Section 4.1(c) shall be made within 30 days after the date the applicable Letter of Credit Issuer, other Lender or Agent makes written demand therefor. Such written demand shall show in reasonable detail the amount payable and the calculations used to determine such amount and shall include reasonable supporting documentation authenticating the claim.
- (e) Each of the Letter of Credit Issuer, other Lenders and the Agent agrees that, to the extent that such Lender or the Agent is entitled to claim an exemption in respect of all or a portion of any Indemnified Taxes or Other Taxes which are otherwise required to be paid or deducted or withheld pursuant to this Section 4.1 in respect of any payments under this Agreement, such Letter of Credit Issuer, other Lender or Agent, as the case may be, shall take all commercially reasonable actions necessary to obtain the benefits of such exemption, but only so long as doing so is not materially disadvantageous to such Letter of Credit Issuer, other Lender or Agent (as determined by such Person) and only at the sole cost and expense of the Loan Parties.
- (f) At the Agent's written request, within 30 days after the date of any payment by a Loan Party of Indemnified Taxes or Other Taxes, such Loan Party shall furnish the Agent the original or a certified copy of a receipt evidencing payment thereof or other evidence of payment reasonably satisfactory to the Agent.
- (g) If the Agent or any Lender receives a refund, which in the good faith judgment of the Agent or such Lender is allocable to Indemnified Taxes or Other Taxes paid by any Loan Party hereunder, it shall promptly pay such allocated amount of such refund to such Loan Party, net of all reasonable out of pocket expenses of the Agent or such Lender, as the case may be, incurred in obtaining such refund, provided, however, that such Loan Party agrees to promptly return such refund (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or the applicable Lender, as applicable, if it

receives notice from the Agent or applicable Lender that such Agent or Lender is required to repay such refund. In addition, the applicable Lender shall take such steps as a Loan Party shall reasonably request to recover or assist such Loan Party in recovering any Indemnified Taxes or Other Taxes paid by such Loan Party to such Lender pursuant this Section 4.1, all at the sole cost and expense of such Loan Party. This paragraph shall not be construed to require the Agent or any Lender to make available any of its tax returns (or any other information relating to its taxes which it deems confidential) to any Loan Party or any other Person.

- (h) If a Loan Party is required to pay additional amounts to any Lender pursuant to this Section 4.1, then such Lender shall use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its lending office so as to eliminate any such additional payment by such Loan Party which may thereafter accrue, if such change in the sole judgment of such Lender is not otherwise disadvantageous to such Lender.
- (i) Notwithstanding any provision contained in this Agreement, any indemnity with respect to any portion of any claim by a Lender that consists of Indemnified Taxes or Other Taxes shall be governed solely by this Section 4.1.

4.2 Illegality.

- (a) If any Lender reasonably determines that, due to changes in Requirements of Law, or in the interpretation or administration of any Requirement of Law by any Governmental Authority, in any case after the Effective Date, it is unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make LIBOR Revolving Loans or BA Equivalent Revolving Loans, then, on prompt notice thereof by that Lender to the applicable Borrower or Borrowers through the Agent, any obligation of that Lender to make LIBOR Revolving Loans or BA Equivalent Revolving Loans shall be suspended until that Lender notifies the Agent and the applicable Borrower or Borrowers that the circumstances giving rise to such determination no longer exist (which such Lender agrees to do promptly). If any Lender has determined to provide a notice under this Section 4.2(a), then such Lender shall use reasonable efforts (consistent with legal and regulatory restrictions) to change the jurisdiction of its lending office so as to eliminate the need for such notice by such Loan Party which may thereafter accrue, if such change in the good faith judgment of such Lender is not otherwise materially disadvantageous to such Lender.
- (b) If a Lender reasonably determines that, due to changes in Requirements of Law or in the interpretation or administration of any Requirement of Law by a Governmental Authority, in any case after the Effective Date, it is unlawful to maintain any LIBOR Revolving Loan or BA Equivalent Loan, each Borrower to whom a LIBOR Revolving Loan or BA Equivalent Loan has been made by such Lender shall, upon its receipt of notice of such fact and demand from such Lender (with a copy to the Agent), prepay in full such LIBOR Revolving Loans or BA Equivalent Revolving Loans of that Lender owing by such Borrower then

outstanding, together with interest accrued thereon and amounts required under Section 4.4, either on the last day of the LIBOR Interest Period or BA Equivalent Interest Period, as applicable, thereof, if that Lender may lawfully continue to maintain such LIBOR Revolving Loans or BA Equivalent Revolving Loans to such day, or promptly, if that Lender may not lawfully continue to maintain such LIBOR Revolving Loans. If a Borrower is required to so prepay any LIBOR Revolving Loans or BA Equivalent Revolving Loans, then concurrently with such prepayment, such Borrower shall borrow from the affected Lender, in the amount of such repayment, in the case of LIBOR Revolving Loan, a U.S. Prime Rate Revolving Loan if such Borrower is the U.S. Borrower or a Canadian Base Rate Revolving Loan if such Borrower is the Canadian Borrower and, in the case of BA Equivalent Loans, Canadian Prime Rate Loans.

4.3 Increased Costs and Reduction of Return.

- (a) If any Lender reasonably determines that as a result of the introduction of or any change in the interpretation of any law or regulation implemented by a Governmental Authority, or such Lender's compliance therewith, in each case after the Effective Date, there shall be an actual increase in the cost (excluding in each case for purposes of this Section 4.3(a), any such increased costs resulting from Indemnified Taxes or Other Taxes, as to which Section 4.1 shall govern) to such Lender of agreeing to make or making, funding or maintaining any LIBOR Revolving Loans or BA Equivalent Loans, then upon demand of such Lender (with a copy of such demand to be sent to the Agent), the applicable Borrower shall pay to the Agent for the account of such Lender, such additional amounts as are sufficient to compensate such Lender for such increased costs. Payment required under Section 4.3(a) shall be made following a written demand that shows in reasonable detail the amount payable and the calculations used to determine such amount, which written demand must be made within 180 days of the date the Lender, or the Agent, as applicable, first became aware of such increased costs; provided, however, to the extent any such increase has retroactive effect beyond such 180 days, applicable Borrower shall pay increased costs arising therefrom.
- (b) If any Lender shall have reasonably determined that (i) the introduction of any Capital Adequacy Regulation, (ii) any change in any Capital Adequacy Regulation, (iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof, or (iv) compliance by such Lender or any corporation or other entity controlling such Lender with any Capital Adequacy Regulation, affects or would affect the amount of capital required or expected to be maintained by such Lender or any corporation or other entity controlling such Lender and (taking into consideration such Lender's or such corporation's or other entity's policies with respect to capital adequacy or liquidity and such Lender's desired return on capital) determines that the amount of such capital or liquidity is increased as a consequence of its Revolving Credit Commitment, loans, credits or obligations under this Agreement, then, from time to time (x) in the case of a U.S. Lender, upon demand of such U.S. Lender to the

U.S. Borrowers through the Agent, the U.S. Borrowers shall pay to such U.S. Lender such additional amounts sufficient to compensate such Lender for such increase and (y) in the case of a Canadian Lender, upon demand of such Canadian Lender to the Canadian Borrower through the Agent, the Canadian Borrower shall pay to such Canadian Lender, from time to time as specified by such Canadian Lender, additional amounts sufficient to compensate such Canadian Lender for such increase, in each case, except to the extent that such increased capital and liquidity requirements have already been taken into account in the interest rates applicable under this Agreement. Payment required under Section 4.3(b) shall be made following a written demand that shows in reasonable detail the amount payable and the calculations used to determine such amount.

4.4 Funding Losses.

- (a) The Canadian Borrower shall reimburse each Canadian Lender, upon such Canadian Lender's written request (which request shall set forth the basis for requesting such amounts) for any loss or expense which such Canadian Lender sustains or incurs as a consequence of:
- (i) the failure of the Canadian Borrower to make on a timely basis any payment of principal of (x) any LIBOR Revolving Loan made to the Canadian Borrower or (y) any BA Equivalent Revolving Loan;
 - (ii) the failure of the Canadian Borrower (for a reason other than the failure of such Canadian Lender to make a Revolving Loan, in breach of its obligations under this Agreement), to prepay, borrow, continue or convert a Canadian Revolving Loan requested by or made to the Canadian Borrower after the Canadian Borrower has given a Canadian Notice of Borrowing or a Canadian Notice of Continuation/Conversion; or
 - (iii) the prepayment or other payment (including after acceleration thereof) of (x) any LIBOR Revolving Loan made to the Canadian Borrower on a day that is not the last day of the relevant LIBOR Interest Period or (y) any BA Equivalent Revolving Loan made to the Canadian Borrower on a day that is not the last day of the relevant BA Equivalent Interest Period;

including any loss of actual profit for the period from the date of such failure or prepayment through the end of the applicable LIBOR Interest Period or BA Equivalent Interest Period (calculated by comparing the interest rate in effect at the commencement of the applicable LIBOR Interest Period or BA Equivalent Interest Period with the interest rate available on the date of such failure or prepayment for the remaining portion of such LIBOR Interest Period or BA Equivalent Interest Period, as applicable), and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBOR Revolving Loans or BA Equivalent Revolving Loans requested by or made to the Canadian Borrower or from fees payable to terminate the deposits from which such funds were obtained. The Canadian Borrower shall also pay any reasonable

and customary administrative fees charged by any Canadian Lender in connection with the foregoing.

- (b) U.S. Borrowers shall reimburse each U.S. Lender, upon such U.S. Lender's written request (which request shall set forth the basis for requesting such amounts) from any loss or expense which such U.S. Lender sustains or incurs as a consequence of:
- (i) the failure of U.S. Borrowers to make on a timely basis any payment of principal of any LIBOR Revolving Loan made to U.S. Borrowers;
 - (ii) the failure of U.S. Borrowers (for a reason other than the failure of such U.S. Lender to make a Revolving Loan, in breach of its obligations under this Agreement) to prepay, borrow, continue or convert a U.S. Revolving Loan requested by or made to a U.S. Borrower after a U.S. Borrower has given a U.S. Notice of Borrowing or a U.S. Notice of Continuation/Conversion; or
 - (iii) the prepayment or other payment (including after acceleration thereof) of any LIBOR Revolving Loan made to any U.S. Borrower on a day that is not the last day of the relevant LIBOR Interest Period;

including any such loss of actual profit for the period from the date of such failure or prepayment through the end of the applicable LIBOR Interest Period (calculated by comparing the interest rate in effect at the commencement of the applicable LIBOR Interest Period with the interest rate available on the date of such failure or prepayment for the remaining portion of such LIBOR Interest Period), and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBOR Revolving Loans requested by or made to U.S. Borrowers or from fees payable to terminate the deposits from which such funds were obtained. U.S. Borrowers shall also pay any reasonable and customary administrative fees charged by any U.S. Lender in connection with the foregoing.

4.5 Inability to Determine Rates.

- (a) Subject in all respects to Section 4.5(b), if:
- (i) the Agent determines in good faith and in its reasonable discretion (which determination shall be deemed presumptively correct absent manifest error) that adequate and reasonable means do not exist for ascertaining the LIBOR Rate for such LIBOR Interest Period or that the making of LIBOR Loans are unlawful;
 - (ii) the Agent determines in good faith and in its reasonable discretion or is advised in writing by the Required Lenders (which determination shall be deemed presumptively correct absent manifest error) that deposits in the applicable currency are not being offered to banks in the London

interbank Eurocurrency market for the applicable amount and LIBOR Interest Period of any LIBOR Loan; or

- (iii) the Agent determines in good faith and in its reasonable discretion or is advised in writing by the Required Lenders that the LIBOR Rate for such LIBOR Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such LIBOR Interest Period;

then the Agent shall give written notice thereof to the Canadian Borrower and the Lenders as promptly as practicable thereafter and, until the Agent notifies the Canadian Borrower and the Lenders that the circumstances giving rise to such notice no longer exist (which notice shall be delivered by the Agent promptly after such situation ceases to exist), (A) any Notice of Continuation/Conversion that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a LIBOR Loan, as applicable, shall be ineffective, (B) if any Notice of Borrowing requests a LIBOR Loan, such Borrowing shall be made as a U.S. Prime Rate Revolving Loans (in the case of U.S. Borrowers) or Canadian Base Rate Revolving Loans (in the case of the Canadian Borrower); provided that the Canadian Borrower may revoke any such Notice of Borrowing (without penalty) prior to such Borrowing upon written notice to the Agent, and (C) U.S. Prime Rate Loans shall be made and continued based on the interest rate determined by the definition of the term “Base Rate” excluding clause (iii) thereof.

(b) (i) Benchmark Replacement. Upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, the Agent and the Borrowers may amend this Agreement to replace the LIBOR Rate with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after the Agent has posted such proposed amendment to the Lenders so long as the Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Majority Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders accept such amendment. No replacement of the LIBOR Rate with a Benchmark Replacement pursuant to this Section 4.5(b) will occur prior to the applicable Benchmark Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, the Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(iii) Notices; Standards for Decisions and Determinations. The Agent will promptly notify the Canadian Borrower and the Lenders of (A) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (B) the

implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes and (D) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Agent or Lenders pursuant to this Section 4.5(b) including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 4.5(b).

(iv) Benchmark Unavailability Period. Upon the Canadian Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrowers may revoke any request for a LIBOR Rate borrowing of, conversion to or continuation of LIBOR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrowers will be deemed to have converted any such request into a request for a Borrowing of or conversion to as a U.S. Prime Rate Revolving Loans (in the case of U.S. Borrowers) or Canadian Base Rate Revolving Loans (in the case of the Canadian Borrower). During any Benchmark Unavailability Period, the component of the U.S. Prime Rate based upon the LIBOR Rate will not be used in any determination of the U.S. Prime Rate.

(v) Certain Defined Terms. As used in this Section 4.5(b):

"Benchmark Replacement" means the sum of: (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by the Agent and the Canadian Borrower giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to the LIBOR Rate for U.S. dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than 1.00% per annum, the Benchmark Replacement will be deemed to be 1.00% per annum for the purposes of this Agreement.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the LIBOR Rate with an Unadjusted Benchmark Replacement for each applicable LIBOR Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Agent and the Canadian Borrower giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the LIBOR Rate with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the LIBOR Rate with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “LIBOR Interest Period,” timing and frequency of determining rates and making payments of interest and other administrative matters) that the Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Agent decides is reasonably necessary in connection with the administration of this Agreement).

“Benchmark Replacement Date” means the earlier to occur of the following events with respect to the LIBOR Rate: (1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of the LIBOR Rate permanently or indefinitely ceases to provide the LIBOR Rate; or (2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the LIBOR Rate:

(1) a public statement or publication of information by or on behalf of the administrator of the LIBOR Rate announcing that such administrator has ceased or will cease to provide the LIBOR Rate, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for the LIBOR Rate, a resolution authority with jurisdiction over the administrator for the LIBOR Rate or a court or an entity with similar insolvency or resolution authority over the administrator for the LIBOR Rate, which states that the administrator of the LIBOR Rate has ceased or will cease to provide the LIBOR Rate permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate announcing that the LIBOR Rate is no longer representative.

“Benchmark Transition Start Date” means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by the Agent or the Required Lenders, as applicable, by notice to the Canadian Borrower, the Agent (in the case of such notice by the Required Lenders) and the Lenders.

“Benchmark Unavailability Period” means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the LIBOR Rate and solely to the extent that the LIBOR Rate has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the LIBOR Rate for all purposes hereunder in accordance with this Section 4.5(b) and (y) ending at the time that a Benchmark Replacement has replaced the LIBOR Rate for all purposes hereunder pursuant to this Section 4.5(b).

“Early Opt-in Election” means the occurrence of:

(1) (i) a determination by the Agent or (ii) a notification by the Required Lenders to the Agent (with a copy to the Canadian Borrower) that the Required Lenders have determined that U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in this Section 4.5(b) are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the LIBOR Rate, and

(2) (i) the election by the Agent or (ii) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Agent of written notice of such election to the Canadian Borrower and the Lenders or by the Required Lenders of written notice of such election to the Agent.

“Federal Reserve Bank of New York’s Website” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“SOFR” with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the

administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York's Website.

“Term SOFR” means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Unadjusted Benchmark Replacement” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

- (c) If, by reason of circumstances affecting the money market in Canada generally, there is no market for bankers' acceptances, (i) the right of the Canadian Borrower to request a BA Equivalent Revolving Loan shall be suspended until the circumstances causing a suspension no longer exist, and (ii) any Canadian Notice of Borrowing or Canadian Notice of Continuation/Conversion requesting a BA Equivalent Revolving Loan which is outstanding shall be deemed to be a request for a Canadian Prime Rate Revolving Loan. The Agent shall promptly notify the Canadian Borrower of the suspension of the Canadian Borrower's right to request a BA Equivalent Revolving Loan and of the termination of any suspension.

4.6 Certificates of Agent.

If any Lender or the Agent claims reimbursement or compensation under this Article 4 (excluding claims relating covered by Section 4.1, which shall be governed by such Section), the Agent shall determine the amount thereof and shall deliver to the affected Borrower or Borrowers (with a copy to the affected Lender, if applicable) a certificate setting forth in reasonable detail the amount payable to the affected Lender or the Agent, as the case may be, and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

4.7 Survival.

The agreements and obligations of the Borrowers and other Loan Parties in this Article 4 shall survive the payment of all other Obligations.

4.8 Joint and Several Liability of the Borrowers.

All Revolving Loans, upon funding, shall be deemed to be jointly funded to and received by the Borrowers. Each Borrower is jointly and severally liable under this Agreement for all Obligations, regardless of the manner or amount in which proceeds of Revolving Loans are used, allocated, shared or disbursed by or among the Borrowers themselves, or the manner in which the Agent and/or any Lender accounts for such Revolving Loans or other extensions of credit on its books and records. Each Borrower shall be liable for all amounts due to the Agent and/or any Lender from the Borrowers under this Agreement, regardless of which Borrower actually receives Revolving Loans or other extensions of credit hereunder or the amount of such Revolving Loans and extensions of credit received or the manner in which the Agent and/or such Lender accounts for such Revolving Loans or other extensions of credit on its books and records. Each Borrower's Obligations with respect to Revolving Loans and other extensions of credit made to it, and such Borrower's Obligations arising as a result of the joint and several liability of such Borrower hereunder with respect to Revolving Loans made to, and Letters of Credit issued

for the account of, the other Borrowers hereunder shall be separate and distinct obligations, but all such Obligations shall be primary obligations of such Borrower. The Borrowers acknowledge and expressly agree with the Agent and each Lender that the joint and several liability of each Borrower is required solely as a condition to, and is given solely as inducement for and in consideration of, credit or accommodations extended or to be extended under the Loan Documents to any or all of the other Borrowers and is not required or given as a condition of extensions of credit to such Borrower. Each Borrower's Obligations under this Agreement shall, to the fullest extent permitted by law, be unconditional irrespective of (i) the validity or enforceability, avoidance, or subordination of the Obligations of any other Borrower or of any promissory note or other document evidencing all or any part of the Obligations of any other Borrower, (ii) the absence of any attempt to collect the Obligations from any other Borrower, or any other security therefor, or the absence of any other action to enforce the same, (iii) the waiver, consent, extension, forbearance, or granting of any indulgence by the Agent and/or any Lender with respect to any provision of any instrument evidencing the Obligations of any other Borrower, or any part thereof, or any other agreement executed as of the Effective Date or thereafter executed by any other Borrower and delivered to the Agent and/or any Lender, (iv) the failure by the Agent and/or any Lender to take any steps to perfect and maintain its security interest in, or to preserve its rights to, any security or collateral for the Obligations of any other Borrower, (v) the Agent's and/or any Lender's election, in any proceeding instituted under the Bankruptcy Code (of the application of Section 1111(b)(2) of the Bankruptcy Code) or under the BIA or CCAA, (vi) any borrowing or grant of a security interest by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or under the BIA or CCAA, (vii) the disallowance of all or any portion of the Agent's and/or any Lender's claim(s) for the repayment of the Obligations of any other Borrower under Section 502 of the Bankruptcy Code, or (viii) any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor or of any other Borrower. With respect to any Borrower's Obligations arising as a result of the joint and several liability of the Borrowers hereunder with respect to any Revolving Loans or other extensions of credit made to any of the other Borrowers hereunder, such Borrower waives, until the Obligations shall have been paid in full and this Agreement shall have been terminated, any right to enforce any right of subrogation or any remedy which an Agent and/or any Lender had as of the Effective Date or may have thereafter against any other Borrower, any endorser or any guarantor of all or any part of the Obligations, and any benefit of, and any right to participate in, any security or collateral given to the Agent and/or any Lender to secure payment of the Obligations or any other liability of any Borrower to the Agent and/or any Lender. Upon any Event of Default, the Agent may proceed directly and at once, without notice, against any Borrower to collect and recover the full amount, or any portion of the Obligations, without first proceeding against any other Borrower or any other Person, or against any security or collateral for the Obligations. Each Borrower consents and agrees that the Agent shall be under no obligation to marshal any assets in favour of any Borrower or against or in payment of any or all of the Obligations.

ARTICLE 5 – BOOKS AND RECORDS; FINANCIAL INFORMATION; NOTICES

5.1 Books and Records.

Each Loan Party shall maintain, at all times, correct and complete books, records and accounts in which complete, correct and timely entries are made of its transactions in accordance with, to the extent GAAP is applicable, GAAP applied consistently with the audited Financial

Statements required to be delivered pursuant to Section 5.2(a). Each Loan Party shall, by means of appropriate entries, reflect in such accounts and in all Financial Statements proper liabilities and reserves for all taxes and proper provision for depreciation and amortization of property and bad debts, all in accordance with GAAP. Each Loan Party shall maintain at all times books and records pertaining to the Collateral in which it has an interest in such detail, form and scope as the Agent or any Lender shall reasonably require, including, but not limited to, records of (a) all payments received and all credits and extensions granted with respect to the Accounts of such Loan Party; (b) any return, rejection, repossession, stoppage in transit, loss, damage, or destruction of any Inventory of such Loan Party; and (c) all other dealings affecting the Collateral in which it has an interest.

5.2 Financial Information.

The Canadian Borrower shall promptly furnish (or cause to be furnished) to the Agent and the Administrative Agent in sufficient copies for distribution by the Agent to each Lender and Arranger (and the Agent shall then furnish a copy to each of the Lenders and Arranger), in such detail as the Agent or the Lenders shall reasonably request, the following:

- (a) As soon as available, but in any event not later than one-hundred and five (105) days after the close of each Fiscal Year, consolidated audited balance sheets, and income statements, cash flow statements and changes in stockholders' equity for the Canadian Borrower and its Subsidiaries for such Fiscal Year, and the accompanying notes thereto, setting forth in each case in comparative form figures for the previous Fiscal Year, all in reasonable detail, fairly presenting the financial position and the results of operations of the Canadian Borrower and its consolidated Subsidiaries as at the date thereof and for the Fiscal Year then ended, and prepared in accordance with GAAP. Such statements shall be examined in accordance with generally accepted auditing standards by and, in the case of such statements performed on a consolidated basis, accompanied by a report thereon unqualified in any respect of independent chartered accountants selected by the Canadian Borrower and reasonably satisfactory to the Agent and a management discussion and analysis, as provided to the Borrower's shareholders for the relevant period, of the Borrower's performance for that fiscal year and a comparison of performance for that fiscal year to the prior year. Each Loan Party agrees to request and hereby authorizes its chartered accountants, and at reasonable times and upon reasonable prior notice, to communicate directly with the Agent and, by this provision, authorizes those accountants to disclose to the Agent (with a copy to such Loan Party), any and all financial statements and other supporting financial documents and schedules relating to such Loan Party and to discuss directly with the Agent, the finances and affairs of such Loan Party. The Canadian Borrower shall deliver the foregoing financial statements, in draft form, not later than ninety (90) days after the date of such Fiscal Year.
- (b) As soon as available, but in any event not later than one-hundred and twenty (120) days after the end of each Fiscal Year, consolidated and non-consolidating internally prepared balance sheets of the Canadian Borrower and U.S. Borrowers as at the end of such Fiscal Year and consolidated and non-consolidating internally prepared income statements and cash flow statements for the Canadian

Borrower and U.S. Borrowers for such period, all in reasonable detail, satisfactory to the Agent.

- (c) As soon as available, but in any event not later than (i) twenty (20) days (forty-five (45) days for the month of December), or (ii) thirty five (35) days (sixty (60) days for the month of December), for the six (6) month period following a Permitted Acquisition, or other Acquisition consented to by the Agent and the Lenders, only, after the end of each fiscal month, consolidated and non-consolidating unaudited balance sheets of the Canadian Borrower and of each U.S. Borrower as at the end of the month ending immediately prior to such request, and consolidated and non-consolidating unaudited income statements and cash flow statements for the Canadian Borrower and for each U.S. Borrower for such month and for the period from the beginning of the Fiscal Year to the end of such month, all in reasonable detail, fairly presenting the financial position and results of operations of the Canadian Borrower and of each U.S. Borrower as at the date thereof and for such periods, and prepared in accordance with GAAP applied consistently with the audited Financial Statements required to be delivered pursuant to Section 5.2(a). Each of the foregoing shall include a comparison to the pro-forma forecasted financial statements submitted for the same period pursuant to Section 5.2(f). Each of the foregoing shall include a comparison to the corresponding fiscal period and year-to-date portion of the previous fiscal year. The Canadian Borrower or U.S. Borrowers shall certify by a certificate signed by a Responsible Officer of the Canadian Borrower or U.S. Borrowers, as applicable to the best of his knowledge that all such statements have been prepared in accordance with GAAP and present fairly the Canadian Borrower's or each U.S. Borrower's financial position as at the dates thereof and its results of operations for the periods then ended, subject to normal year end adjustments and the absence of footnotes.
- (d) Intentionally deleted
- (e) With each of the Financial Statements and reviews delivered pursuant to Section 5.2(a), Section 5.2(b) and Section 5.2(c) above, a certificate of the Responsible Officers of the Borrowers in the form attached hereto as Exhibit G.
- (f) Not later than sixty (60) days following the beginning of each Fiscal Year, an annual business plan (to include forecasted non-consolidated balance sheets, income statements, cash flow statements and Capital Expenditures) for the Borrowers (on a company by company basis) as at the end of and for each month of such Fiscal Year including in reasonable detail, the rationale and assumptions used in determining such forecasts, which annual business plan and non-consolidated budget shall in each case, as long as the Term Loan Facility remains outstanding, be accompanied by a certificate of a Responsible Officer of the Borrowers, stating that such annual business plan and non-consolidated budget have been prepared in good faith and are based on estimates, information and assumptions believed at the time to be reasonable, it being recognized by the Lenders that the projections contained therein as to future events are not to be

viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results.

- (g) Upon written request by the Agent, a copy of each annual report or other filing filed with the PBGC, the Financial Services Commission of Ontario, the IRS, the Canada Revenue Agency or other Governmental Authority with respect to each Plan of any Loan Party.
- (h) Promptly upon the filing thereof, copies of all reports, if any, to or other documents filed by a Borrower or any other Loan Party with the Ontario Securities Commission, the U.S. Securities and Exchange Commission and any successors thereto and/or with any other securities regulators or commissions of other jurisdictions.
- (i) Promptly after the receipt thereof by the Canadian Borrower or any other Loan Party, a copy of all management reports and management letters prepared for the Canadian Borrower or any other Loan Party by any independent chartered accountants or independent certified public accountants of the Canadian Borrower or any other Loan Party.
- (j) Promptly after becoming available, copies of any and all proxy statements, financial statements and reports which the Canadian Borrower or any other Loan Party generally makes available to its shareholders.
- (k) On a monthly basis (not later than (i) the fifteenth day, or (ii) the thirtieth day (for the six (6) month period following a Permitted Acquisition or other Acquisition consented to by the Agent and the Lenders, only), after the last day of the previous month with the information thereon to be as of the last day of such previous month), separate Borrowing Base Certificates for U.S. Borrowers and the Canadian Borrower, respectively; provided, that, if (i) an Event of Default is in existence and is continuing or (ii) Adjusted Aggregate Availability for any period of five (5) consecutive Business Days is less than \$30,000,000, Borrowers shall deliver Borrowing Base Certificates weekly until such time as Adjusted Aggregate Availability is equal to or greater than \$30,000,000, for thirty (30) consecutive days and no Event of Default is in existence for thirty (30) consecutive days; provided, further, that if Borrowers are delivering Borrowing Base Certificates and supporting information to the Agent on a weekly basis, the same shall be delivered not later than the second Business Day after the last Business Day of the previous week with the information thereon to be as of the last Business Day of such previous week.
- (l) (i) Concurrently with delivery to any lender under the Term Loan Facility, a copy of any notice, certificate or other written communication delivered to such lender under the Term Loan Facility (but only to the extent not delivered by a Loan Party to the Agent hereunder) and (ii) promptly (but in no event later than three (3) Business Days) after receipt by the Canadian Borrower or any other Loan Party of any notice or other written communication (excluding payment invoices) received by the Canadian Borrower or such other Loan Party from any lender under the Term Loan Facility, a copy of such notice or other communication.

- (m) Copies of any executed amendment, supplement, waiver or other modification with respect to the Term Loan Facility.
- (n) (i) Such additional information as the Agent and/or any Lender may from time to time reasonably request regarding the financial and business affairs of the Canadian Borrower and its Subsidiaries and (ii) such documentation and other information that the Agent or a Lender reasonably requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act and the Beneficial Ownership Regulation.

5.3 Notices to the Agent.

The Canadian Borrower shall notify the Agent in writing (and the Agent will distribute such information to the Lenders) of the following matters at the following times:

- (a) Promptly (but in no event later than one (1) Business Day) after a Responsible Officer of the Canadian Borrower or any of its Subsidiaries becomes aware of any Default or Event of Default;
- (b) Promptly (but in no event later than five (5) Business Days) after a Responsible Officer of the Canadian Borrower becomes aware of the assertion in writing by the holder of any preferred stock or similar equity interests of the Canadian Borrower or of any other Loan Party or the holder of any Debt of the Canadian Borrower or any other Loan Party in a face amount in excess of \$2,000,000 that a default exists with respect thereto or that the Canadian Borrower or such Loan Party is not in compliance with the terms thereof, or the threat or commencement by such holder of any enforcement action or acceleration because of such asserted default or non compliance;
- (c) Promptly (but in no event later than one (1) Business Day) after a Responsible Officer of the Canadian Borrower becomes aware of any event or circumstance which would reasonably be expected to have a Material Adverse Effect;
- (d) Promptly (but in no event later than five (5) Business Days) after receipt by a Responsible Officer of the Canadian Borrower of any written notice of any violation by the Canadian Borrower or any other Loan Party of or any liability under any Environmental Law, or that any Governmental Authority has asserted in writing that the Canadian Borrower or any other Loan Party thereof is not in compliance with any Environmental Law or is investigating the Canadian Borrower’s or such Loan Party’s compliance therewith which, in either case, would reasonably be expected to give rise to liability of \$1,000,000 or more;
- (e) Promptly (but in no event later than five (5) Business Days) after receipt by a Responsible Officer of the Canadian Borrower of any written notice that the Canadian Borrower or any other Loan Party is or may be liable to any Person as a result of the Release or threatened Release of any Contaminant or that the Canadian Borrower or any other Loan Party thereof is subject to investigation by any Governmental Authority evaluating whether any remedial action is needed to

respond to the Release or threatened Release of any Contaminant which, in either case, would reasonably be expected to give rise to liability of \$5,000,000 or more;

- (f) Promptly (but in no event later than five (5) Business Days) after receipt by a Responsible Officer of the Canadian Borrower of any written notice of the imposition of any Environmental Lien in an amount in excess of \$5,000,000 against any property of the Canadian Borrower or any other Loan Party;
- (g) Any change in a Loan Party's name as it appears in the province, state or other jurisdiction of its incorporation or other organization, province, state or other jurisdiction of incorporation or organization, type of entity, organizational identification number, locations of any Eligible Inventory (other than (x) in the case of U.S. Borrower, Collateral of such U.S. Borrower relocated to a location listed on Schedule I of the U.S. Security Agreement or a Collateral location listed on a prior written notice delivered by such U.S. Borrower to the Agent under this clause (j) and (y) in the case of the Canadian Borrower, Collateral of the Canadian Borrower relocated to a location listed on Schedule I of the Canadian Security Agreement or a Collateral location listed on a prior written notice delivered by the Canadian Borrower or a Canadian Loan Party to the Agent under this clause (j)) or location of chief executive office;
- (h) Within five (5) Business Days after a Responsible Officer of the Canadian Borrower knows or has reason to know that a Reportable Event has occurred, and, when known, any action taken or threatened by the CRA, IRS, the Financial Services Commission of Ontario, the DOL, the PBGC or any other Governmental Authority with respect thereto, or that a prohibited transaction (as defined in Sections 406 of ERISA and 4975 of the Code) has occurred that would be reasonably likely to have a Material Adverse Effect;
- (i) Within five (5) Business Days after the occurrence thereof: (i) any failure by any Loan Party or any ERISA Affiliate to make a required installment or any other required payment under Section 412 of the Code or as required by the PBA or other applicable laws on or before the due date for such installment or payment, if such failure would reasonably be expected to have a Material Adverse Effect; (ii) a Multi employer Plan or Pension Plan has been or will be terminated and such termination would be reasonably likely to have a Material Adverse Effect; (iii) the administrator or plan sponsor of a Multi employer Plan or Pension Plan intends to terminate a Multi employer Plan or Pension Plan as applicable, and such termination would be reasonably likely to have a Material Adverse Effect; (iv) the PBGC, the Pension Benefit Guaranty Fund (Ontario), the Financial Services Commission of Ontario or other Governmental Authority has instituted proceedings to terminate a Multi employer Plan or Pension Plan and such termination thereof would be reasonably likely to have a Material Adverse Effect; (v) receipt of (and providing the Agent a copy with) an actuarial report for any Pension Plan; or (vi) receipt from any Governmental Authority of (and providing the Agent a copy with) any material notices of non-compliance in respect of a Multi employer Plan or Pension Plan;

- (j) Promptly (but in no event later than five (5) Business Days) after receipt by a Responsible Officer of the Canadian Borrower of any written notice of any material violation by the Canadian Borrower or any other Loan Party of or any material liability under any food safety, food inspection or other food or drug laws, or that any Governmental Authority has asserted in writing that the Canadian Borrower or any other Loan Party thereof is not in compliance with any food safety, food inspection or other food or drug laws or has recalled any of Canadian Borrower's or such Loan Party's food or fish product inventory; and
- (k) Promptly (and in no event later than five (5) Business Days), of any change in the information provided in the Beneficial Ownership Certification delivered to the Agent and the Lenders that would result in a change to the list of beneficial owners identified in such certification.

5.4 Collateral Reporting.

Each Loan Party shall provide the Agent with the following documents at the following times in form reasonably satisfactory to the Agent (and Agent shall provide same to a Lender upon request): (a) together with the delivery of each Borrowing Base Certificate, separate schedules of all U.S. Accounts and the Canadian Accounts created, credits given, cash collected and other adjustments to Accounts since the last such schedule, (b) together with the delivery of each Borrowing Base Certificate, an aging of such Loan Party's Accounts, together with a reconciliation to the corresponding Eligible Accounts of such Loan Party and to such Loan Party's general ledger; (c) promptly upon the reasonable request of the Agent, an aging of such Loan Party's accounts payable; (d) on a monthly basis by the 15th day of the following month (or more frequently if requested by the Agent at a time when the Loan Parties are required to deliver Borrowing Base Certificates more frequently than monthly), a detailed calculation of the Eligible Accounts and Eligible Inventory of such Loan Party; (e) together with the delivery of each Borrowing Base Certificate, Inventory reports (including any recalls of food product inventory) and an aged Inventory listing in a level of detail reasonably acceptable to the Agent, together with a reconciliation to the corresponding Eligible Inventory of such Loan Party and to such Loan Party's general ledger; (f) promptly upon the request of the Agent, monthly bank statements for each bank account of all Loan Parties held at any financial institution; (g) promptly upon the reasonable request of the Agent, copies of invoices in connection with such Loan Party's Accounts, customer statements, credit memos, remittance advices and reports, deposit slips, shipping and delivery documents in connection with such Loan Party's Accounts and for Inventory acquired by such Loan Party, purchase orders and invoices; (h) promptly upon the reasonable request of the Agent, a statement of the balance of any intercompany accounts; and (i) promptly, such other reports as to the Collateral of such Loan Party as the Agent shall reasonably request from time to time. If any of a Loan Party's records or reports of any of the Collateral are prepared by an accounting service or other agent, such Loan Party hereby authorizes such service or agent to deliver such records, reports, and related documents to the Agent for distribution to the Lenders.

ARTICLE 6 – GENERAL WARRANTIES AND REPRESENTATIONS

Each Loan Party warrants and represents to the Agent and the Lenders that, except as hereafter disclosed to and accepted by the Agent and the Required Lenders in writing:

6.1 Authorization, Validity, and Enforceability of this Agreement and the Loan Documents.

Such Loan Party has the power and authority to execute, deliver and perform this Agreement, and the other Loan Documents to which it is a party, and the Transaction Documents, to incur and/or guaranty, as applicable, the Obligations, and to grant to the Agent Liens upon and security interests in the Collateral in which it has an interest. Such Loan Party has taken all necessary corporate action or other organizational action (including obtaining approval of its stockholders or other equityholders if necessary) to authorize its execution, delivery and performance of this Agreement, and the other Loan Documents to which it is a party, and the Transaction Document. This Agreement, and the other Loan Documents to which it is a party, and the Transaction Document have been duly executed and delivered by such Loan Party, and constitute the legal, valid and binding obligations of such Loan Party, enforceable against it in accordance with their respective terms (except as such enforceability may be subject to bankruptcy, insolvency, moratorium, reorganization, arrangement, voidable preference, fraudulent conveyance and other similar laws relating to or affecting the rights of creditors generally and except as the same may be subject to the effect of general principles of equity). Such Loan Party's execution, delivery and performance of this Agreement, and the other Loan Documents to which it is a party, and the Transaction Document and the consummation of the transactions contemplated hereby and thereby do not and will not conflict with, or constitute a violation or breach of, or result in the imposition of any Lien upon the property of such Loan Party (other than Liens granted by such Loan Party under any of the Loan Documents and the Transaction Documents (as permitted hereunder and under the Intercreditor Agreement)) by reason of the terms of (a) any contract, mortgage, lease, agreement, indenture or instrument to which such Loan Party is a party or which is binding upon it, (b) any Requirement of Law applicable to such Loan Party, or (c) the certificate or articles of incorporation, by laws or the limited liability company or limited partnership agreement or partnership agreement or other organizational documents of such Loan Party.

6.2 Validity and Priority of Security Interest.

The provisions of this Agreement and the Security Documents to which such Loan Party is a party create legal and valid Liens on all Collateral in which it has an interest in favour of the Agent, for the ratable benefit of the Agent, the Letter of Credit Issuers and the other Lenders, and upon the filing by the Agent of PPSA and UCC financing statements, recordation filings under applicable Quebec law and at the U.S. Patent & Trademark Office and U.S. Copyright Office, possession by the Agent of Collateral which can be perfected by possession only and "control" by the Agent of any deposit accounts located in the United States as required under the Security Documents, such Liens shall (to the extent the applicable foregoing required action has been taken with respect to such Liens in the relevant Collateral) constitute perfected and continuing Liens on all such Collateral in which a security interest or hypothec can be created and perfected under the applicable UCC, PPSA and Civil Code (Quebec) having priority over all other Liens on such Collateral, except for Permitted Liens, securing all the Obligations of such Loan Party and enforceable against such Loan Party and all third parties.

6.3 Organization and Qualification.

Such Loan Party (a) is duly formed, organized, incorporated or amalgamated, as the case may be, and validly existing in good standing under the laws of the province or state of its organization, incorporation or amalgamation, as the case may be, (b) is qualified to do business and is in good standing in the jurisdictions set forth in Schedule 6.3, which are the only jurisdictions in which qualification is necessary in order for it to own or lease its property and conduct its business except to the extent failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect and (c) has all requisite power and authority to conduct its business and to own its property and to enter and perform its obligations under any partnership agreements and the Loan Documents to which it is a party.

6.4 Corporate Name; Prior Transactions.

Except as otherwise disclosed on Schedule 6.4, such Loan Party has not, during the past five (5) years, been known by or used any other corporate or fictitious name/trade name, or been a party to any merger, consolidation or amalgamation, or acquired all or substantially all of the assets of any Person, or, to the best of its knowledge, acquired any of its property outside of the ordinary course of business.

6.5 Subsidiaries.

Schedule 6.5 is a correct and complete list, as of the Effective Date, of the name and relationship to such Loan Party of each and all of such Loan Party's Subsidiaries.

6.6 Financial Statements and Projections.

- (a) The Loan Parties have delivered to the Agent and the Lenders the audited balance sheet and related statements of income, retained earnings, cash flows, and changes in stockholders equity for the Canadian Borrower and its consolidated Subsidiaries as of December 28, 2018, and for the Fiscal Year then ended, accompanied by the report thereon of the Canadian Borrower's chartered accountants, Ernst & Young LLP. Such financial statements are attached hereto as Exhibit C. All such financial statements have been prepared in accordance with GAAP and present accurately and fairly in all material respects the financial position of the Canadian Borrower and its consolidated Subsidiaries as at the dates thereof and their results of operations for the periods then ended, subject, in the case of the interim financial statements, to normal year end adjustments.
- (b) The Latest Projections when submitted to the Agent as required herein represent the Loan Parties' reasonable good faith estimate at the time delivered of the future financial performance of the Canadian Borrower and its consolidated Subsidiaries for the periods set forth therein and have been prepared on the basis of the assumptions set forth therein, which such Loan Party believes at the time submitted to the Agent are fair and reasonable in light of current and reasonably foreseeable business conditions.

6.7 Capitalization.

On the Effective Date, the authorized capital stock or other equity or partnership interests of each Loan Party are set forth on Schedule 6.7, and all such issued shares or other equity or partnership interests are validly issued and outstanding, fully paid and non assessable and are owned beneficially (in the case of Loan Parties other than the Canadian Borrower all Persons and in the case of the Canadian Borrower, those beneficial owners of 10% or more of any outstanding class of shares or interests) and of record by the Persons listed on Schedule 6.7. On the Effective Date, other than as set forth on Schedule 6.7, such Loan Party (other than the Canadian Borrower) is a party to any agreement granting to any Person any stock appreciation or other similar right with respect to any of the shares of capital stock or other equity or partnership interests of such Loan Party. On the Effective Date, other than as set forth on Schedule 6.7, there are no outstanding warrants, options, rights, agreements, convertible or exchangeable securities or other commitments pursuant to which such Loan Party (other than the Canadian Borrower) is or may become obligated to issue, sell, purchase, return or redeem any shares of the capital stock or other securities or equity or partnership interests of such Loan Party.

6.8 Solvency.

Each of the Loan Parties is Solvent after giving effect to the existing Borrowings and any new Borrowings to be made on the Effective Date and after giving effect to the existing Letters of Credit and any new Letters of Credit to be issued on the Effective Date.

6.9 Real Property; Leases

Schedule 6.9 hereto is a correct and complete list, of all Real Estate owned by each Loan Party, all leases and subleases of Real Estate or movable or personal property by any Loan Party, as lessee or sublessee, and all leases and subleases of Real Estate or movable or personal property by any Loan Party, as lessor or sublessor. To the knowledge of such Loan Party, each of such leases and subleases is valid and enforceable in accordance with its terms and is in full force and effect, and no default by any party to any such lease or sublease exists.

6.10 Brokers.

As of the Effective Date, except as set forth on Schedule 6.10, there are no brokerage commissions, finder's fees or investment banking fees payable in connection with any of the Loan Documents.

6.11 Governmental Authorization.

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, such Loan Party of this Agreement, or any other Loan Document or any Transaction Document, except for those which have been obtained and are in full force and effect (all as set forth on Schedule 6.11). No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Person other than a Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, such Loan Party of this Agreement or any other Loan Document or any Transaction Document.

6.12 Proprietary Rights.

To the knowledge of the Canadian Borrower, except as set forth on Schedule 6.12, the Loan Parties own, or possess the right to use all Proprietary Rights that are reasonably necessary for the operation of their respective businesses. To the knowledge of the Canadian Borrower, none of the Proprietary Rights utilized in the manufacture of Eligible Inventory infringe upon the rights of any other Person. The manufacture and sale of Inventory of each Loan Party is not subject to material limitations thereon contained in any licensing agreement relating to Proprietary Rights.

6.13 Bank Accounts.

Schedule 6.13 contains as of the Effective Date a complete and accurate list of all bank accounts and lock box accounts maintained by such Loan Party with any bank or other financial institution. All deposit accounts and lock box accounts maintained by any Loan Party with any bank or other financial institution shall be subject to a Blocked Account Agreement, required to be in place to the extent set forth in Section 8 of each of the Canadian Security Agreement and the U.S. Security Agreement.

6.14 Litigation.

Except as set forth on Schedule 6.14, as of the Effective Date, there is no pending, or to the best of such Loan Party's knowledge threatened in writing, action, suit, proceeding or counterclaim by any Person, or to the best of such Loan Party's knowledge, investigation by any Governmental Authority, which, in each case, would reasonably be expected to have a Material Adverse Effect.

6.15 Labour Disputes.

Except as set forth on Schedule 6.15, as of the Effective Date (a) there is no collective bargaining agreement covering employees of such Loan Party, (b) no such collective bargaining agreement is scheduled to expire during the term of this Agreement, (c) no union or other labour organization is seeking to organize, or to be recognized as, a collective bargaining unit of employees of such Loan Party or for any similar purpose, and (d) there is no pending or (to the best of such Loan Party's knowledge) threatened, strike, work stoppage, material unfair labour practice claim, or other material labour dispute against or affecting such Loan Party or its employees, which, in any case, would reasonably be expected to have a Material Adverse Effect.

6.16 Environmental Laws

Except as otherwise disclosed in Schedule 6.16:

- (a) The Loan Parties and their Subsidiaries have complied in all material respects with all applicable Environmental Laws and no Loan Party and no Subsidiary of a Loan Party nor any of its or their presently owned Real Estate or presently conducted operations, is subject to any material enforcement order from or material liability agreement with any Governmental Authority or private Person respecting (i) compliance with any Environmental Law or (ii) any potential

liabilities and costs or remedial action arising from the Release or threatened Release of a Contaminant.

- (b) No Loan Party nor Subsidiary of a Loan Party has received any material summons, complaint, order or similar written notice indicating that it is not currently in compliance with, or that any Governmental Authority is investigating its compliance with, any Environmental Laws or that it is or may be liable to any other Person as a result of a Release or threatened Release of a Contaminant.
- (c) There are no material Environmental Liens affecting the Real Estate or the Collateral of any of the Loan Parties and their Subsidiaries.

6.17 No Violation of Law.

Such Loan Party is not in violation of any law, statute, regulation, ordinance, judgment, order or decree applicable to it, which violation would reasonably be expected to have a Material Adverse Effect.

6.18 No Default.

To the knowledge of such Loan Party, such Loan Party is not in default with respect to any note, indenture, loan agreement, mortgage, lease, deed, or other agreement to which such Loan Party is a party or by which it is bound, which default would reasonably be expected to have a Material Adverse Effect.

6.19 Plans

Except as specifically disclosed in Schedule 6.19:

- (a) Each Plan which is subject to or governed by ERISA or the Code is in compliance with the applicable provisions of ERISA, the Code and other federal or state law, except as would not reasonably be expected to have a Material Adverse Effect. Each Plan in Canada is in compliance with the applicable provisions of the PBA and other federal or provincial law, except as would not reasonably be expected to have a Material Adverse Effect. Each Plan which is intended to qualify under Section 401(a) of the Code has received a favourable determination letter from the IRS or may rely on an opinion letter issued by the IRS with respect to a prototype plan adopted in accordance with the requirements for such reliance and to the knowledge of such Loan Party, nothing has occurred which would cause the loss of such qualification. The Canadian Borrower, each Loan Party and each ERISA Affiliate has made all required contributions to any Plan when due, and no application for a funding waiver or an extension of any amortization period has been made with respect to any Plan, except as would not reasonably be expected to have a Material Adverse Effect.
- (b) There are no pending or, to the knowledge of such Loan Party, threatened in writing claims, actions or lawsuits or action by any Governmental Authority with respect to any Plan which has resulted or would reasonably be expected to result in a Material Adverse Effect. There has been no prohibited transaction or

violation of the fiduciary responsibility rules with respect to any Plan which has resulted or would reasonably be expected to result in a Material Adverse Effect.

- (c) Except as set forth on Schedule 6.19, (i) No Termination Event or ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability in excess of \$5,000,000; (iii) none of the Loan Parties or any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under the *Income Tax Act* (Canada) or the applicable federal, provincial or state laws with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA) in amounts in excess of \$5,000,000; (iv) none of the Loan Parties or any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multi employer Plan in amounts in excess of \$5,000,000; (v) none of the Loan Parties or any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA and that would reasonably be expected to have a Material Adverse Effect; (vi) no Lien has arisen in respect of any Loan Party or its property in connection with any Plan (save for contribution amounts not yet due), (vii) no Loan Party maintains, administers, contributes to or has any liability in respect of a Canadian Defined Benefit Pension Plan. Where any Pension Plan has been partially or fully wound-up, all assets, including any surplus, attributable to such wind-up have been fully distributed in accordance with all applicable laws and any unfunded liability arising on such wind-up has been fully funded such that that no Loan Party has any outstanding liabilities with respect to such wound-up or partially wound-up Pension Plan. No Pension Plan has an ongoing deficiency or solvency deficiency greater than \$5,000,000 as evidenced by the most recent actuarial report prepared for such Pension Plan and provided to Agent. No Loan Party has any material liability with respect to any pension plan of a non-Loan Party.

6.20 Taxes.

Such Loan Party has (a) filed or caused to be filed all federal (both Canada and United States), provincial, state and other material Tax returns (including material foreign Tax returns) required to be filed (or extensions permitted under applicable law have been timely obtained with respect thereto), and (b) has paid or caused to be paid all federal (both Canada and United States), state, provincial and other material Taxes (including material foreign Taxes), assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except for non-payment of any such Taxes, assessments, fees and other governmental charges permitted by Section 7.1.

6.21 Regulated Entities.

None of the Loan Parties or any Person controlling any of the Loan Parties is an "Investment Company" within the meaning of the *Investment Company Act* of 1940, as amended.

6.22 Margin Regulations.

Such Loan Party is not engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock.

6.23 No Material Adverse Effect.

No Material Adverse Effect has occurred since December 28, 2018.

6.24 Full Disclosure.

None of the representations or warranties made by such Loan Party in any of the Loan Documents as of the date such representations and warranties are made or deemed made, and none of the statements contained in any exhibit, report, statement or certificate furnished by or on behalf of such Loan Party in connection with any of the Loan Documents taken as a whole, contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered.

6.25 Material Agreements.

Schedule 6.25 hereto sets forth as of the Effective Date all material agreements and contracts to which such Loan Party is a party or is bound as of the Effective Date hereof that are material (in the Canadian Borrower's reasonable judgment) to any business segment of the Canadian Borrower and the other Loan Parties. The Borrowers have not received any notice of default or termination under any such agreements and are not aware of any default upon the basis of which the other party to any such agreement could terminate such agreement.

6.26 Title to Property.

Each of the Borrower and the Borrower's Subsidiaries have good and valid title to all material properties owned by them, including all property reflected in the most recent consolidated balance sheet of the Borrower and the Borrower's Subsidiaries as referred to in Section 5.2(a), free and clear of all Liens, other than Permitted Liens.

6.27 Inactive Subsidiaries.

Each of the Subsidiaries listed in Schedule 6.27 (the "**Inactive Subsidiaries**"): (i) do not carry on any business whatsoever, (ii) do not own any inventory, accounts or any other personal or moveable property and assets, and (iii) have not granted a Lien to any Person and no Person otherwise has a Lien against it or its personal or moveable property and assets, except, with respect to (i), (ii) and (iii), as set forth on Schedule 6.27.

6.28 Beneficial Ownership Certification.

As of the Effective Date, to the best knowledge of the Borrowers, the information included in the Beneficial Ownership Certification provided on or prior to the Effective Date to the Agent and the Lenders in connection with this Agreement is true and correct in all respects.

ARTICLE 7 – AFFIRMATIVE AND NEGATIVE COVENANTS

Each Loan Party covenants to the Agent and each Lender that so long as any of the Obligations remain outstanding or this Agreement is in effect:

7.1 Taxes.

Such Loan Party shall pay and discharge as the same shall become due and payable (a) all Taxes imposed upon it or its properties or assets unless the same are being contested in good faith by appropriate proceedings and adequate reserves in accordance with GAAP are being maintained by such Loan Party; and (b) all lawful claims which, if unpaid would by law become a Lien (other than a Permitted Lien) upon the Collateral.

7.2 Legal Existence and Good Standing.

Such Loan Party shall maintain its legal existence and its qualification and good standing in all jurisdictions in which the failure to maintain such existence and qualification or good standing would reasonably be expected to have a Material Adverse Effect.

7.3 Compliance with Law and Agreements; Maintenance of Licenses.

Such Loan Party shall comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business (including, to the extent applicable, the *Federal Fair Labor Standards Act* and Anti-Terrorism Laws), except where the failure to do so (other than Anti-Terrorism Laws) could not reasonably be expected to have a Material Adverse Effect. Such Loan Party shall obtain and maintain all licenses, permits, franchises and governmental authorizations necessary to own its property and to conduct its business as conducted on the Effective Date, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

7.4 Maintenance of Property; Inspection of Property.

- (a) Such Loan Party shall maintain all of its material property necessary and useful in the conduct of its business, in good operating condition and repair, ordinary wear and tear and casualty excepted.
- (b) Such Loan Party shall permit representatives and independent contractors of the Agent to visit and inspect any of its properties and the Collateral, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers and independent chartered accountants, at such reasonable times during normal business hours and as soon as may be reasonably desired, upon reasonable advance notice to such Loan Party; provided, that, visits in any 12-month period may at Agent's discretion be up to two (2) times per year unless (i) Adjusted Aggregate Availability is never less than an amount that is equal to twenty-five percent (25%) of the Maximum Revolver Amount for any period longer than any five (5) consecutive days in such period, in which case the frequency of such visits in such 12-month period may at Agent's discretion be up to one annual visit; or (iii) an Event of Default has occurred and is continuing, in which case the

Agent may do any of the foregoing at any time and as many times in any year during normal business hours and without advance notice. The Loan Parties shall be responsible for the costs and expenses of all such visits. Such visits shall be in addition to visits for purposes of conducting appraisals permitted under Section 14.19.

7.5 Insurance.

- (a) Such Loan Party shall maintain, with financially sound and reputable insurance companies not Affiliates of any Loan Party, insurance with respect to its properties and business against loss, damage and hazards of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons, and reasonably acceptable to the Agent and the Required Lenders. The Agent and the Required Lenders acknowledge that the Loan Parties' insurance in place on the Effective Date, is acceptable to the Agent and the Required Lenders.
- (b) Such Loan Party shall cause the Agent, for the ratable benefit of the Agent and the Lenders, to be named as secured party and lender's first loss payee (as its or their interests may appear) and first mortgagee with respect to insurance covering the Collateral, or additional insured as to liability and umbrella insurance, in a manner reasonably acceptable to the Agent. Each such policy of insurance shall contain a clause or endorsement requiring the insurer to give not less than thirty (30) days' prior written notice to the Agent in the event of cancellation of the policy for any reason whatsoever (other than for nonpayment of premiums, in which case not less than ten (10) days' prior written notice is sufficient) and a clause or endorsement stating that the interest of the Agent shall not be impaired or invalidated by any act or neglect of any Loan Party or the owner of any Real Estate for purposes more hazardous than are permitted by such policy. All premiums for such insurance shall be paid by such Loan Party when due, and certificates of insurance and, if requested by the Agent or any Lender, photocopies of the policies, shall be delivered to the Agent, in each case in sufficient quantity for distribution by the Agent to each of the Lenders.
- (c) Unless the Borrowers provide the Agent with evidence of the insurance coverage required by this Section 7.5, the Agent may purchase casualty insurance, with prompt notice to the Borrowers at the Loan Parties' expense. This insurance may, but need not, protect the interests of the Loan Parties. The coverage that the Agent purchases may not pay any claim that any Loan Party makes or any claim that is made any Loan Party in connection with said coverage. The Borrowers may later cancel any insurance purchased by the Agent, but only after providing the Agent with evidence that the Loan Parties have obtained insurance as required by this Section 7.5. If the Agent purchases such insurance, the Loan Parties will be responsible for the costs of that insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance that the Loan Parties may be able to obtain on their own.

7.6 Insurance Proceeds.

Such Loan Party shall promptly notify the Agent and the Lenders of any loss, damage or destruction to Collateral having a value in excess of \$500,000 per casualty, whether or not covered by insurance. The Agent is hereby authorized to collect all insurance and condemnation proceeds in respect of Collateral of such Loan Party directly and (A)(i) in any casualty event exceeding \$500,000; and (ii) at all times when an Event of Default is in existence and is continuing, to apply them to the Obligations in a manner that is consistent with Section 3.7 and in the order set forth in Section 3.7, and (B)(i) in any casualty event not exceeding \$250,000 and (ii) when no Event of Default has occurred or is existing, the Agent shall return such condemnation or insurance proceeds to the applicable Loan Party. In the event that any Loan Party shall receive any such insurance or condemnation proceeds such Loan Party shall promptly remit such proceeds to the Agent to be applied to the Obligations as aforesaid.

7.7 Environmental Laws

Such Loan Party shall conduct, and shall cause each of its and their Subsidiaries to conduct, its and their business in compliance in all material respects with all Environmental Laws applicable to it or them, including, without limitation, those relating to the Loan Parties' or such Subsidiary's generation, handling, use, storage and disposal of Contaminants. The Loan Parties shall take, and shall cause its and their Subsidiaries to take, prompt and appropriate action to respond to any non-compliance or alleged non-compliance with Environmental Laws. Without limiting the generality of the foregoing, whenever any Loan Party gives notice to the Agent pursuant to Subsection 5.3(d) or 5.3(e) and the Agent so requests, the Loan Parties shall, at the applicable Loan Party's expense:

- (a) Cause an independent environmental engineer reasonably acceptable to the Agent in its reasonable discretion to conduct such technical environmental assessments of the site where the non-compliance or alleged non-compliance with Environmental Laws has occurred, and prepare and deliver to the Agent a report setting forth the results of such assessments, a proposed plan for responding to any environmental problems described therein, and an estimate of the costs thereof; and
- (b) Provide to the Agent a supplemental report of such engineer whenever the scope of the environmental problems, or the Loan Party's, and any other Person's response thereto or the estimated costs thereof, shall change materially. Such reports shall also be addressed to the Agent and the Lenders and shall, as applicable and reasonably requested by the Agent, set out the results of such engineers' review of, *inter alia*:
 - (i) Changes to any internal policies and procedures of the Loan Party or any Subsidiary, as the case may be, relating to environmental regulatory compliance that are recommended to ensure that all appropriate steps are being taken by or on behalf of the Loan Party or any Subsidiary, as the case may be, to comply with all applicable requirements of Environmental Laws;

- (ii) progress of compliance satisfaction, capital expenditures required to effect remedial steps and compliance deficiencies;
- (iii) all other non-privileged environmental assessment reports which the Loan Party or any Subsidiary, as the case may be, or any predecessor has commissioned in the normal conduct of its business relating either to the site where the non-compliance or alleged non-compliance with Environmental Laws has occurred or to compliance with the same Environmental Laws at other sites; and
- (iv) all non-privileged environmental reports which have been commissioned by or made available to a Loan Party or any Subsidiary, as the case may be, in connection with new acquisitions, and the engineers' report and recommendations on results of assessments performed or samples taken by it during the course of its review, irregularities or steps which may be taken to ensure continued compliance, as well as such other matters as a Borrower and/or the Agent may reasonably request from time to time relating either to the site where the non-compliance or alleged non-compliance with Environmental Laws has occurred or to compliance with the same Environmental Laws at other sites.

7.8 Compliance with ERISA; PBA; Etc.

Such Loan Party shall and shall cause its ERISA Affiliates and its subsidiaries to:

- (a) maintain each Plan which is subject to or governed by ERISA, the Code, the *Income Tax Act* (Canada), the PBA or other federal, provincial or state law in compliance in all material respects with the applicable provisions of ERISA, the Code, the *Income Tax Act* (Canada), the PBA, and other federal, provincial or state law, except where noncompliance would not be reasonably likely to have a Material Adverse Effect;
- (b) have no unfunded, solvency, or deficiency on windup liability and no accumulated funding deficiency (whether or not waived) as defined in Section 302 of ERISA or Section 412 of the Code or any amount of unfunded benefit liabilities (including as defined in Section 4001(a)(18) of ERISA) in respect of any Plan, including any Plan to be established and administered by it or them;
- (c) pay when due, all amounts required to be paid by it or them;
- (d) not cause or permit to arise or exist any liability upon it or them or Lien on any of its or their property in respect of any Plan;
- (e) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification;
- (f) make all required contributions to any Plan when due;

- (g) not engage in a prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that could reasonably be expected to result in material liability;
- (h) not engage in a transaction that could be reasonably expected to result in material liability under Section 4069 or 4212(c) of ERISA;
- (i) except in respect of the Existing DB Plans that have already been wound-up, not permit the wind-up and/or termination of any Pension Plan during the term of this Agreement without the prior written consent of the Agent; and
- (j) except for the Existing DB Plans and except in connection with a Permitted Acquisition or with the prior consent of the Agent, not maintain, administer, contribute or have any liability in respect of any Canadian Defined Benefit Pension Plan or acquire an interest in any Person if such Person sponsors, maintains, administers or contributes to, or has any liability in respect of, any Canadian Defined Benefit Pension Plan.

7.9 Bank Accounts.

Each Loan Party shall at all times maintain its principal depository banking relationship, including operating, administrative, cash management, collection and other principal depository accounts, with Royal Bank and the U.S. Cash Management Provider, as applicable.

7.10 Amendments to Term Loan Facility

Such Loan Party shall not, directly or indirectly, amend, modify, supplement, waive compliance with or consent to any departure from any provision of the Term Loan Facility documents if such amendment, modification, supplement, waiver or consent would have the effect of (i) advancing the maturity date or any payment date of principal or increase the principal amount of any such Term Loan Facility above the amount permitted under Section 7.15(h), (ii) granting any new Lien to secure the Term Loan Facility in violation of the Intercreditor Agreement, (iii) further restricting the ability of any Loan Party to amend, modify, supplement, waive compliance with or consent to noncompliance with any term, provision or condition of any Loan Document, (iv) being reasonably likely to cause a Material Adverse Effect, (v) materially and adversely affecting the rights of the Lenders and the Agent or (vi) violating the Intercreditor Agreement; provided that this Section 7.10 shall not restrict amendments, modifications and supplements to the Term Loan Facility to effect sections 1.3 and 1.4 thereof or, except to the extent increasing the aggregate principal amount of the Term Loan Facility in violation of Section 7.15(h), section 1.5 thereof.

7.11 Mergers, Consolidations or Sales.

- (a) Such Loan Party shall not enter into any transaction of merger, amalgamation, reorganization or consolidation, or transfer, sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of related transactions) all or substantially all of the Collateral (whether now owned or hereafter acquired), or issue or otherwise sell or transfer (whether in one transaction or in a series of related transactions) all or substantially all of its equity interests in such Loan

Party, or wind up, liquidate or dissolve, or agree to do any of the foregoing, except (A) the amalgamation, consolidation or merger of any Wholly-Owned Loan Party into another Wholly-Owned Loan Party that is domiciled in, has its jurisdiction of incorporation in, and is resident of, the same country, (B) the amalgamation, consolidation or merger of any Wholly-Owned Loan Party (including such a Loan Party that is a Borrower) into a Borrower, that is domiciled in, has its jurisdiction of incorporation in, and is resident of, the same country with such Borrower continuing as such Borrower, or, in the case of a merger, being the survivor of such merger, and (C) amalgamations, consolidations and mergers set forth on Schedule 7.11 on the Effective Date.

- (b) Such Loan Party shall not transfer, sell, assign, lease or otherwise dispose of (each, a "**Transfer**") all or any part of its property, except for:
 - (i) sales of Inventory in the ordinary course of its business;
 - (ii) sales or other dispositions of property listed on Schedule 7.11;
 - (iii) sales or other dispositions of assets (other than Accounts and Inventory) by any Loan Party in the ordinary course of business that are (a) obsolete, (b) no longer useable by such Loan Party in its business or (c) no longer necessary for the conduct or operation of such Loan Party's business;
 - (iv) the lease or sublease by any Loan Party, as lessor or sublessor, of any Real Estate of such Loan Party, or the Transfer of Real Estate into a Loan Party;
 - (v) Transfers of assets among Loan Parties;
 - (vi) a disposition made as a part of a Permitted Investment; and
 - (vii) other dispositions for fair market value and for which not less than 75% of the consideration is paid in cash, in an aggregate amount not to exceed \$25,000,000 in any Fiscal Year, and in each case so long as no Default or Event of Default is continuing or would result therefrom.
- (c) Any Loan Party may engage in a Permitted Acquisition.

7.12 Distributions; Capital Change; Restricted Investments.

- (a) Such Loan Party shall not directly or indirectly declare or make, or incur any liability to make, any Distribution, except, provided that no Default or Event of Default exists and is continuing, (i) Distributions among the Loan Parties and (ii) Distributions by the Canadian Borrower, in the form of dividends, in favour of its shareholders provided, further, that (x) the Borrowers shall have Adjusted Aggregate Availability of at least the greater of (1) \$18,750,000, and (2) an amount equal to twelve percent (12.5%) of the lesser of (aa) the Maximum Revolver Amount, and (bb) the Aggregate Borrowing Base, after giving effect to

such Distribution, and (y) the Borrowers' Average Adjusted Aggregate Availability for the thirty (30) days preceding the date of the proposed Distribution would have been at least the greater of (1) \$18,750,000, and (2) an amount equal to twelve percent (12.5%) of the lesser of (aa) the Maximum Revolver Amount, and (bb) the Aggregate Borrowing Base if the proposed Distribution had been made on the 31st day preceding the date of the proposed Distribution;

- (b) such Loan Party shall not make any change in its capital structure which would reasonably be expected to have a Material Adverse Effect; or
- (c) Such Loan Party shall not make any investment including any Acquisitions, other than Permitted Investments; provided, however, that the Canadian Borrower or HLF Holdings Inc. may, pursuant to a normal course issuer bid, repurchase the Canadian Borrower's stock up to an aggregate combined amount of \$10,000,000 during any Fiscal Year, with unused amounts in any calendar year being carried over to the next succeeding calendar year (provided that the amount of such repurchases of stock shall not exceed an aggregate of \$20,000,000 in any Fiscal Year), provided, further, that no Default or Event of Default exists or is continuing at the time of such repurchase.

7.13 Transactions Affecting Collateral or Obligations

Such Loan Party shall not enter into any transaction or otherwise cause, permit or suffer to occur or exist any event or condition which has resulted in or could reasonably be expected to give rise to a Material Adverse Effect.

7.14 Guarantees.

Such Loan Party shall not make, issue or become liable on any Guarantee, except (i) Guarantees of the Obligations in favour of the Agent, (ii) Guarantees in favour of the lenders under the Term Loan Facility in respect of the Obligations of the Canadian Borrower, as a borrower under the Term Loan Facility, all subject to the Intercreditor Agreement, and (iii) endorsements of instruments for deposit in the ordinary course of business, (iv) a guarantee of the obligations under the Peabody lease and on Letter of Credit securing two (2) months rent, and (v) unsecured Guarantees of the permitted obligations (as set forth in Section 7.15) of another Loan Party.

7.15 Debt.

Such Loan Party shall not incur or maintain any Debt, other than:

- (a) the Obligations;
- (b) Debt described on Schedule 7.15;
- (c) Debt evidencing a refunding, renewal or extension of the Debt described on Schedule 7.15; provided that (i) the principal amount thereof is not increased, (ii) the Liens, if any, securing such refunded, renewed or extended Debt do not attach

to any assets in addition to those assets, if any, securing the Debt to be refunded, renewed or extended, (iii) no Person that is not a Loan Party or guarantor of such Debt as of the Closing Date shall become a Loan Party or guarantor thereof, and (iv) the terms of such refunding, renewal or extension are no less favourable to such Loan Party, the Agent or the Lenders than the original Debt;

- (d) Capital Leases of Fixed Assets and purchase money secured Debt incurred to purchase Fixed Assets provided that (i) Liens securing the same attach only to the Fixed Assets acquired by the incurrence of such Debt, and (ii) the aggregate amount of such Debt (including Capital Leases and any such Debt described on Schedule 7.15) of all Loan Parties outstanding does not exceed \$45,000,000 at any time;
- (e) Capital Leases of Fixed Assets, purchase money secured Debt incurred to purchase Fixed Assets or Term Loan Facility refinancing of current Fixed Assets, in connection with a Permitted Acquisition, provided that (i) Liens securing the same attach only to the Fixed Assets acquired or refinanced by the incurrence of such Debt, and (ii) the aggregate amount of such Debt outstanding, of all Loan Parties, does not exceed \$20,000,000 at any time;
- (f) intercompany Debt permitted under the definition of Permitted Investments; provided that any such Debt incurred by a Loan Party from a Subsidiary that is not a Loan Party shall be subordinated to the Obligations in a manner reasonably acceptable to the Agent;
- (g) Subordinated Debt;
- (h) (i) Debt in respect of the Term Loan Facility, the maximum aggregate principal amount of which shall not exceed U.S.\$300,000,000 plus amounts permitted to be incurred under section 1.5 of the Term Loan Facility as such provisions are in effect on the date hereof, provided, that it has a maturity date that is not earlier than ninety-one (91) days after the Stated Termination Date as of the date hereof, and (ii) Debt that serves to refinance any Debt incurred permitted under the foregoing clause (i) of this Section 7.15(h) in an aggregate principal amount not to exceed the principal amount refinanced, plus accrued interest, premium and fees and expenses incurred in connection therewith;
- (i) Guarantees permitted by Section 7.14;
- (j) Debt under, or reimbursement obligations in respect of, letters of credit and bankers acceptances issued for performance, surety, appeal or indemnity bonds or with respect to workers' compensation claims or other statutory obligations;
- (k) Debt arising from netting services, overdraft protection, cash management services and otherwise in connection with deposit, securities and commodities accounts in the ordinary course of business;
- (l) trade payables and other liabilities accrued or incurred in the ordinary course of business other than through the borrowing of money;

- (m) Debt (other than intercompany Debt) constituting a Permitted Investment;
- (n) unsecured Debt on customary terms and conditions (including subordination documentation, if any) satisfactory to the Agent, provided, that (i) no Default or Event of Default exists or would occur as a consequence or the incurrence thereof, (ii) the Fixed Charge Coverage Ratio of the Canadian Borrower and its Subsidiaries, calculated on a pro forma basis after giving effect to the incurrence of such unsecured Debt, shall be greater than * (iii) such unsecured Debt has a maturity date that is not earlier than ninety-one (91) days after the Stated Termination Date and will have a Weighted Average Life to Maturity that is not shorter than such time, and (iv) the aggregate amount of such Debt outstanding, of all Loan Parties, does not exceed \$250,000,000;
- (o) other unsecured Debt not to exceed, in the aggregate, \$5,000,000; and
- (p) Debt incurred in the ordinary course of business in connection with incentive or other economic development programs provided or offered by any Governmental Authority, including, without limitation, tax credit programs, tax-exempt bonds and notes and forgivable loan programs incurred in the ordinary course of business; provided that the aggregate principal amount of Debt incurred pursuant to this clause (p) shall not exceed \$25,000,000 at any time outstanding.

7.16 Prepayment; Repurchase and Redemption of Debt.

Such Loan Party shall not voluntarily prepay, repurchase or redeem any Debt, except (i) the Obligations in accordance with the terms of this Agreement, (ii) Debt permitted under Sections 7.15(b)-(e) and (i)-(l), (iii) prepayments of the Term Loan Facility (A) with Term Priority Proceeds (as such term is defined in the Intercreditor Agreement) derived from the permitted sale of Term Priority Collateral (as such term is defined in the Intercreditor Agreement), or with casualty insurance proceeds in connection with Term Priority Collateral (as such term is defined in the Intercreditor Agreement) and (B) in connection with the exercise of section 1.3 and 1.4 of the Term Loan Facility or a refinancing permitted under Section 7.15, (iv) scheduled prepayments of the Term Loan Facility as set forth in the Term Loan Agreement, (v) voluntary prepayments of the Term Loan Facility, provided however, that (A) after giving effect to such voluntary prepayment, Borrowers' Adjusted Aggregate Availability is greater than \$50,000,000 or, if Borrowers' Adjusted Aggregate Availability is less than \$50,000,000 but greater than an amount that is equal to 17.5% of the Maximum Revolver Amount after giving effect to such prepayment, the Fixed Charge Coverage Ratio, for 180 days prior to such payment, shall have been greater than * (for greater certainty, no voluntary prepayments of the Term Loan Facility shall be permitted if, after giving effect thereto, Borrowers' Adjusted Aggregate Availability would be less than an amount that is equal to 17.5% of the Maximum Revolver Amount), and (B) no Default or Event of Default exists or would occur as a consequence thereof and (vi) regularly scheduled payments of interest by (A) the U.S. Borrower to [Name of Subsidiary Redacted] in connection with paragraph (h) of the definition of Permitted Investments in an aggregate amount not to exceed USD\$7,000,000 in any Fiscal Year, and (B) [Name of Subsidiary Redacted] to [Name of Subsidiary Redacted] in connection with paragraph (h) of the definition of Permitted Investments in an aggregate amount not to exceed USD\$18,000,000 in any Fiscal Year, provided that in each case, the Loan Parties shall have used

[* Ratio Redacted]

best efforts to cause any such payments to be ultimately distributed to the Canadian Borrower within one Business Day; provided, further, that in respect of items (ii) and (iii) of this Section 7.16, (x) Borrowers' Average Adjusted Aggregate Availability for the 30 days preceding the date of the proposed prepayment, repurchase or redemption would have been at least \$22,500,000 if the proposed prepayment, repurchase or redemption had been made on the 31st day preceding the date of the proposed prepayment, repurchase or redemption, and (y) no Default or Event of Default exists or would occur as a consequence thereof.

7.17 Transactions with Affiliates.

Such Loan Party shall not enter into, or be a party to, any transaction with any Affiliate of such Loan Party, including without limitation any management, consulting or similar arrangement, except (a) as set forth on Schedule 7.17, (b) transactions specifically permitted pursuant to the other provisions of this Agreement, including without limitation Permitted Investments, and (c) purchases of Inventory from Affiliates in the ordinary course of business and made at fair market value.

7.18 Use of Proceeds.

- (a) Such Loan Party shall not use any portion of the Revolving Loan proceeds, directly or indirectly, (i) to purchase or carry Margin Stock, (ii) to repay or otherwise refinance indebtedness of a Loan Party or others incurred to purchase or carry Margin Stock, (iii) to extend credit for the purpose of purchasing or carrying any Margin Stock or (iv) to acquire any security in any transaction that is subject to Section 13 or 14 of the *Exchange Act*.
- (b) The proceeds of the Revolving Loans made and Letters of Credit issued after the Effective Date are to be used (i) to finance payments in respect of Debt to the extent such payments are permitted by Section 7.16, and (ii) for working capital, capital expenditures, and general corporate purposes of the Loan Parties not prohibited hereunder, including direct drawings to fund Permitted Investments (including Permitted Acquisitions), where such use of Revolving Loans are permitted thereunder).

7.19 Business Conducted.

Such Loan Party shall not engage, directly or indirectly, in any material line of business substantially different from those lines of business such Loan Party is engaged on the Effective Date and reasonable extensions, developments and expansions thereof and any others ancillary or reasonably related thereto.

7.20 Liens.

Such Loan Party shall not create, incur, assume or permit to exist any Lien on any property and Collateral now owned or hereafter acquired by any of them, except Permitted Liens. All Collateral is and will continue to be covered by the Loan Parties free and clear of all liens, except for Permitted Liens.

7.21 Sale and Leaseback Transactions

Such Loan Party shall not, directly or indirectly, enter into any arrangement with any Person providing for any Loan Parties or any Subsidiary of a Loan Party to lease or rent Property that the Loan Parties or any Subsidiary of the Loan Parties has or will sell or otherwise transfer to such Person.

7.22 New Subsidiaries; New Security; New Guarantees.

- (a) With respect to any Collateral acquired after the Effective Date by any Loan Party (other than (x) a fee interest in real property or (y) any property described in paragraph (b) or (c) below) as to which the Agent, for the benefit of the Secured Parties, does not have a perfected Lien under the applicable Security Agreement or hypothecated under the applicable Hypothec, the Borrowers shall and shall cause the Borrowers' Subsidiaries other than Excluded Subsidiaries, to promptly (i) execute and deliver to the Agent such amendments to the such Security Documents as the Agent reasonably requests in order to grant to the Agent, for the benefit of the Lenders, a security interest in such property and (ii) take all actions reasonably requested by the Agent to grant to the Agent, for the benefit of the Secured Parties, a perfected security interest in, or hypothec on, as the case may be, such property having the priority required by the Security Documents, including the filing of UCC and PPSA financing statements and publication pursuant to the Civil Code of Quebec in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent.
- (b) With respect to any fee interest in any real property or any immovable property located in the Province of Quebec in each case having a fair market value (together with improvements thereof) of at least \$5,000,000 acquired after the Effective Date by any Loan Party or owned by a Subsidiary (other than an Excluded Subsidiary) created or acquired after the Effective Date, the Borrowers shall and shall cause the Borrowers' Subsidiaries, to promptly (i) cause each Loan Party which is the fee owner of such real property or the owner of such immovable property to execute and deliver a Mortgage (as defined below) in favour of the Agent, for the benefit of the Secured Parties, covering such real property, (ii) provide the Agent, on behalf of the Secured Parties, with (x) title insurance and extended coverage insurance insuring the lien of the Mortgage as a first priority lien, subject only to Permitted Liens, in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably specified by the Agent) as well as a current ALTA survey thereof, or, in the case of those properties sited in Canada, a survey certificate provided by a surveyor duly licensed in the jurisdiction where such property is located, together with a surveyor's certificate, or, for property located in the Province of Quebec, a certificate of location, (y) any consents or estoppels reasonably deemed necessary or advisable by the Agent in connection with such Mortgage, each of the foregoing in form and substance reasonably satisfactory to the Agent and (z), if applicable, a flood zone certificate in favor of the Agent and if necessary (as shown therein), flood insurance in an amount required by applicable law and (iii)

deliver to the Agent customary legal opinions relating to the matters described above (other than with respect to any Loan Party's title in any such real property), which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Agent.

- (c) With respect to any new Subsidiary (other than an Excluded Subsidiary) created or acquired after the Effective Date by any Loan Party (including any Subsidiary that ceases to constitute an Excluded Subsidiary), the Borrower agrees, and agrees to cause the Borrowers' Subsidiaries, to promptly (i) execute and deliver to the Agent such amendments to the Security Documents or new Security Documents as the Agent reasonably deems necessary or advisable to grant to the Agent, for the benefit of the Secured Parties, a perfected first priority security interest in the Capital Stock of such new Subsidiary that is owned by any Loan Party, (ii) deliver to the Agent the certificates representing such Capital Stock, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of the relevant Loan Party, (iii) cause such new Subsidiary (A) (i) to promptly become a Guarantor hereunder and execute and deliver to the Agent a Joinder Agreement (in the form attached as Exhibit H) and (ii) to execute a Security Agreement and any other applicable Security Documents or Loan Documents required by the Agent and cooperate with the Agent to ensure that the the applicable UCC, PPSA and/or Civil Code of Quebec registrations, as applicable, are conducted and registered and (B) to take such actions reasonably deemed necessary or advisable by the Agent to grant to the Agent for the benefit of the Secured Parties a perfected security interest in or hypothec on the Collateral with respect to such new Subsidiary having the priority required by the Security Documents, including the filing of UCC financing statements and PPSA registrations in such jurisdictions and publication pursuant to the Civil Code of Quebec as may be required by the Security Documents or by law or as may be reasonably requested by the Agent and (iv) if reasonably requested by the Agent, deliver to the Agent customary legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Agent.
- (d) Within 90 days following the Closing Date (or such longer period as the Agent shall agree), the Agent shall have received (A) fully executed counterparts (or notarial copies for hypothecs executed before a Quebec notary) of mortgages, deeds of trust, deeds of hypothec, deeds to secure debt and similar documents in each case in form and substance reasonably satisfactory to the Agent and substantially in the form of Exhibit G with such changes as are reasonably required in connection with local law (each a "Mortgage" and collectively, the "Mortgages") covering all the properties that were Mortgaged Properties on the Closing Date, which Mortgages shall be recorded in all places to the extent necessary or desirable, in the reasonable judgment of the Agent, to create a valid and enforceable first priority Lien, subject only to Permitted Liens, on each Mortgaged Property in favour of the Agent (or such other trustee as may be required or desired under local law) for the benefit of the Secured Parties, (B) a lender's title insurance policy with respect to each Mortgaged Property paid for by the Borrowers, issued by a nationally recognized title insurance company,

together with such affidavits, endorsements, coinsurance, affirmative coverage and reinsurance as may be reasonably requested by the Agent, in form and substance reasonably acceptable to the Agent, insuring each Mortgage as a first lien on the relevant Mortgaged Property in an amount at least equal to the aggregate of the land value and insurable value of such Mortgaged Property (or such other amount as may reasonably be requested by the Agent) and subject only to Liens permitted hereunder (the “**Title Policies**”), and (C) other documents and legal opinions as shall be reasonably requested by the Agent, including those described in Section 7.22(b),

- (e) The Loan Parties agree to promptly, upon reasonable request by the Agent, (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Loan Document or other document or instrument relating to any Collateral, (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Agent may reasonably require from time to time in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created by the Security Documents, including cooperating as necessary to enable the Agent to make any necessary or reasonably desirable recordations with the Canadian Intellectual Property Office, U.S. Copyright Office or the U.S. Patent and Trademark Office, as appropriate.

7.23 Fiscal Year.

Such Loan Party shall not change its Fiscal Year.

7.24 Intentionally Deleted.

7.25 Fixed Charge Coverage Ratio

The Borrowers will maintain, at all times, (tested at the end of each month) a Fixed Charge Coverage Ratio for each period of twelve consecutive historical months of not less than ; provided, however, that the Borrowers shall be required to maintain and test the foregoing Fixed Charge Coverage Ratio during the term of this Credit Agreement if, for any period of five (5) consecutive Business Days, Average Adjusted Aggregate Availability is less than the greater of (a) \$15,000,000, and (b) an amount equal to ten percent (10%) of the lesser of (i) the Maximum Revolver Amount, and (ii) the Aggregate Borrowing Base.

7.26 Intentionally Deleted.

7.27 Corporate Documents.

Such Loan Party shall not amend or permit to be amended in any manner that would reasonably be expected to be materially adverse to the Agent or the Lenders, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, memorandum of association, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust

[* Ratio Redacted]

agreement, or similar agreement or instrument governing the formation or operation of such Loan Party.

7.28 Intentionally Deleted.

7.29 Restrictive Agreements.

Such Loan Party shall not become a party to any agreement that conditions or restricts the right of such Loan Party to incur or repay Debt, to grant Liens on its assets, to declare or make Distributions, to modify, extend or renew any agreement evidencing Debt or to repay intercompany Debt, except (a) the Loan Documents, (b) such an agreement related to secured Debt permitted hereunder, if such restrictions apply only to the collateral for such Debt, and (c) customary provisions in leases and other contracts restricting assignment thereof.

7.30 Change of Control

Such Loan Party shall not wind up, liquidate or dissolve its business, affairs or assets or enter into any transaction of reorganization, amalgamation, merger, consolidation or permit any change in its ownership or control that will cause the Canadian Borrower, at any time, without the prior written consent of the Required Lenders, to reduce or otherwise dispose of its interest in the Capital Stock of the U.S. Borrower.

7.31 Inactive Subsidiaries.

Other than as provided for on Schedule 6.27, the Borrower shall cause each of the Inactive Subsidiaries not to (i) carry on business, (ii) own any personal or moveable property and assets, and (iii) not grant a lien to any Person against it or its personal or moveable property and assets.

7.32 Special Provisions Regarding Accounts, Inventory and Other Collateral

- (a) Each Loan Party hereby represents and warrants, with respect to such Loan Party's Accounts, that: (i) each existing Account represents, and each future Account will represent, a bona fide sale or lease and delivery of goods by such Loan Party, or rendition of services by such Loan Party, in the ordinary course of such Loan Party's business; (ii) each existing Account is, and each future Account will be, for a liquidated amount payable by the Account Debtor thereon on the terms set forth in the invoice therefor or in the schedule thereof delivered to the Agent, without any material offset, deduction, defence or counterclaim except those known to such Loan Party and disclosed to the Agent and the Lenders in respect of offsets, deductions, defences or counterclaims involving an amount greater than (x) \$100,000, at any time that Borrowing Base Certificates are required to be delivered on a more frequent than monthly basis hereunder or (y) \$200,000, at any other time; (iii) no payment will be received with respect to any Account of such Loan Party, and no credit, discount or extension or agreement therefor will be granted on any Account of such Loan Party, except as reported in Borrowing Base Certificates delivered hereunder or otherwise reported by such Loan Party to the Agent pursuant to the terms hereof; (iv) each copy of an invoice delivered to the Agent by such Loan Party will be a genuine copy of the original

invoice sent to the Account Debtor named therein; and (v) all goods described in any invoice representing a sale of goods will have been delivered to the Account Debtor and all services of such Loan Party described in each invoice will have been performed.

- (b) No Loan Party shall re-date any invoice or sale or make sales on extended dating beyond that customary in such Loan Party's business, or extend or modify any Account (other than extensions and modifications made in the ordinary course of business). If, at any time that Borrowing Base Certificates are required to be delivered on a more frequent than monthly basis hereunder, a Loan Party becomes aware of any matter adversely affecting the collectibility in any material respect of any of its Accounts or the Account Debtor therefor involving an amount greater than \$100,000, including a dispute or claim, or information regarding the Account Debtor's creditworthiness, such Loan Party will promptly advise the Agent of the same.
- (c) No Loan Party shall accept any note or other instrument (except a check or other instrument for the immediate payment of money) with respect to any of its Eligible Accounts in excess of \$100,000 in the aggregate at any time outstanding, without the Agent's prior written consent. If the Agent consents to the acceptance of any such instrument, it shall be considered as evidence of the applicable Account and not payment thereof and the Loan Party will promptly deliver such instrument to the Agent, endorsed by such Loan Party to the Agent in a manner reasonably satisfactory in form and substance to the Agent.
- (d) No discount, credit or allowance shall be granted to any Account Debtor without the Agent's prior written consent, except for discounts, credits and allowances made or given in the ordinary course of the applicable Loan Party's business when no Event of Default exists. Each Loan Party shall send the Agent a copy of each credit memorandum in excess of (x) \$100,000, at any time that Borrowing Base Certificates are required to be delivered on a more frequent than monthly basis hereunder or (y) \$200,000, at any other time, when issued, and such Loan Party shall promptly report such credit on Borrowing Base Certificates submitted by it.
- (e) Each Loan Party shall promptly report to the Agent any return of Inventory involving an amount in excess of (x) \$100,000, at any time that Borrowing Base Certificates are required to be delivered on a more frequent than monthly basis hereunder or (y) \$200,000, at any other time. Each such report shall indicate the reasons for the returns and the locations and condition of the returned Inventory. In the event any Account Debtor returns Inventory to a Loan Party when an Event of Default exists and is continuing, such Loan Party, upon the written request of the Agent, shall: (i) hold all returned Inventory in trust for the Agent; (ii) segregate all returned Inventory from all of its other property; (iii) dispose of the returned Inventory solely according to the Agent's written instructions; and (iv) not issue any credits or allowances with respect thereto without the Agent's prior written consent. All returned Inventory shall be subject to the Agent's Liens thereon. Whenever any Inventory is returned, the related Account shall be

deemed ineligible to the extent of the amount owing by the Account Debtor with respect to such returned Inventory.

- (f) Each Loan Party represents and warrants to the Agent and the Lenders and agrees with the Agent and the Lenders that all of the Inventory owned by such Loan Party is and will be held for sale or lease, or to be furnished in connection with the rendition of services, in the ordinary course of such Loan Party's business, and is and will be fit for such purposes. Each Loan Party will keep its Inventory in good and marketable condition, except for damaged or defective goods arising in the ordinary course of such Loan Party's business. Each Loan Party will not, without the prior written consent of the Agent, acquire or accept any Inventory on consignment or approval other than in the ordinary course of business in a manner consistent with past practices and, upon the reasonable request of the Agent, such Loan Party will provide the Agent with the details of any such arrangements. Each Loan Party agrees that all Inventory produced by such Loan Party in the United States of America will be produced in accordance with the Federal Fair *Labour Standards Act* of 1938, as amended, and all rules, regulations, and orders thereunder. Each Loan Party will maintain a cycle count program relating to its Inventory reasonably acceptable to the Agent. Each Loan Party will maintain a perpetual inventory reporting system at all times. Each Loan Party will not, without the Agent's written consent, sell any of its Inventory on a bill-and-hold, guaranteed sale, sale and return, sale on approval, consignment or other repurchase or return basis other than in the ordinary course of business in a manner consistent with past practices and, upon the reasonable request of the Agent, such Loan Party will provide the Agent with the details of any such arrangements.
- (g) In connection with all Inventory of a Loan Party financed by Letters of Credit, such Loan Party will, at the Agent's request made after the occurrence and during the continuance of an Event of Default, instruct all suppliers, carriers, forwarders, customs brokers, warehouses or others receiving or holding cash, checks, Inventory, Documents or Instruments of such Loan Party in which the Agent holds a security interest to deliver them to the Agent and/or subject to the Agent's order, and if they shall come into such Loan Party's possession, to deliver them, upon request, to the Agent in their original form. Each Loan Party shall also, at the Agent's request made after the occurrence and during the continuance of an Event of Default, designate the Agent as the consignee on all bills of lading and other negotiable and non-negotiable documents of such Loan Party.
- (h) The Agent may, in its sole discretion, and shall, at the direction of the Required Lenders, pay any amount or do any act required of any Loan Party hereunder or requested by the Agent and/or Lenders to preserve, protect, maintain or, upon the occurrence of an Event of Default and exercise by the Agent and Lenders of their rights under Section 9.2 hereof, enforce the Obligations, the Collateral or the Agent's Liens, and which the Loan Party fails to pay or do, including, without limitation, payment of any judgment against the Loan Party any insurance premium, any warehouse charge, any finishing or processing charge, any landlord's or processor's claim, and any other Lien upon or with respect to the

Collateral. All payments that the Agent and/or Lenders make under this Section and all reasonable out-of-pocket costs and expenses that the Agent and/or Lenders pay or incur in connection with any action taken hereunder shall be charged to the Canadian Borrower's loan account as a Revolving Loan. Any payment made or other action taken by the Agent and/or Lenders under this Section shall be without prejudice to any right to assert an Event of Default hereunder and to proceed thereafter as herein provided.

- (i) Each Loan Party hereby constitutes the Agent, or any person or agent the Agent may designate, as its attorney-in-fact, at the Borrower's cost and expense to, upon the occurrence of an Event of Default which is continuing, exercise all of the following powers, which being coupled with an interest, shall be irrevocable until all Obligations to the Agent and the Lenders have been indefeasibly paid in full:
 - (i) to receive, take, endorse, sign, assign and deliver, all in the name of the Agent or any Loan Party, as the case may be, any and all cheques, notes, drafts, and other documents or instruments relating to the Collateral, provided, however, that the Agent shall have the powers set out in this Subsection (i) at all times with or without the occurrence or continuance of an Event of Default;
 - (ii) to, notwithstanding the foregoing, at all times (including prior to an Event of Default) at the Agent's discretion, request from customers indebted on Accounts at any time, in the name of any Loan Party, in the name of the chartered accountants designated by the Agent or in the name of the Agent's designee, information concerning the amounts owing on the Accounts;
 - (iii) to transmit to customers indebted on Accounts notice of the Agent's interest therein and to notify customers indebted on Accounts to make payment directly to the Agent for the requisite Loan Party's account;
 - (iv) to take or bring, in the name of the Agent or any Loan Party, as the case may be, all steps, actions, suits or proceedings deemed by the Agent necessary or desirable to enforce or effect collection of the Accounts; and
 - (v) to receive, open and dispose of all mail addressed to a Loan Party and to notify the postal authority of any change of address for delivery thereof to such address as Agent may designate.
- (j) Such Loan Party assumes all responsibility and liability arising from or relating to the use, sale or other disposition of the Collateral. The Obligations shall not be affected by any failure of the Agent or any Lender to take any steps to perfect the Agent's Liens or to collect or realize upon the Collateral, nor shall loss of or damage to the Collateral release any Loan Party from any of the Obligations. Following the occurrence and continuation of an Event of Default, the Agent may (but shall not be required to), and at the direction of the Required Lenders shall, without notice to or consent from any Loan Party, sue upon or otherwise collect,

extend the time for payment of, modify or amend the terms of, compromise or settle for cash, credit, or otherwise upon any terms, grant other indulgences, extensions, renewals, compositions, or releases, and take or omit to take any other action with respect to the Collateral, any security therefor, any agreement relating thereto, any insurance applicable thereto, or any Person liable directly or indirectly in connection with any of the foregoing, without discharging or otherwise affecting the liability of any Loan Party for the Obligations or under this Agreement or any other agreement now or hereafter existing between the Agent and/or any Lender and any Loan Party.

- (k) Such Loan Party represents and warrants to the Agent and the Lenders and agrees with the Agent and the Lenders that all of the Equipment is and will be used or held for use in any Loan Party's business, and is and will be fit for such purposes. Each Loan Party shall keep and maintain the Equipment in good operating condition and repair (ordinary wear and tear excepted) and shall make all necessary replacements thereof.

7.33 Further Assurances.

Such Loan Party shall execute and deliver or cause to be executed and delivered to the Agent and/or the Lenders such documents and agreements, and shall take or cause to be taken such actions, as the Agent or any Lender may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents.

7.34 Intentionally Deleted.

7.35 Post Closing Undertakings.

The Loan Parties shall complete, to the Agent's satisfaction, each of their covenants and undertakings as set forth on Schedule 7.35.

ARTICLE 8 – CONDITIONS OF LENDING

8.1 Conditions Precedent to Amendment and Restatement.

The effectiveness of this Agreement and the obligation of the Lenders to make Revolving Loans and the obligation of the applicable Letter of Credit Issuer to issue any Letter of Credit, are subject to the following conditions precedent having been satisfied in a manner satisfactory to the Agent and each Lender:

- (a) This Agreement and the other Loan Documents (not delivered under the Existing Credit Agreement or those requiring amendment as a result of the amendment and restatement) shall have been executed by each party thereto (other than, in the case of this Agreement, the Arranger) and each Loan Party shall have performed and complied with all covenants, agreements and conditions contained herein and in the other Loan Documents which are required to be performed or complied with by such Loan Party before or on the Effective Date. In particular, all actions shall have been taken as the Agent shall have reasonably requested to ensure that the Agent shall have a perfected security interest in the Collateral of the type and

priority described in each applicable Security Document, including delivery to the Agent of (i) one or more mortgage amendments, supplements or restatements in form and substance reasonably satisfactory to the Agent (the “**Mortgage Amendments**”) with respect to the Mortgages, duly executed, acknowledged and delivered by a duly authorized officer of each party thereto, in form suitable for filing and recording in all applicable filing or recording offices and (ii) fully-paid title searches and update endorsements to the Agent’s mortgage policies, each in form and substance reasonably satisfactory to, and to the extent requested by, the Agent; provided that, if any of the items required pursuant to this clause (a) in respect of the Mortgaged Properties shall not be delivered on or prior to the Effective Date after the Loan Parties’ use of commercially reasonable efforts to deliver same, then such items may be delivered on a date reasonably agreed by the Agent after the Effective Date.

- (b) The Agent shall have received a completed “Life-of-Loan” Federal Emergency Management Agency Standard Flood Hazard Determination with respect to each Mortgaged Property located in the United States and, if any such Mortgaged Property is located in a special flood hazard area, evidence of flood insurance.
- (c) The Term Loan Facility shall have been amended and restated and continued.
- (d) All representations and warranties made hereunder and in the other Loan Documents shall be true and correct in all material respects as if made on such date.
- (e) No Default or Event of Default shall have occurred and be continuing.
- (f) The Agent and the Lenders shall have received such customary opinions of counsel for the Loan Parties as the Agent or any Lender shall request, each such opinion to be in a form, scope, and substance reasonably satisfactory to the Agent, the Lenders, and their respective counsel.
- (g) The Agent shall have received:
 - (i) each document (including, without limitation, any PPSA or Uniform Commercial Code financing statement or similar recordation pursuant to the Civil Code of Quebec) required by the Security Documents or any other Loan Document or reasonably requested by the Agent to be filed, registered or recorded in order to create in favour of the Agent, for the benefit of the Agent and the Lenders, a perfected Lien on the Collateral, prior and superior in right to any other Person (other than Permitted Liens), and in proper form for filing, registration or recordation;
 - (ii) Estoppel documentation, PPSA, UCC 3 or Civil Code (Quebec) termination statements (and similar termination statements or releases under other applicable laws) authorized for filing by the appropriate Person and such other instruments, in form and substance reasonably satisfactory to the Agent, as shall be necessary to terminate and satisfy

all Liens on the assets and property of the Loan Parties and their respective Subsidiaries except Permitted Liens; and

- (iii) the results of a search of tax and other Liens, and judgments and of the PPSA filings, Uniform Commercial Code filings, filings made with the Register of Personal and Moveable Real Rights of Quebec, Patent & Trademark Office filings and filings made pursuant to other applicable laws or statutes to perfect a security interest in Collateral of a Loan Party made with respect to each of the Loan Parties in the jurisdictions in which each Loan Party is organized and/or in which any Collateral is located and in which PPSA filings, Uniform Commercial Code filings or filings made pursuant to other applicable laws or statutes to perfect a security interest in Collateral of a Loan Party have been made against any Loan Party in (i) hereinabove.
- (h) The Agent shall be reasonably satisfied with the terms and conditions of all material Debt (including, without limitation, the Term Loan Facility and all Subordinated Debt) and related documents of the Loan Parties to remain outstanding after the Effective Date.
- (i) The Agent shall have received evidence reasonably satisfactory to the Agent that all requisite governmental and third party consents and approvals to the transactions contemplated by this Agreement and the other Loan Documents, have been obtained and remain in full force and effect; all applicable waiting periods shall have expired without any action being taken by any competent authority; and no law or regulation shall be applicable in the reasonable judgment of the Agent and the Lenders that restrains, prevents or imposes materially adverse conditions upon any of the Loan Documents or the Term Loan Facility documents.
- (j) In the reasonable judgment of the Agent, no Material Adverse Effect shall have occurred since January 2, 2019.
- (k) There shall exist no action, suit, investigation, litigation or proceeding pending or threatened in any court or before any arbitrator or governmental instrumentality that, *in the reasonable judgment of the Agent*, would reasonably be expected to (i) have a Material Adverse Effect or (ii) materially and adversely affect this Agreement or any of the other Loan Documents or any of the transactions contemplated hereby or thereby or otherwise referred to in clause (h) above.
- (l) (i) Canadian Borrower shall have established Receipt Accounts for collections of Accounts at a Clearing Bank reasonably acceptable to the Agent, and subject to a Blocked Account Agreement, and shall cause all proceeds of Accounts to be deposited therein; and (ii) U.S. Borrower shall have established a Receipt Account for collections of Accounts at a Clearing Bank reasonably acceptable to the Agent and, in each case, subject to a Blocked Account Agreement, and shall cause all proceeds all proceeds of Accounts to be deposited therein.

- (m) Each Loan Party shall have used its reasonable commercial efforts to obtain and deliver to the Agent landlord waivers and bailee letters from landlords of each of the premises leased by such Loan Party on the Effective Date at which (for any such premises) Collateral is located on the Effective Date and from the public warehousemen at whose warehouses any Collateral pledged by such Loan Party is located on the Effective Date, in each case in form and substance reasonably satisfactory to the Agent, duly executed by, as appropriate, such landlords and warehousemen; provided, however, that the delivery of such agreements are not conditions to closing hereunder, but for each such location for which such an agreement is not delivered, the Agent may establish a reserve against the U.S. Borrowing Base or the Canadian Borrowing Base, as applicable, equal to the lesser of (i) the amount of applicable Availability from Eligible Inventory at the applicable location; or (ii) up to three (3) months' rental and other charges for the applicable location.
- (n) The Loan Parties shall have paid (i) all fees and expenses of the Agent incurred in connection with any of the Loan Documents and the transactions contemplated thereby, (ii) the Attorney Costs, and (iii) all fees and expenses as set forth in the Fee Letter.
- (o) The Agent shall have received evidence, in form, scope, and substance, reasonably satisfactory to the Agent, of all insurance coverage as required by this Agreement (including, without limitation, the certificates of insurance and other documents required by Section 7.5).
- (p) The Borrower and each of the Guarantors shall have provided the documentation and other information to the Lenders that are required by regulatory authorities under the applicable "know your customer" rules and regulations and policies, including the PATRIOT Act, Proceeds of Crime Act and AML Legislation, in each case at least five business days prior to the Effective Date.
- (q) The Agent shall receive an Inventory Appraisal of the Inventory of each Borrower. Each such Inventory Appraisal shall be in form and scope satisfactory to the Agent and using a methodology requested by the Agent.
- (r) The Agent shall have received a certificate of an Officer of each of the Loan Parties, dated the Effective Date and certifying (A) that attached thereto is a true and complete copy of the certificate or articles of incorporation or other constitutive or organizational documents, in each case amended to date, of such Loan Party, (B) that attached thereto is a true and complete copy of such Loan Party's by-laws or limited liability company agreement, as the case may be, as in effect on the date of such certificate and at all times since a date prior to the date of the resolution described in item (C) below, (C) that attached thereto is a true and complete copy of a resolution adopted by such Loan Party's Board of Directors (or in the case of a Loan Party that is not a corporation, the equivalent governing body) authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party, and that such resolution has not been modified, rescinded or amended and is in full force and

effect, (D) that such Loan Party's certificate or articles of incorporation or other constitutive documents have not been amended since the date of the last amendment thereto shown on the certificate of good standing furnished hereinabove, and (E) as to the incumbency and specimen signature of each of such Loan Party's officers executing this Agreement or any other Loan Document delivered in connection herewith or therewith, as applicable; and a certificate of another of such Loan Party's officers as to the incumbency and signature of its Secretary or Assistant Secretary, as the case may be.

- (s) The Agent shall have received certificates of status, certificates of good standing, existence or its equivalent with respect to each Loan Party certified as of a recent date by the appropriate Governmental Authorities of the state or other jurisdiction of incorporation or organization of such Loan Party and in each other jurisdiction in which qualification is necessary in order for such Loan Party to own or lease its property and conduct its business.
- (t) The Agent shall be reasonably satisfied with the corporate and legal structure and capitalization of the Loan Parties after giving effect to the consummation of the Loan Documents.
- (u) The Agent shall have received and been reasonably satisfied with the annual financial statements and interim financial statements referenced in Section 6.6(a).
- (v) Agent shall have received a fully executed copy of the Intercreditor Agreement.

The acceptance by any of the Borrowers of any Revolving Loans made or any Letters of Credit issued on the Effective Date shall be deemed to be a representation and warranty made by each Borrower to the effect that all of the conditions precedent to the making of such Revolving Loans or the issuance of such Letters of Credit have been satisfied, with the same effect as delivery to the Agent and the Lenders of a certificate signed by a Responsible Officer of such Borrower, dated the Effective Date, to such effect, except to the extent waived or postponed in writing by the Agent.

Execution and delivery to the Agent by a Lender of a counterpart of this Agreement shall be deemed confirmation by such Lender that (i) all conditions precedent in this Section 8.1 have been fulfilled to the satisfaction of such Lender, (ii) the decision of such Lender to execute and deliver to the Agent an executed counterpart of this Agreement was made by such Lender independently and without reliance on the Agent or any other Lender as to the satisfaction of any condition precedent set forth in this Section 8.1, and (iii) all documents sent to such Lender for approval, consent or satisfaction were acceptable to such Lender.

8.2 Conditions Precedent to Each Revolving Loan and Letter of Credit.

The obligation of any U.S. Lender to make a U.S. Revolving Loan and any Canadian Lender to make a Canadian Revolving Loan, after the Effective Date and the obligation of the applicable Letter of Credit Issuer to issue any Letter of Credit after the Effective Date shall, in each instance, be subject to the further conditions precedent that on and as of the date of any such extension of credit:

- (a) The following statements shall be true, and the acceptance by any Borrower of any extension of credit shall be deemed to be a statement to the effect set forth in clauses (i), (ii), and (iii) with the same effect as the delivery to the Agent and the applicable Lenders of a certificate signed by a Responsible Officer of such Borrower, dated the date of such extension of credit, stating that:
- (i) The representations and warranties contained in this Agreement and the other Loan Documents are correct in all material respects (which materiality qualification shall not apply to such representations and warranties already qualified on their terms) on and as of the date of such extension of credit as though made on and as of such date, other than any such representation or warranty which relates to a specified prior date (which shall be correct as of such specified prior date) and except to the extent the Agent has been notified in writing by the Borrowers that any representation or warranty is not correct and the Required Lenders have explicitly waived in writing compliance with such representation or warranty;
 - (ii) No event has occurred and is continuing, or would result from such extension of credit, which constitutes a Default or an Event of Default; and
 - (iii) No event has occurred and is continuing, or would result from such extension of credit, which has had or would have a Material Adverse Effect.
- (b) No such Borrowing shall exceed the applicable Availability or the applicable Borrowing Base, provided, however, that the foregoing conditions precedent in this Section 8.2 are not conditions to (x) each U.S. Lender participating in or reimbursing the Bank or the Agent for such U.S. Lender's Pro Rata Share of any U.S. Agent Advance or U.S. Overdraft Accommodation or unreimbursed drawings under a U.S. Letter of Credit made in accordance with the provisions of Sections 1.3(i) and 1.3(j) or (y) each Canadian Lender participating in or reimbursing Royal Bank or the Agent for such Canadian Lender's Pro Rata Share of any Canadian Agent Advance or Canadian Overdraft Accommodation made in accordance with the provisions of Sections 1.2(j) and 1.2(k) or unreimbursed drawings under a Canadian Letter of Credit.

ARTICLE 9 – DEFAULT; REMEDIES

9.1 Events of Default.

It shall constitute an event of default ("**Event of Default**") if any one or more of the following shall occur for any reason:

- (a) any failure to pay the principal of or interest or premium on any of the Obligations or any fee, expense or other amount owing hereunder or under any other Loan Document when due, whether upon demand or otherwise;

- (b) any representation or warranty made or deemed made by any Loan Party in this Agreement or in any of the other Loan Documents, any Financial Statement or any certificate furnished by any Loan Party at any time to the Agent or any Lender shall prove to be untrue in any material respect as of the date on which made, deemed made or furnished;
- (c) (i) any default shall occur in the observance or performance of any of the covenants or agreements contained in any of Sections 5.2(a)-(e), 5.3, 7.5, 7.9 through 7.12, 7.14 through 7.17, 7.20, 7.22, and 7.25 of this Agreement or Section 8 of the Canadian Security Agreement or the U.S. Security Agreement; (ii) any default shall occur in the observance or performance of any of the covenants or agreements contained in Section 5.4 and such default shall continue for three (3) Business Days or more; (iii) any default shall occur in the observance or performance of any of the covenants or agreements contained in any of, 7.2, 7.13, 7.18, 7.23, 7.27, 7.29 or 7.33, and such default shall continue for ten (10) Business Days or more after the earlier of (A) the date on which such failure shall first become known to any Responsible Officer of any Loan Party or (B) notice thereof is provided to the Canadian Borrower by the Agent; or (iv) any default shall occur in the observance or performance of any of the other covenants or agreements contained in any other Section of this Agreement or any other Loan Document or any other material agreement entered into at any time to which any Loan Party and the Agent or any Lender are party (including in respect of any Bank Products) and such default shall continue for thirty (30) days or more after the earlier of (A) the date on which such failure shall first become known to any Responsible Officer of any Loan Party or (B) notice thereof is provided to the Canadian Borrower by the Agent;
- (d) any default shall occur with respect to any Debt (other than the Obligations) of one or more of the Loan Parties in an outstanding principal amount which, individually or in the aggregate, exceeds \$1,000,000 in the case of the Loan Parties, or under any agreement or instrument under or pursuant to which any such Debt may have been issued, created, assumed or guaranteed by any Loan Party, and such default shall continue for more than the period of grace, if any, therein specified, if the effect thereof (with or without the giving of notice or further lapse of time or both) is to accelerate, or to permit the holders of any such Debt to accelerate, the maturity of any such Debt; or any such Debt shall be declared due and payable or be required to be prepaid (other than by a regularly scheduled required prepayment) prior to the stated maturity thereof or any such Debt shall not be paid in full upon the scheduled maturity thereof;
- (e) any Loan Party shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or an answer or file any proposal or notice of intent to file a proposal or otherwise commence any action or proceeding seeking reorganization, arrangement or readjustment of its debts or for any other relief under the federal Bankruptcy Code, as amended, the BIA, the CCAA or under any other bankruptcy or insolvency, liquidation, winding-up or similar act or law, state, provincial, federal or foreign, now or hereafter existing, or consent to, approve of or acquiesce in, any such petition, proposal, action or proceeding; (ii) apply for or

acquiesce in the appointment of a receiver, assignee, liquidator, sequestrator, custodian, monitor, administrator, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment for the benefit of creditors; or (iv) be unable generally to pay its debts as they become due or shall admit in writing its inability to pay its debts generally as they become due;

- (f) an involuntary petition shall be filed or an action or proceeding otherwise commenced seeking reorganization, arrangement, consolidation or readjustment of the debts of any Loan Party or for any other relief under the federal Bankruptcy Code, as amended, BIA, the CCAA or under any other bankruptcy or insolvency, liquidation, winding-up or similar act or law, state, provincial, federal or foreign, now or hereafter existing and such petition or proceeding shall not be dismissed within sixty (60) days after the filing or commencement thereof or an order of relief shall be entered with respect thereto;
- (g) a receiver, assignee, liquidator, sequestrator, custodian, monitor, administrator, trustee or similar officer for any Loan Party or for all or any material part of its property, or any material part of the Collateral, shall be appointed or a warrant of attachment, execution or similar process shall be issued against all or any material part of the property of any Loan Party, or any material part of the Collateral, or any distress or analogous process is levied against all or any material part of the property of any Loan Party, or any material part of the Collateral;
- (h) except as expressly permitted hereunder, any Loan Party shall file a certificate of dissolution or like process under applicable state, provincial or federal law or shall be liquidated, dissolved or wound-up or shall commence or have commenced against it any action or proceeding for dissolution, winding-up or liquidation or shall take any corporate action in furtherance thereof;
- (i) all or any material part of the Collateral or all or a material part of the property of any Loan Party shall be nationalized, expropriated or condemned, seized or otherwise appropriated, or custody or control of such property or of any Loan Party shall be assumed by any Governmental Authority or any court of competent jurisdiction at the instance of any Governmental Authority, except where contested in good faith by proper proceedings diligently pursued where a stay of enforcement is in effect;
- (j) any Loan Document shall be terminated (other than in accordance with its terms), revoked or declared void or invalid or unenforceable or a complaint or other legal proceeding seeking such relief shall be filed by any Loan Party;
- (k) one or more judgments, orders, decrees or arbitration awards is entered against one or more Loan Parties involving in the aggregate liability (to the extent not covered by independent third-party insurance) as to any one or more single or related or unrelated series of transactions, incidents or conditions, of \$5,000,000 or more (or the equivalent amount in another currency), individually or in the aggregate, and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof;

- (l) any loss, theft, damage or destruction of any item or items of Collateral or other property of any Loan Party occurs which would reasonably be expected to cause a Material Adverse Effect and is not adequately covered by insurance;
- (m) there is filed against any Loan Party any action, suit or proceeding under any federal, state or provincial racketeering or similar statute (including the Racketeer Influenced and Corrupt Organization Act of 1970 and the *Proceeds of Crime Act*), which action, suit or proceeding (i) is not dismissed within one hundred twenty (120) days, and (ii) would reasonably be expected to result in the confiscation or forfeiture of any material portion of the Collateral;
- (n) for any reason other than the failure of the Agent to take any action available to it to maintain perfection of the Agent's Liens, pursuant to the Loan Documents, any Loan Document ceases to be in full force and effect or any Loan Document is challenged by any Loan Party or any Lien with respect to any material portion of the Collateral intended to be secured thereby ceases to be, or is not, valid, perfected and prior to all other Liens (other than Permitted Liens) or is terminated (except in accordance with its terms), revoked or declared void;
- (o) (i) (A) an ERISA Event shall occur with respect to a Pension Plan or Multi-employer Plan which has resulted or would reasonably be expected to result in liability of any Loan Party under Title IV of ERISA or under the PBA to the Pension Plan, Multi-employer Plan, the PBGC or other applicable Governmental Authority in an aggregate amount in excess of \$10,000,000; (B) any Loan Party or any ERISA Affiliate shall fail to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multi-employer Plan in an aggregate amount for all Multi-employer Plans in excess of \$10,000,000 (or the equivalent amount thereof in another currency); or (C) any Lien arises with respect to such Plan (save for contribution amounts not yet due); or (ii) a Termination Event shall occur which, in Agent's reasonable determination, constitutes grounds for the termination under any applicable law, of any Plan or for the appointment by the appropriate Governmental Authority of a trustee for any Plan, or if any Plan shall be terminated or any such trustee shall be requested or appointed, or if Canadian Borrower is in default with respect to payments to a Multiemployer Plan or Plan resulting from their complete or partial withdrawal from such Plan and any such event may reasonably be expected to have a Material Adverse Effect or any Lien arises (save for contribution amounts not yet due) in connection with any Plan;
- (p) (i) such Loan Party has failed to comply in all material respects with all applicable Environmental Laws or is subject to any enforcement order from or liability agreement with any Governmental Authority or private Person respecting (A) noncompliance with any Environmental Law or (B) any potential liabilities and costs or remedial action arising from the Release or threatened Release of a Contaminant, except for instances of noncompliance, enforcement orders and liability agreements which would not be reasonably expected to result in a Material Adverse Effect; or (ii) the Loan Parties have liabilities which would

reasonably be expected to have a Material Adverse Effect regarding the following matters: (A) any underground storage tanks or surface impoundments; (B) any asbestos containing material; or (C) any polychlorinated biphenyls (PCBs) used in hydraulic oils, electrical transformers or other equipment;

- (q) there occurs a Material Adverse Effect; or
- (r) there occurs a Change of Control.

9.2 Remedies.

- (a) If an Event of Default exists and is continuing, the Agent may, in its discretion, and shall, at the direction of the Required Lenders, do one or more of the following at any time or times and in any order, without notice to or demand on the Loan Parties, except such notices and demands as are required under the terms of the Loan Documents: (i) reduce the Maximum U.S. Revolver Amount, the Maximum Canadian Revolver Amount and/or the Maximum Revolver Amount or the advance rates against Eligible Accounts, Eligible Inventory and/or any other components used in computing the U.S. Borrowing Base or the Canadian Borrowing Base or reduce one or more of the other elements used in computing the U.S. Borrowing Base or the Canadian Borrowing Base (provided (x) if any such advance rate or other element is so reduced while a Default (and not an Event of Default) exists, such reduction may not be made to the extent such reduction would, at the time such reduction is made, require any Borrower to repay any Obligations under the third sentence of Section 3.1(a) or 3.1(b) and (y) that if after any such advance rate or other element is so reduced, all Defaults and Events of Default have been cured or waived in accordance with the terms hereof, the applicable advance rate and/or other elements that were so reduced shall be reinstated to the rate or amount in effect immediately prior to such reduction); (ii) restrict the amount of or refuse to make Revolving Loans; and (iii) restrict or refuse to provide Letters of Credit or Credit Support. If an Event of Default exists, the Agent shall, at the direction of the Required Lenders, do one or more of the following, in addition to the actions described in the preceding sentence, at any time or times and in any order, without notice to or demand on any Loan Party: (A) terminate the Commitments and this Agreement; (B) declare any or all Obligations to be immediately due and payable; provided, however, that upon the occurrence of any Event of Default described in Sections 9.1(e), 9.1(f), 9.1(g) or 9.1(h) as to a Loan Party or its property, the Commitments shall automatically and immediately expire and all Obligations shall automatically become immediately due and payable without notice or demand of any kind; (C) require each of the Borrowers to cash collateralize all outstanding Obligations (contingent or otherwise) with respect to Letters of Credit issued for the account of such Borrower; and (D) pursue its other rights and remedies under the Loan Documents and applicable law.
- (b) If an Event of Default has occurred and is continuing: (i) subject to the Intercreditor Agreement, the Agent shall have for the benefit of the Agent and the Lenders, in addition to all other rights of the Agent and the Lenders, the rights and

remedies of a secured party under the Loan Documents and the UCC, the PPSA, the Civil Code of Quebec and other applicable laws; (ii) the Agent may, at any time, take possession of the Collateral and keep it on any Loan Party's premises, at no cost to the Agent or any Lender, or remove any part of it to such other place or places as the Agent may desire, or the Loan Parties shall, upon the Agent's demand, at the Loan Parties' cost, assemble the Collateral and make it available to the Agent at a place reasonably convenient to the Agent; and (iii) the Agent may sell and deliver any Collateral at public or private sales, for cash, upon credit or otherwise, at such prices and upon such terms as the Agent deems advisable, in its sole discretion, and may, if the Agent deems it reasonable, postpone or adjourn any sale of the Collateral by an announcement at the time and place of sale or of such postponed or adjourned sale without giving a new notice of sale. Without in any way requiring notice to be given in the following manner, each Loan Party agrees that any notice by the Agent of sale, disposition or other intended action hereunder or in connection herewith, whether required by the UCC, the PPSA, the Civil Code of Quebec or otherwise, shall constitute reasonable notice to such Loan Party if such notice is mailed by registered or certified mail, return receipt requested, postage prepaid, or is delivered personally against receipt, at least ten (10) days prior to such action to such Loan Party's address specified in or pursuant to Section 14.8. If any Collateral is sold on terms other than payment in full at the time of sale, no credit shall be given against the Obligations until the Agent or the Lenders receive payment, and if the buyer defaults in payment, the Agent may resell the Collateral without further notice to the Loan Parties. In the event the Agent seeks to take possession of all or any portion of the Collateral by judicial process, each Loan Party irrevocably waives: (A) the posting of any bond, surety or security with respect thereto which might otherwise be required; (B) any demand for possession prior to the commencement of any suit or action to recover the Collateral; and (C) any requirement that the Agent retain possession and not dispose of any Collateral until after trial or final judgment. Each Loan Party agrees that the Agent has no obligation to preserve rights to the Collateral or marshal any Collateral for the benefit of any Person. The Agent is hereby granted a license or other right to use, without charge, upon the occurrence and during the continuance of an Event of Default each Loan Party's labels, patents, copyrights, name, trade secrets, trade names, trademarks, and advertising matter or any similar property, necessary to the production of, advertising or selling any Collateral (subject in the case of trademarks and any property of similar nature, to sufficient rights to quality control and inspection in favour of the relevant Loan Party required under applicable law to avoid risk of invalidation of said trademarks and property of similar nature), and each Loan Party's rights under all licenses and all franchise agreements shall inure to the Agent's benefit for such purpose to the extent permitted therein. The proceeds of sale shall be applied first to all expenses of sale, including attorneys' fees, and then to the Obligations. The Agent will return any excess to the applicable Loan Party and the applicable Loan Parties (jointly and severally in the case of the Borrowers and the Guarantors with respect to Obligations owing by any of the Loan Parties shall remain liable for any deficiency.

- (c) If an Event of Default occurs, each Loan Party hereby waives all rights to notice and hearing prior to the exercise by the Agent of the Agent's rights to repossess the Collateral without judicial process or to reply, attach or levy upon the Collateral without notice or hearing.

ARTICLE 10 – TERM AND TERMINATION

10.1 Term and Termination.

The term of this Agreement shall end on the Termination Date. The Agent, upon direction from the Required Lenders, may terminate this Agreement without notice (other than as specifically required under this Agreement or any other Loan Documents) upon the occurrence of an Event of Default. Upon the effective date of termination of this Agreement for any reason whatsoever, all Obligations (including all unpaid principal, accrued and unpaid interest and any early termination or prepayment fees or penalties) shall become immediately due and payable and the Borrowers for whose account Letters of Credit were issued or Bank Products entered into shall immediately arrange for the cancellation and return of all Letters of Credit and cancellation, termination or cash collateralization of all Bank Products, as applicable, then outstanding. Notwithstanding the termination of this Agreement, until all Obligations are paid and performed in full in cash, each Loan Party shall remain bound by the terms of this Agreement and the other Loan Documents to which it is a party and shall not be relieved of any of its Obligations hereunder or under any other Loan Document, and the Agent and the Lenders shall retain all their rights and remedies hereunder and under the other Loan Documents (including the Agent's Liens in and all rights and remedies with respect to all then existing and after-arising Collateral).

ARTICLE 11 – AMENDMENTS; WAIVERS; PARTICIPATIONS; ASSIGNMENTS; SUCCESSORS

11.1 Amendments and Waivers.

- (a) No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by any Loan Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agent at the written request of the Required Lenders) and the Loan Parties which are parties to such Loan Document and then any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such waiver, amendment or consent shall, unless in writing and signed by all the Lenders and the Loan Parties which are parties to such Loan Document and acknowledged by the Agent, do any of the following:
 - (i) increase or extend the Canadian Revolving Credit Commitment of any Canadian Lender or the U.S. Revolving Credit Commitment of any U.S. Lender;
 - (ii) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts

due to the Lenders (or any of them) hereunder or under any other Loan Document;

- (iii) reduce the principal of, or the rate of interest specified herein (other than waivers of the Default Rate) on, any Revolving Loan or any fees or other amounts payable hereunder or under any other Loan Document;
- (iv) change the percentage of the Canadian Revolving Credit Commitments, U.S. Revolving Credit Commitments or the Commitments or of the aggregate unpaid principal amount of the Canadian Revolving Loans, U.S. Revolving Loans or Revolving Loans, in each instance, which is required for the Lenders or any of them to take any action hereunder;
- (v) change the definitions of "Canadian Borrowing Base", "U.S. Borrowing Base", or any of the other defined terms included within such definitions if the effect of such change is to increase the amount available to be borrowed thereunder;
- (vi) change the provisions of Section 3.7;
- (vii) amend this Section or any provision of this Agreement providing for consent or other action by all Lenders;
- (viii) release any Guarantees of the Obligations or release Collateral (other than as permitted by Section 12.11);
- (ix) change the definitions of "Required Lenders", "Aggregate Canadian Revolver Outstandings" or "Aggregate U.S. Revolver Outstandings" or "Adjusted Aggregate Availability"; or
- (x) increase (A) the Maximum Revolver Amount, or (B) the amount of permitted Agent Advances;

provided, however, the Agent may, in its sole discretion and notwithstanding the limitations contained in clauses (v) and (ix) above and any other terms of this Agreement, make U.S. Agent Advances in accordance with Section 1.3(i), Canadian Agent Advances in accordance with Section 1.2(j) and Canadian Overdraft Accommodations in accordance with Section 1.2(k); and, provided further, that no amendment, waiver or consent shall, unless in writing and signed by the Agent, affect the rights or duties of the Agent under this Agreement or any other Loan Document; and, provided further, that no amendment, waiver or consent shall, unless in writing and signed by the US Cash Management Provider, amend the definition of US Online LC Accommodation Maximum Amount or the definition of US Overdraft Accommodation Maximum Amount; and provided further, that Schedule 1.2 hereto (Commitments) may be amended from time to time by the Agent alone to reflect assignments of Commitments in accordance herewith and changes in Commitments in accordance with Section 1.8.

- (b) If, in connection with any proposed amendment, waiver or consent (a "Proposed Change") requiring the consent of all Lenders, the consent of the Required Lenders is obtained, but the consent of other Lenders is not obtained (any such Lender whose consent is not obtained being referred to herein as a "Non-Consenting Lender"), then, so long as the Agent is not a Non-Consenting Lender, at the Borrowers' request, the Agent or an Eligible Assignee shall have the right (but not the obligation) with the Agent's approval, to purchase from the Non-Consenting Lenders, and the Non-Consenting Lenders agree that they shall sell, all the Non-Consenting Lenders' Commitments and Revolving Loans in accordance with the procedures set forth in Section 11.2.

11.2 Assignments; Participations.

- (a) Any Lender may, with the written consent of the Agent (which consent shall not be unreasonably withheld or delayed) and so long as no Event of Default has occurred and is continuing, with the written consent of the Borrowers (which consent shall not be unreasonably withheld or delayed; provided, that the Borrowers may not withhold their consent to an assignment solely on the basis that the Eligible Assignee may have a claim under Section 4.1 if that claim is also available to the assigning Lender), assign and delegate to one or more Eligible Assignees (provided that no consent of the Arranger and the Loan Parties shall be required in connection with any assignment and delegation, by (i) a Lender to an Affiliate of such Lender or (ii) by Agent in its efforts to complete syndication of the Total Facility) (each an "**Assignee**") all, or any ratable part of all, of the Revolving Loans, the Revolving Credit Commitment and the other rights and obligations of such Lender hereunder, in a minimum amount of \$5,000,000 (or the Equivalent Amount thereof in CDN Dollars) (provided that, unless an assignor Lender has assigned and delegated all of its Revolving Loans and Revolving Credit Commitment, no such assignment and/or delegation shall be permitted unless, after giving effect thereto, such assignor Lender retains a Revolving Credit Commitment in a minimum amount of \$5,000,000 (or the Equivalent Amount thereof in CDN Dollars)); provided, however, that the Borrowers and the Agent may continue to deal solely and directly with such Lender in connection with the interest so assigned to an Assignee until (i) written notice of such assignment, together with payment instructions, addresses and related information with respect to the Assignee, shall have been given to the Borrowers and the Agent by such Lender and the Assignee; (ii) such Lender and its Assignee shall have delivered to the Borrowers and the Agent an Assignment and Acceptance in substantially the form of Exhibit A ("Assignment and Acceptance") and (iii) subject to the exception noted above (in regards to Affiliate Lenders) and except for any replacement of a Non-Consenting Lender by the Borrowers, in as such case the Borrowers shall pay, the assignor Lender or Assignee has paid to the Agent a processing fee in the amount of \$3,500; provided that such processing fee may be waived (in the sole discretion of the Agent) for assignments to an Affiliate of a Lender. Prior to an Event of Default, no such assignment shall result in any increased liability of the Borrowers under Section 4.1. No Lender may assign or delegate any or all of its Revolving Loans, Revolving Credit Commitment or other rights and obligations of such Lender hereunder except in connection with

an assignment or delegation of the Revolving Loans and Revolving Credit Commitment of such Lender's related U.S. Lender or Canadian Lender, as applicable in accordance with the terms of this Section 11.2(a).

- (b) From and after the date that the Agent notifies the assignor Lender that it has received an executed Assignment and Acceptance and payment of the above-referenced processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations have been assigned to it pursuant to such Assignment and Acceptance, shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assignor Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations under this Agreement (and in the case of an Assignment and Acceptance 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).
- (c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or any other Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto or the attachment, perfection or priority of any Lien granted by a Loan Party to the Agent or any Lender in the Collateral of such Loan Party; (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Loan Parties or the performance or observance by the Loan Parties of any of their obligations under this Agreement or any other Loan Document furnished pursuant hereto; (iii) such Assignee confirms that it has received a copy of this Agreement, together with such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (iv) such Assignee will, independently and without reliance upon the Agent, Agent or such assigning Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (v) such Assignee appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Agent and the Agent by the terms hereof, together with such powers, including the discretionary rights and incidental power, as are reasonably incidental thereto; and (vi) such Assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.
- (d) Immediately upon satisfaction of the requirements of Section 11.2(a), this Agreement shall be deemed to be amended to the extent, but only to the extent,

necessary to reflect the addition of the Assignee and the resulting adjustment of the Commitments arising therefrom. The Revolving Credit Commitment allocated to each Assignee shall reduce the Revolving Credit Commitment of the assigning Lender pro tanto.

- (e) Any Lender (the "originating Lender") may at any time sell to one or more commercial banks, financial institutions or other Persons not Affiliates of any of Loan Parties (a "Participant") participating interests in any Revolving Loans, the Commitment of that Lender and the other interests of that Lender hereunder and under the other Loan Documents; provided, however, that (i) the originating Lender's obligations under this Agreement and the other Loan Documents shall remain unchanged, (ii) the originating Lender shall remain solely responsible for the performance of such obligations, (iii) the Loan Parties and the Agent shall continue to deal solely and directly with the originating Lender in connection with the originating Lender's rights and obligations under this Agreement and the other Loan Documents, and (iv) no Lender shall transfer or grant any participating interest under which the Participant has rights to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document (except to the extent that such amendment, waiver or consent both directly affects the Participant and would (w) increase or extend the Commitment of the originating Lender, (x) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the originating Lender hereunder or under any other Loan Document or (y) reduce the principal of, or the rate of interest specified herein (other than the waiver of the Default Rate) on, any Revolving Loan owing to the originating Lender or any fees or other amounts payable to the originating Lender hereunder or under any other Loan Document, and all amounts payable by the Borrowers hereunder shall be determined as if such Lender had not sold such participation; except that, if amounts outstanding under this Agreement are due and unpaid, or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of set off in respect of its participating interest in amounts owing under this Agreement to the same extent and subject to the same limitation as if the amount of its participating interest were owing directly to it as a Lender under this Agreement.
- (f) Notwithstanding the foregoing, no Assignee or Participant shall be entitled to receive any greater payment under Section 4.1 hereof than such Lender would have been entitled to receive. Any Assignee or Participant which is not incorporated under the laws of the United States of America or a state thereof shall deliver to the Borrowers and the Agent the form of certificate described in Section 12.10 herein relating to U.S. federal income tax withholding. A Participant that is not a United States Person within the meaning of Section 7701(a)(3) of the Code shall not be entitled to the benefits of Section 4.1 unless it agrees to file such certificate and unless the Borrower is notified of the participation sold to such Participant.
- (g) Notwithstanding any other provision in this Agreement, any Lender may at any time assign as security, create a security interest in, or pledge, all or any portion of

its rights under and interest in this Agreement in favour of any Federal Reserve Bank in accordance with Regulation A of the FRB or U.S. Treasury Regulation 31 CFR § 203.14203.14, central banking authority or any other funding source of such Lender, and such Federal Reserve Bank, central bank or funding source may enforce such pledge or security interest in any manner permitted under applicable law; provided, however, that such Lender shall remain a "Lender" under this Agreement and shall continue to be bound by all the terms and conditions set forth in this Agreement and the other Loan Documents.

- (h) Assignments of Revolving Credit Commitments and Revolving Loans shall be effectuated as follows:
 - (i) where the assignor is a Canadian Lender, (A) the Eligible Assignee Canadian Lender shall purchase from the assignor Canadian Lender a pro rata portion of its Canadian Revolving Loans and Canadian Revolving Credit Commitment, and (B) the Eligible Assignee U.S. Affiliate of the assignee Canadian Lender shall purchase from the assignor Canadian Lender's related U.S. Lender the same pro rata portion of its U.S. Revolving Loans and its U.S. Revolving Credit Commitment; and
 - (ii) where the assignor is a U.S. Lender, (A) the Eligible Assignee U.S. Lender shall purchase from the assignor U.S. Lender a pro rata portion of its U.S. Revolving Loans and U.S. Revolving Credit Commitment, and (B) the Eligible Assignee Canadian Affiliate of the assignee U.S. Lender shall purchase from the assignor U.S. Lender's related Canadian Lender the same pro rata portion of its Canadian Revolving Loans and its Canadian. Revolving Credit Commitment.

11.3 Replacement of Lenders.

If any Lender (i) is a Defaulting U.S. Lender or a Defaulting Canadian Lender or (ii) does not make a LIBOR Loan pursuant to Section 4.2 or fails to designate an alternate lending office pursuant to Section 4.1 or (iii) seeks indemnification for increased costs pursuant to Section 4.3 or (iv) is owed additional amounts pursuant to Section 4.1, which increased costs or additional amounts are not being incurred generally by the other Lenders, then the Borrowers shall have the right, but not the obligation so long as no Event of Default is continuing, to replace such Lender together with its related U.S. Lender or Canadian Lender, as applicable, with other banks or financial institutions (the "Replacement Lender(s)") reasonably acceptable to the Agent and with the Agent's consent, which consent shall not be unreasonably withheld or delayed. The Replacement Lender(s) shall execute Assignment(s) and Acceptance(s) pursuant to which it and they shall become a party hereto as provided in Section 11.2 and such assignment shall be effectuated in accordance with Section 11.2. Upon compliance with the provisions for assignment provided in Section 11.2 (but provided that if the Defaulting Lender refuses or otherwise fails to execute the applicable Assignment and Acceptance within two (2) Business Days of a request to do so, it shall be deemed to have executed the Assignment and Acceptance by mere insertion of its name as "Assignor"), and the payment of amounts referred to in clause (a), the Replacement Lender(s) shall constitute "Lender(s)" hereunder and the Lender(s) being so

replaced shall no longer constitute "Lender(s)" hereunder. Any such replacement shall be effected within 180 days after delivery of the Agent's certificate under Section 4.6, or the date the Lender became a Defaulting U.S. Lender or a Defaulting Canadian Lender, as applicable.

ARTICLE 12 – THE AGENT, CANADIAN FUNDING BANK, ETC.

12.1 Appointment and Authorization.

- (a) Each Lender hereby irrevocably designates and appoints the Royal Bank as its Administrative Agent and its Collateral Agent under this Agreement and the other Loan Documents and each Lender hereby irrevocably authorizes Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as such on the express conditions contained in this Article 12. Except for Section 12.9 and Section 12.10, the provisions of this Article 12 are solely for the benefit of Agent and the Lenders and the Loan Parties shall have no rights as third party beneficiaries of any of the provisions contained herein. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Except as expressly otherwise provided in this Agreement, Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions which the Agent is expressly entitled to take or assert under this Agreement and the other Loan Documents, including (a) the determination of the applicability of ineligibility criteria with respect to the calculation of the U.S. Borrowing Base or the Canadian Borrowing Base, as applicable, (b) the making of U.S. Agent Advances, Canadian Agent Advances or Canadian Overdraft Accommodation the exercise of remedies pursuant to Section 9.2, and any action so taken or not taken shall be deemed consented to by the Lenders.

The Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Agent shall not be required to

take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any the Bankruptcy Code, the BIA, the CCAA or any other applicable bankruptcy or insolvency laws or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any applicable bankruptcy law. The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.2 and 11.1), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Agent in writing by the Borrowers or the Required Lenders.

Except as expressly set forth herein and in the other Loan Documents, the Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers or any of their Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to the Agent by the Borrower Representative or any Lender, and the Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any covenant, agreement or other term or condition set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of any Lien on the Collateral or the existence, value or sufficiency of the Collateral, (vi) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Agent or (vii) any property, book or record of any Loan Party or any Affiliate thereof.

If any Lender acquires knowledge of a Default or Event of Default, it shall promptly notify the Agent and the other Lenders thereof in writing. Each Lender agrees that, except through the Agent, it will not take any enforcement action hereunder or under any other Loan Document. Notwithstanding the foregoing, however, a Lender may take action to preserve or enforce its rights against a Loan Party where a deadline or limitation period is applicable that would, absent such action, bar enforcement of the Obligations held by such Lender, including the

filing of a proof of claim in a case under the Bankruptcy Code, the BIA, the CCAA or any other applicable bankruptcy or insolvency laws.

Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the Borrowers, the Agent and each Secured Party agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee; it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by, the Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the other Loan Documents may be exercised solely by, the Agent, and (ii) in the event of a foreclosure by the Agent on any of the Collateral pursuant to a public or private sale or in the event of any other asset sale (including pursuant to Section 363 of the Bankruptcy Code), (A) the Agent, as agent for and representative of the Secured Parties, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Agent at such asset sale and (B) the Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such asset sale.

No holder of any hedging obligation or banking services obligation in its respective capacity as such shall have any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under this Agreement.

Each of the Lenders hereby irrevocably authorizes the Agent, on behalf of all Secured Parties to take any of the following actions upon the instruction of the Required Lenders:

- (a) consent to the asset sale of all or any portion of the Collateral free and clear of the Liens securing the Obligations in connection with any asset sale pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof, the BIA, the CCAA or any other applicable bankruptcy or insolvency laws;
- (c) credit bid all or any portion of the Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any Asset Sale of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof, the BIA, the CCAA or any other applicable bankruptcy or insolvency laws;
- (d) credit bid all or any portion of the Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any asset sale of all or any portion of the Collateral pursuant to the applicable provisions of the UCC or the PPSA (including pursuant to Sections 9-610 or 9-620 of the UCC);

(e) credit bid all or any portion of the Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other asset sale conducted in accordance with applicable law following the occurrence of an Event of Default, including by power of sale, judicial action or otherwise; and/or

(f) estimate the amount of any contingent or unliquidated Obligations of such Lender or other Secured Party,

it being understood that no Lender shall be required to fund any amount in connection with any purchase of all or any portion of the Collateral by the Agent pursuant to the foregoing clause (b), (c) or (d) without its prior written consent.

Each Secured Party agrees that the Agent is under no obligation to credit bid any part of the Obligations or to purchase or retain or acquire any portion of the Collateral; provided that, in connection with any credit bid or purchase described under clause (b), (c) or (d) of the preceding paragraph, the Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be, and shall be, credit bid by the Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is an Obligation, the Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount or liquidation of such claim would not unduly delay the ability of the Agent to credit bid the Obligations or purchase the Collateral in the relevant asset sale. In the event that the Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of the Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Obligations are credit bid under clause (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or any other asset acquired in connection with such credit bid (or in the Capital Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Obligations of such Secured Party that were credit bid in such credit bid or other Asset Sale, by (y) the aggregate amount of all Obligations that were credit bid in such credit bid or other asset sale.

In addition, in case of the pendency of any proceeding under the Bankruptcy Code, the BIA, the CCAA or any other applicable bankruptcy or insolvency laws or any other judicial proceeding relative to any Loan Party, each Secured Party agrees that the Agent (irrespective of whether the principal of any Loan is then due and payable as herein expressed or by declaration or otherwise

and irrespective of whether the Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agent and their respective agents and counsel and all other amounts to the extent due to the Lenders and the Agent under Sections 2.4, 14.7 and 14.11) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same.

Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Agent and, in the event that the Agent consents to the making of such payments directly to the Lenders, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amount due to the Agent under Sections 2.4, 14.7 and 14.11.

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

Each Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender or any of their Agent Related Persons and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each of each Lender also acknowledges that it will, independently and without reliance upon the Agent or any other Lender or any of their respective Agent Related Persons and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Agent herein, the Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of the Agent or any of its Agent Related Persons.

Notwithstanding anything to the contrary herein, the Lead Arranger shall not have any right, power, obligation, liability, responsibility or duty under this Agreement, except in their respective capacities as the Agent or a Lender hereunder, as applicable.

The Agent is authorized to enter into any intercreditor, subordination, collateral trust or similar agreement (including any Acceptable Intercreditor Agreement) contemplated hereby with respect to any Debt that is (i) required or permitted to be subordinated hereunder or (ii) secured by Liens and which Debt contemplates an intercreditor, subordination or collateral trust agreement (any such other intercreditor, subordination, collateral trust or similar agreement, an "**Additional Agreement**"), and the Secured Parties party hereto acknowledge that any Additional Agreement is binding upon them. Each Secured Party party hereto hereby (a) agrees that it will be bound by, and will not take any action contrary to, the provisions of any Additional Agreement and (b) authorizes and instructs the Agent to enter into each Additional Agreement and to subject the Liens on the Collateral securing the Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrowers, and the Secured Parties are intended third-party beneficiaries of such provisions and the provisions of each Additional Agreement.

- (b) Solidarité. Without limiting the generality of paragraph (a) above, for the purposes of creating a *solidarité active* in accordance with Article 1541 of the Civil Code of Quebec, among each Lender, each Letter of Credit Issuer, the Bank, Royal Bank, the U.S. Cash Management Provider and the Agent, (the "**Secured Parties**"), taken individually, on the one hand, and the Agent, on the other hand, each Loan Party, each such Secured Party and the Agent acknowledge and agree with the Agent that each such Secured Party and the Agent are hereby conferred the legal status of solidary creditors of each Loan Party in respect of all Obligations, present and future, owed by each such Loan Party to the Agent and each such Secured Party hereunder and under the other Loan Documents (collectively, the "**Solidary Claim**"). Each Loan Party which is not a signatory of this Agreement but is or may become a signatory to any other Loan Documents shall be deemed to have accepted the provisions contained in this paragraph by its execution of such other Loan Documents. Accordingly, but subject (for the avoidance of doubt) to Article 1542 of the Civil Code of Quebec, each such Loan Party is irrevocably bound towards the Agent and each Secured Party in respect of the entire Solidary Claim of the Agent and such Secured Party. As a result of the foregoing, the parties hereto acknowledge that the Agent and each Secured Party shall at all times have a valid and effective right of action for the entire Solidary Claim of the Agent and such Secured Party and the right to give full acquittance for same. The parties further agree and acknowledge that the Agent's Liens on the Collateral under the Security Documents shall be granted to the Agent, for its own benefit and for the benefit of the Secured Parties, as solidary creditor as hereinabove set forth.
- (c) Hypothecary Representative. Without limiting the powers of the Agent, for the purposes of holding any hypothec granted to the Attorney (as defined below)

pursuant to the laws of the Province of Québec to secure the prompt payment and performance of any and all Obligations by any Loan Party, each of the Secured Parties hereby irrevocably appoints and authorizes the Agent and, to the extent necessary, ratifies the appointment and authorization of the Agent, to act as the hypothecary representative of the creditors as contemplated under Article 2692 of the Civil Code of Québec (in such capacity, the “**Attorney**”), and to enter into, to take and to hold on their behalf, and for their benefit, any hypothec, and to exercise such powers and duties that are conferred upon the Attorney under any related deed of hypothec. The Attorney shall: (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Attorney pursuant to any such deed of hypothec and applicable law, and (b) benefit from and be subject to all provisions hereof with respect to the Agent mutatis mutandis, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Secured Parties and Loan Parties. Any person who becomes a Secured Party shall, by its execution of an Assignment and Acceptance, be deemed to have consented to and confirmed the Attorney as the person acting as hypothecary representative holding the aforesaid hypothecs as aforesaid and to have ratified, as of the date it becomes a Secured Party, all actions taken by the Attorney in such capacity. The substitution of the Agent pursuant to the provisions of this Article 12 also constitute the substitution of the Attorney.

12.2 Delegation of Duties.

Each Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys in fact (including for greater certainty, any branch or affiliate of an Agent) and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Each Agent shall not be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or wilful misconduct.

12.3 Liability of Agent.

None of the Agent Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or wilful misconduct) or (ii) be responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by any Loan Party or any Subsidiary or Affiliate of any Loan Party or any officer thereof contained in this Agreement or in any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent Related Person shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect any of the properties, books or records of any Loan Party or any of the Subsidiaries or

Affiliates of any Loan Party. Agent is not liable or responsible for any actions or inactions of a Defaulting Lender.

12.4 Reliance by Agent.

Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders or, if so required, (or all Lenders if so required by Section 11.1) and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders.

12.5 Notice of Default.

Each Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless such Agent shall have received written notice from a Lender or a Loan Party referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "**notice of default.**" Each Agent will notify the Lenders of its receipt of any such notice. Each Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Section 9.1; provided, however, that unless and until an Agent has received any such request, such Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

12.6 Credit Decision.

Each Lender acknowledges that none of the Agent Related Persons has made any representation or warranty to it, and that no act by any Agent hereinafter taken, including any review of the affairs of a Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender. Each Lender represents to the Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Affiliates, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform

itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by an Agent, each Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Loan Party which may come into the possession of any of the Agent Related Persons.

12.7 Indemnification.

Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand the Agent Related Persons (to the extent not reimbursed by or on behalf of the Borrowers and without limiting the obligation of the Borrowers to do so), in accordance with their Pro Rata Shares, from and against any and all Indemnified Liabilities as such term is defined in Section 14.11; provided, however, that no Lender shall be liable for the payment to the Agent Related Persons of any portion of such Indemnified Liabilities to the extent resulting from such Person's gross negligence or wilful misconduct as determined in a final non-appealable judgment of a court of competent jurisdiction. Without limitation of the foregoing, each Lender shall reimburse the Agent upon demand for its Pro Rata Share of any costs or out of pocket expenses (including fees and expenses of counsel) incurred by the Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document or any document contemplated by or referred to herein, to the extent that the Agent is not reimbursed for such expenses by or on behalf of the Borrowers. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of any Agent.

12.8 Agent in Individual Capacity.

Royal Bank and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Canadian Borrower or any of its Subsidiaries or Affiliates as though Royal Bank were not an Agent hereunder and without notice to or consent of the Lenders. Royal Bank or its Affiliates may receive information regarding the Canadian Borrower, its Subsidiaries, its Affiliates and Account Debtors (including information that may be subject to confidentiality obligations in favour of the Canadian Borrower or such Subsidiary or Affiliate) and the Lenders acknowledge that Agent and Royal Bank shall be under no obligation to provide such information to them. With respect to its Revolving Loans, Royal Bank and its Affiliates shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not an Agent, and the terms "**Lender**" and "**Lenders**" include each of Royal Bank and the Bank in its individual capacity.

12.9 Successor Agent.

Agent may resign as Agent, as applicable, upon at least 30 days' prior written notice to the Lenders and the Borrowers, such resignation to be effective upon the acceptance of a successor agent to its appointment as Agent, which successor agent, so long as an Event of Default is not continuing, shall have been consented to by the Borrowers (which consent shall not be unreasonably withheld or delayed). Subject to the foregoing, if Agent resigns under this

Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent, so long as an Event of Default is not continuing, shall have been consented to by the Borrowers (which consent shall not be unreasonably withheld). If no successor agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders and the Borrowers, a successor agent from among the Canadian Lenders. Upon the acceptance of its appointment as successor agent hereunder, such successor agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Agent" as applicable shall mean such successor agent and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Article 12 shall continue to inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement.

12.10 Withholding Tax.

- (a) Any U.S. Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Agent and the Canadian Borrower on behalf of the U.S. Borrower two properly completed and executed copies of IRS Form W-8BEN, W-8IMY (with the necessary attachments) W-8EXP, W-8ECI or any subsequent version thereof or successors thereto and any other documentation necessary to establish a complete exemption from United States of America withholding tax with respect to all interest payments hereunder prior to the date on which such U.S. Lender becomes a party to this Agreement and from time to time as necessary to retain any such exemption (including upon the expiration, obsolescence or invalidity of such form, upon the designation of a new lending office and at such other times as may be necessary in the reasonable determination of the Agent). Such U.S. Lender agrees to promptly notify the Agent and the Canadian Borrower on behalf of the U.S. Borrower of any change in circumstances which would modify or render invalid any claimed exemption or reduction.
- (b) Each U.S. Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code on or prior to the date on which such Lender becomes a party to this Agreement or any other Loan Document and from time to time thereafter either upon the request of the Agent or its respective agents or upon the expiration or obsolescence of any previously delivered documentation shall furnish to the Agent any documentation that is required under the Code or applicable Treasury regulations (including any documentation that is required as a result of a change in law occurring after the date hereof) to enable the Borrowers or the Agent to comply with its obligations under FATCA including but not limited to any Taxes it may be required to withhold in respect of FATCA.
- (c) Each Lender, Assignee or Participant which is a "United States person" within the meaning of Section 7701(a)(30) of the Code, shall (i) at least five (5) Business Days prior to the date such Lender becomes a lender which is a "United States person" within the meaning of Section 7701(a)(30) of the Code hereunder, (ii) on or prior to the date on which any such form or certification expires or becomes obsolete, (iii) after the occurrence of any event requiring a change in the most

recent form or certification previously delivered by it pursuant to this clause (c) and (iv) from time to time if reasonably requested by the U.S. Borrowers or Agent, provide the U.S. Borrowers with two duly completed copies of IRS Form W-9 (certifying that such person is entitled to an exemption from U.S. backup withholding tax) or any successor form.

- (d) Each Canadian Lender (including, without limitation, any assignee or transferee of all or any part of any of the Obligations owing by the Canadian Borrower) that is not a Canadian Qualified Lender shall deliver to the Agent (if it is then permitted to do so under law) two original copies (one for the Canadian Borrower) of such form or forms as may be required under a Canadian tax treaty or any provision of Canadian federal or provincial law as a condition to or exemption from, or reduction of, Canadian withholding tax. Such Canadian Lender agrees to promptly notify the Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction.
- (e) If any Lender is entitled to a reduction in the applicable withholding tax, the Agent may withhold from any interest payment to such Lender an amount equivalent to the applicable withholding tax after taking into account such reduction. If the forms or other documentation required by clause (a) of this Section are not delivered to the Agent (or otherwise), then the Agent may withhold from any interest payment to such Lender not providing such forms or other documentation an amount equivalent to the applicable withholding tax without reduction. None of the Loan Parties shall have any liability under Section 4.1 or otherwise with respect to such amounts withheld by the Agent pursuant to this subsection (d).
- (f) If the IRS or any other Governmental Authority of the United States of America or other jurisdiction asserts a claim that the Agent and/or a Borrower, as applicable, did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Agent and/or such Borrower (or the Canadian Borrower on behalf of such Borrower), as applicable, of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Lender shall indemnify the Agent and/or such Borrower, as applicable, fully for all amounts paid, directly or indirectly, by the Agent and/or such Borrower, as applicable, as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to the Agent and/or such Borrower, as applicable, under this Section, together with all reasonable costs and expenses (including Attorney Costs). The obligation of the Lenders under this subsection shall survive the payment of all Obligations and the resignation or replacement of the Agent.

12.11 Collateral Matters.

- (a) The Lenders hereby irrevocably authorize the Agent, at its option and in its sole discretion, to release and take such actions as may be necessary to release any of

the Agent's Liens upon any Collateral (i) upon the termination of the Commitments and payment and satisfaction in full by the Borrowers of all Revolving Loans, reimbursement obligations in respect of Letters of Credit and Credit Support and all other Obligations (whether or not any of such obligations are due), and the termination of all outstanding Letters of Credit (or the deposit with the Agent of Supporting Letters of Credit in accordance with and as required by Section 1.4(g)); (ii) constituting property being sold or disposed of (other than to another Loan Party) if the applicable Loan Party certifies to the Agent that the sale or disposition is made in compliance with Section 7.11 (and the Agent may rely conclusively on any such certificate, without further inquiry); (iii) constituting property in which each of the Borrowers certifies to the Agent that no Loan Party owned an interest at the time the Lien was granted or at any time thereafter (and the Agent may rely conclusively on any such certificate, without further inquiry); (iv) constituting property leased to a Loan Party under a lease which has expired or been terminated in a transaction permitted under this Agreement; or (v) as contemplated by the last sentence of this Section 12.11(a). Except as provided above, the Agent will not release any of the Agent's Liens without the prior written authorization of the Lenders; provided that the Agent may, in its discretion, release the Agent's Liens on Collateral valued in the aggregate not in excess of \$5,000,000 during each Fiscal Year without the prior written authorization of the Lenders and the Agent may release the Agent's Liens on Collateral valued in the aggregate not in excess of \$2,000,000 during each Fiscal Year without the prior written authorization of the Required Lenders. Upon request by the Agent or a Borrower at any time, the Lenders will confirm in writing the Agent's authority to release any of the Agent's Liens upon particular types or items of Collateral pursuant to this Section 12.11. The Agent hereby agrees that, so long as no Default or Event of Default has occurred and is continuing, it shall return promptly to the applicable Borrower all cash collateral held by the Agent from time to time in connection with any Letter of Credit issued hereunder for the account of such Borrower upon the later of (x) the satisfaction in full of all of the Obligations of such Borrower with respect to such Letter of Credit and, if applicable, related Credit Support and (y) the return and cancellation of such Letter of Credit (or, in the case of any cash collateral held by the Agent under clause sixth of either Section 3.7(a)(ii) or 3.7(b)(ii) with respect to a Letter of Credit, upon the cure or waiver in accordance with the terms hereof of the relevant Event of Default requiring such cash collateralization).

- (b) Upon receipt by the Agent of any authorization required pursuant to Section 12.11(a) from the Lenders of the Agent's authority to release the Agent's Liens upon particular types or items of Collateral, and upon at least three (3) Business Days prior written request by a Borrower, the Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Agent's Liens upon such Collateral; provided, however, that (i) the Agent shall not be required to execute any such document on terms which, in the Agent's reasonable opinion, would expose the Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty, and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any Liens (other than

those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral.

- (c) The Agent shall have no obligation whatsoever to any of the Lenders to assure that the Collateral exists or is owned by a Borrower or other Loan Party or is cared for, protected or insured or has been encumbered or that the Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to the Agent pursuant to any of the Loan Documents, it being understood and agreed that in respect of the Collateral or any act, omission or event related thereto, the Agent may act in any manner it may deem reasonably appropriate, in its sole discretion given the Agent's own interest in the Collateral in its capacity as one of the Lenders and that the Agent shall have no other duty or liability whatsoever to any Lender as to any of the foregoing.

12.12 Restrictions on Actions by Lenders; Sharing of Payments.

- (a) Each of the Lenders agrees that it shall not, without the express consent of the Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the request of the Agent, set off against the Obligations, any amounts owing by such Lender to any of the Loan Parties or any accounts of any of the Loan Parties now or hereafter maintained with such Lender. Each of the Lenders further agrees that it shall not, unless specifically requested to do so by the Agent, take or cause to be taken any action to enforce its rights under this Agreement or any other Loan Document against any of the Loan Parties, including the commencement of any legal or equitable proceedings, to foreclose any Lien on, or otherwise enforce any security interest in, any of the Collateral.
- (b) If at any time or times any Lender shall receive (i) by payment, foreclosure, setoff or otherwise, any proceeds of Collateral or any payments with respect to the Obligations of a Loan Party to such Lender arising under or relating to, this Agreement or the other Loan Documents, except for any such proceeds or payments received by such Lender from the Agent pursuant to the terms of this Agreement or (ii) payments hereunder in excess of such Lender's ratable portion of all such distributions hereunder with respect to the applicable Obligations, such Lender shall promptly (1) turn the same over to the Agent, in kind, and with such endorsements as may be required to negotiate the same to the Agent or in same day funds, as applicable, for the account of all of the applicable Lenders and for application to the applicable Obligations in accordance with the applicable provisions of this Agreement or (2) excluding the Agent, Bank and the U.S. Cash Management Provider as regards Bank Products, purchase, without recourse or warranty, an undivided interest and participation in the applicable Obligations owed to the other applicable Lenders so that such excess payment received shall be applied ratably as among the applicable Lenders in accordance with their Pro Rata Shares; provided, however, that if all or part of such excess payment

received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.

- (c) If following the occurrence of an Event of Default and realization upon the Collateral and the Guarantees, the U.S. Lenders on the one hand and the Canadian Lenders on the other hand have suffered or incurred a loss not recovered from available Collateral, each Lender shall make such payments to the others of them so that the loss is shared by all Lenders in accordance with each such Lender's Pro Rata Share.

12.13 Agency for Perfection.

Each Lender hereby appoints each other Lender as agent for the purpose of perfecting the Lenders' security interest in assets which, in accordance with the PPSA, the Civil Code of Quebec, the UCC or any other applicable law can be perfected only by possession. Should any Lender (other than the Agent) obtain possession of any such Collateral, such Lender shall notify the Agent thereof, and, promptly upon the Agent's request therefor shall deliver such Collateral to the Agent or in accordance with the Agent's instructions.

12.14 Payments by Agent to Lenders.

All payments to be made by the Agent to the Lenders shall be made by external wire transfer or internal transfer of immediately available funds to each Lender pursuant to wire transfer instructions delivered in writing to the Agent on or prior to the Effective Date (or if such Lender is an Assignee, on the applicable Assignment and Acceptance) or pursuant to such other wire transfer instructions as each party may designate for itself by written notice to the Agent. Concurrently with each such payment, the Agent shall identify whether such payment (or any portion thereof) represents principal, premium or interest on the U.S. Revolving Loans, the Canadian Revolving Loans or otherwise. Unless the Agent receives notice from a Borrower prior to the date on which any payment is due to the applicable Lenders from such Borrower that such Borrower will not make such payment in full as and when required, the Agent may assume that such Borrower has made such payment in full to the Agent on such date in immediately available funds and the Agent may (but shall not be so required), in reliance upon such assumption, distribute to each applicable Lender on such due date an amount equal to the amount then due such Lender from such Borrower. If and to the extent a Borrower has not made such payment in full to the Agent, each Lender shall repay to the Agent on demand such amount distributed to such Lender, together with interest thereon at the Federal Funds Rate for each day from the date such amount is distributed to such Lender until the date repaid.

12.15 Settlement of U.S. Revolving Loans.

- (a) U.S. Revolving Loans. Each U.S. Lender's funded portion of the U.S. Revolving Loans is intended by the U.S. Lenders to be equal at all times to such U.S. Lender's Pro Rata Share of the outstanding U.S. Revolving Loans. Notwithstanding such agreement, the Agent, the Bank and the other U.S. Lenders

agree (which agreement shall not be for the benefit of or enforceable by the U.S. Borrower) that in order to facilitate the administration of this Agreement and the other Loan Documents, settlement among them as to the U.S. Revolving Loans, the U.S. Agent Advances and the U.S. Overdraft Accommodations shall take place on a periodic basis in accordance with the following provisions:

- (i) The Agent shall request settlement ("**U.S. Revolving Loan Settlement**") with the U.S. Lenders on at least a weekly basis or on a more frequent basis at the Agent's election, (A) for itself (acting through the Bank), with respect to each U.S. Agent Advance, (B) on behalf of the U.S. Cash Management Provider, with respect to each U.S. Overdraft Accommodation, and (C) with respect to collections received, in each case, by notifying the U.S. Lenders of such requested U.S. Revolving Loan Settlement by telecopy, telephone or other similar form of transmission, of such requested U.S. Revolving Loan Settlement, no later than 12:00 noon (Toronto time) on the date of such requested U.S. Revolving Loan Settlement (the "**U.S. Revolving Loan Settlement Date**"). Each U.S. Lender (other than the Agent in the case of U.S. Agent Advances and the U.S. Cash Management Provider in the case of U.S. Overdraft Accommodations) shall transfer the amount of such U.S. Lender's Pro Rata Share of the outstanding principal amount of the U.S. Agent Advances and U.S. Overdraft Accommodations with respect to each U.S. Revolving Loan Settlement to the Agent, to the Agent's account, not later than 2:00 p.m. (Toronto time), on the U.S. Revolving Loan Settlement Date applicable thereto. U.S. Revolving Loan Settlements may occur during the continuation of a Default or an Event of Default and whether or not the applicable conditions precedent set forth in Article 8 have then been satisfied. Such amounts made available to the Agent shall be applied against the amounts of the applicable U.S. Agent Advance or U.S. Overdraft Accommodation and, together with the portion of such U.S. Agent Advance or U.S. Overdraft Accommodation representing the Bank's or U.S. Cash Management Provider's Pro Rata Share thereof, shall constitute U.S. Revolving Loans of such U.S. Lenders. If any such amount is not transferred to the Agent by any U.S. Lender on the U.S. Revolving Loan Settlement Date applicable thereto, the Agent shall be entitled to recover such amount on demand from such U.S. Lender together with interest thereon at the Federal Funds Rate for the first three (3) days from and after the U.S. Revolving Loan Settlement Date and thereafter at the Interest Rate then applicable to the U.S. Prime Rate Revolving Loans (A) for itself, with respect to each U.S. Agent Advance, and (B) on behalf of the U.S. Cash Management Provider, with respect to each U.S. Overdraft Accommodation.
- (ii) Notwithstanding the foregoing, not more than one (1) Business Day after demand is made by the Agent (whether before or after the occurrence of a Default or an Event of Default and regardless of whether the Agent has requested a U.S. Revolving Loan Settlement with respect to a U.S.

Agent Advance or U.S. Overdraft Accommodation), each other U.S. Lender (A) shall irrevocably and unconditionally purchase and receive from the Bank or the Agent, as applicable, without recourse or warranty, an undivided interest and participation in such U.S. Agent Advance or U.S. Overdraft Accommodation equal to such U.S. Lender's Pro Rata Share of such U.S. Agent Advance or U.S. Overdraft Accommodation and (B) if U.S. Revolving Loan Settlement has not previously occurred with respect to such U.S. Agent Advances or U.S. Overdraft Accommodation, upon demand by the Bank or Agent, as applicable, shall pay to the Bank or Agent, as applicable, as the purchase price of such participation an amount equal to one hundred percent (100%) of such U.S. Lender's Pro Rata Share of such U.S. Agent Advances or U.S. Overdraft Accommodations. If such amount is not in fact made available to the Agent by any U.S. Lender, the Agent shall be entitled to recover such amount on demand from such U.S. Lender together with interest thereon at the Federal Funds Rate for the first three (3) days from and after such demand and thereafter at the Interest Rate then applicable to U.S. Prime Rate Revolving Loans.

- (iii) From and after the date, if any, on which any U.S. Lender purchases an undivided interest and participation in any U.S. Agent Advance or U.S. Overdraft Accommodation pursuant to clause (ii) above, the Agent shall promptly distribute to such U.S. Lender, such U.S. Lender's Pro Rata Share of all payments of principal and interest and all proceeds of Collateral received by the Agent in respect of such U.S. Agent Advance or U.S. Overdraft Accommodation.
- (iv) Between U.S. Revolving Loan Settlement Dates, the Agent, to the extent no U.S. Agent Advances or U.S. Overdraft Accommodations are outstanding, may pay over to the Bank any payments received by the Agent, which in accordance with the terms of this Agreement would be applied to the reduction of the U.S. Revolving Loans, for application to the Bank's U.S. Revolving Loans. If, as of any U.S. Revolving Loan Settlement Date, collections received since the then immediately preceding U.S. Revolving Loan Settlement Date have been applied to the Bank's U.S. Revolving Loans (other than to U.S. Agent Advances or U.S. Overdraft Accommodations in which such U.S. Lender has not yet funded its purchase of a participation pursuant to clause (ii) above), as provided for in the previous sentence, the Bank shall pay to the Agent for the accounts of the U.S. Lenders, to be applied to the outstanding U.S. Revolving Loans of such U.S. Lenders, an amount such that each U.S. Lender shall, upon receipt of such amount, have, as of such U.S. Revolving Loan Settlement Date, its Pro Rata Share of the U.S. Revolving Loans. During the period between U.S. Revolving Loan Settlement Dates, the Agent with respect to U.S. Agent Advances, the U.S. Cash Management Provider with respect to U.S. Overdraft accommodations and each U.S. Lender with respect to the U.S. Revolving Loans other than U.S. Agent Advances and U.S. Overdraft

Accommodations, shall be entitled to interest at the applicable rate or rates payable under this Agreement on the actual average daily amount of funds employed by the Bank, the Agent and the other U.S. Lenders but subject to Section 12.15(c) and (d) with respect to a Defaulting U.S. Lender.

- (v) Unless the Agent has received written notice from a Lender to the contrary, the Agent may assume that the applicable conditions precedent set forth in Article 8 have been satisfied and the requested Borrowing will not exceed U.S. Availability on any Funding Date for a U.S. Revolving Loan.
- (b) U.S. Lenders' Failure to Perform. All U.S. Revolving Loans (other than U.S. Agent Advances and U.S. Overdraft Accommodations) shall be made by the U.S. Lenders simultaneously and in accordance with their Pro Rata Shares. It is understood that (i) no U.S. Lender shall be responsible for any failure by any other U.S. Lender to perform its obligation to make any U.S. Revolving Loans hereunder, nor shall any U.S. Revolving Credit Commitment of any U.S. Lender be increased or decreased as a result of any failure by any other U.S. Lender to perform its obligation to make any U.S. Revolving Loans hereunder, (ii) no failure by any U.S. Lender to perform its obligation to make any U.S. Revolving Loans hereunder shall excuse any other U.S. Lender from its obligation to make any U.S. Revolving Loans hereunder, and (iii) the obligations of each U.S. Lender hereunder shall be several, not joint and several.
- (c) Defaulting U.S. Lenders. Unless the Agent receives notice from a U.S. Lender on or prior to the Effective Date or, with respect to any Borrowing after the Closing Date, prior to the time of such Borrowing, that such U.S. Lender will not make available as and when required hereunder to the Agent that U.S. Lender's Pro Rata Share of a Borrowing, the Agent may assume that each U.S. Lender has made such amount available to the Agent in immediately available funds on the Funding Date. Furthermore, the Agent may, in reliance upon such assumption, make available to the U.S. Borrowers on such date a corresponding amount. If any U.S. Lender has not transferred its full Pro Rata Share to the Agent in immediately available funds and the Agent has transferred a corresponding amount to a U.S. Borrower on the Business Day following such Funding Date, such U.S. Lender shall make such amount available to the Agent, together with interest at the Federal Funds Rate for that day. A notice by the Agent submitted to any U.S. Lender with respect to amounts owing shall be conclusive, absent manifest error. If each U.S. Lender's full Pro Rata Share is transferred to the Agent as required, the amount transferred to the Agent shall constitute that U.S. Lender's U.S. Revolving Loan for all purposes of this Agreement. If that amount is not transferred to the Agent on the Business Day following the Funding Date, the Agent will notify the U.S. Borrowers of such failure to fund and, within one (1) Business Day after demand by the Agent, such U.S. Borrower shall pay such amount to the Agent for the Agent's account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the Interest Rate applicable at the time to the U.S. Revolving Loans comprising

that particular Borrowing. The failure of any U.S. Lender to make any U.S. Revolving Loan on any Funding Date shall not relieve any other U.S. Lender of its obligation hereunder to make a U.S. Revolving Loan on that Funding Date. No U.S. Lender shall be responsible for any other U.S. Lender's failure to advance such other U.S. Lenders' Pro Rata Share of any Borrowing.

- (d) Retention of Defaulting U.S. Lender's Payments. The Agent shall not be obligated to transfer to a Defaulting U.S. Lender any payments made by any of the U.S. Borrower to the Agent for the Defaulting U.S. Lender's benefit; nor shall a Defaulting U.S. Lender be entitled to the sharing of any payments hereunder. Amounts payable to a Defaulting U.S. Lender shall instead be paid to or retained by the Agent and any such payments shall in the discretion of the Agent be held in a non-interest bearing account or otherwise invested as Agent shall see fit; provided that the amount of any such payments shall be returned to the U.S. Borrowers, if U.S. Borrowers are entitled to same under the terms of this Agreement, promptly following the removal of the Defaulting U.S. Lender pursuant to Section 12.15(e). Notwithstanding any other terms hereof, the Defaulting U.S. Lender shall not be entitled to interest in any amounts returned by Agent. In its discretion, to the extent the U.S. Borrowers have not reduced the U.S. Revolving Credit Commitments by repaying the outstanding borrowed U.S. Revolving Commitments of the Defaulting U.S. Lenders, the Agent may loan the U.S. Borrowers the amount of all such payments received or retained by it for the account of such Defaulting U.S. Lender. In its discretion, the Bank may loan U.S. Borrower the amount of all such payments received or retained by it for the account of such Defaulting U.S. Lender. Any amounts so loaned to such U.S. Borrower shall bear interest at the rate applicable to U.S. Prime Rate Revolving Loans and for all other purposes of this Agreement shall be treated as if they were U.S. Revolving Loans to such U.S. Borrower, provided, however, that for purposes of voting or consenting to matters with respect to the Loan Documents and determining Pro Rata Shares, such Defaulting U.S. Lender shall be deemed not to be a "U.S. Lender" or a "Lender". Until a Defaulting U.S. Lender cures its failure to fund its Pro Rata Share of any Borrowing (A) such Defaulting U.S. Lender shall not be entitled to any portion of the U.S. Unused Line Fee and (B) the U.S. Unused Line Fee shall accrue in favour of the U.S. Lenders which have funded their respective Pro Rata Shares of such requested Borrowing and shall be allocated among such performing U.S. Lenders ratably based upon their relative U.S. Revolving Credit Commitments. This Section shall remain effective with respect to such U.S. Lender until such time as the Defaulting U.S. Lender shall no longer be in default of any of its obligations under this Agreement. The terms of this Section shall not be construed to increase or otherwise affect the U.S. Revolving Credit Commitment of any U.S. Lender or relieve or excuse the performance by any U.S. Borrower of its duties and obligations hereunder.
- (e) Removal of Defaulting U.S. Lender. At a U.S. Borrower's request, the Agent or an Eligible Assignee reasonably acceptable to the Agent and such U.S. Borrower shall have the right (but not the obligation) to purchase from any Defaulting U.S. Lender, and each Defaulting U.S. Lender shall, upon such request, sell and assign to the Agent or such Eligible Assignee, all of the Defaulting U.S. Lender's

outstanding Commitments hereunder. Such sale shall be consummated promptly after the Agent has arranged for a purchase by the Bank or an Eligible Assignee pursuant to an Assignment and Acceptance, and at an aggregate price equal to the outstanding principal balance of the Defaulting U.S. Lender's Revolving Loans, plus accrued interest and fees, without premium or discount, and plus all other amounts owing to such Defaulting U.S. Lender hereunder. In the event that a Defaulting U.S. Lender refuses or otherwise fails to execute an acceptable Assignment and Acceptance within two (2) Business Days of a request to do so, it shall be deemed to have executed the applicable Assignment and Acceptance by mere insertion of its name as "Assignor".

- (f) No Defaulting U.S. Lender Credit Extensions. Notwithstanding any other terms or conditions hereof, at any time when there is a Defaulting U.S. Lender, neither the Agent nor any U.S. Lender shall be required to make any Loans, issue any Letters of Credit or Credit Support, make available any Bank Products or otherwise extend any form of credit to the U.S. Borrowers ("Defaulting U.S. Lender Credit Extensions") to the extent any such Loan, Letter of Credit, Credit Support Bank Product or other extension of credit hereunder would require the Agent or any such Lender to obtain settlement with or payment or repayment or reimbursement from such Defaulting U.S. Lender, all of which Defaulting U.S. Lender Credit Extensions being in the sole discretion of the Agent and U.S. Lenders exercised in good faith.

12.16 Settlement of Canadian Revolving Loans.

- (a) Canadian Revolving Loans. Each Canadian Lender's funded portion of the Canadian Revolving Loans is intended by the Canadian Lenders to be equal at all times to such Canadian Lender's Pro Rata Share of the outstanding Canadian Revolving Loans. Notwithstanding such agreement, the Agent and the other Canadian Lenders agree (which agreement shall not be for the benefit of or enforceable by the Canadian Borrower) that in order to facilitate the administration of this Agreement and the other Loan Documents, settlement among them as to the Canadian Revolving Loans, the Canadian Agent Advances and the Canadian Overdraft Accommodations shall take place on a periodic basis in accordance with the following provisions:
- (i) The Agent shall request settlement ("**Canadian Revolving Loan Settlement**") with the Canadian Lenders on at least a weekly basis or on a more frequent basis at the Agent's election, (A) for itself, with respect to each Canadian Agent Advance and Canadian Overdraft Accommodation, and (B) with respect to collections received, in each case, by notifying the Canadian Lenders of such requested Canadian Revolving Loan Settlement by telecopy, telephone or other similar form of transmission, of such requested Canadian Revolving Loan Settlement, no later than 12:00 noon (Toronto time) on the date of such requested Canadian Revolving Loan Settlement (the "**Canadian Revolving Loan Settlement Date**"). Each Canadian Lender (other than the Agent in the case of Canadian Agent Advances and Canadian Overdraft

Accommodations) shall transfer the amount of such Canadian Lender's Pro Rata Share of the outstanding principal amount of the Canadian Agent Advances and Canadian Overdraft Accommodations with respect to each Canadian Revolving Loan Settlement to the Agent, to the Agent's account, not later than 2:00 p.m. (Toronto time), on the Canadian Revolving Loan Settlement Date applicable thereto (such transfer to be made in the same currency as the currency of the applicable Canadian Agent Advances and Canadian Overdraft Accommodations). Canadian Revolving Loan Settlements may occur during the continuation of a Default or an Event of Default and whether or not the applicable conditions precedent set forth in Article 8 have then been satisfied. Such amounts made available to the Agent shall be applied against the amounts of the applicable Canadian Agent Advance or Canadian Overdraft Accommodation and, together with the portion of such Canadian Agent Advance or Canadian Overdraft Accommodation representing Royal Bank's Pro Rata Share thereof, shall constitute Canadian Revolving Loans of such Canadian Lenders. If any such amount is not transferred to the Agent by any Canadian Lender on the Canadian Revolving Loan Settlement Date applicable thereto, the Agent shall be entitled to recover such amount on demand from such Canadian Lender together with interest thereon (in the same respective currency or currencies as the applicable amount or amounts to be recovered) at the Canadian Prime Rate for the first three (3) days from and after the Canadian Revolving Loan Settlement Date and thereafter at the Interest Rate then applicable to the Canadian Prime Rate Revolving Loans for itself, with respect to each Canadian Agent Advance or Canadian Overdraft Accommodation.

- (ii) Notwithstanding the foregoing, not more than one (1) Business Day after demand is made by the Agent (whether before or after the occurrence of a Default or an Event of Default and regardless of whether the Agent has requested a Canadian Revolving Loan Settlement with respect to a Canadian Agent Advance or Canadian Overdraft Accommodation), each other Canadian Lender (A) shall irrevocably and unconditionally purchase and receive from Royal Bank or the Agent, as applicable, without recourse or warranty, an undivided interest and participation in such Canadian Agent Advance or Canadian Overdraft Accommodation equal to such Canadian Lender's Pro Rata Share of such Canadian Agent Advance or Canadian Overdraft Accommodation and (B) if Canadian Revolving Loan Settlement has not previously occurred with respect to such Canadian Agent Advances or Canadian Overdraft Accommodations, upon demand by Royal Bank or Agent, as applicable, shall pay to Royal Bank or Agent, as applicable, as the purchase price of such participation an amount equal to one hundred percent (100%) of such Canadian Lender's Pro Rata Share of such Canadian Agent Advances or Canadian Overdraft Accommodations. If such amount is not in fact made available to the Agent by any Canadian Lender, the Agent shall be entitled to recover such amount on demand from such

Canadian Lender together with interest thereon (in the same respective currency or currencies as the relevant Canadian Agent Advances or Canadian Overdraft Accommodations, as the case may be) at the Canadian Prime Rate for the first three (3) days from and after such demand and thereafter at the Interest Rate then applicable to Canadian Prime Rate Revolving Loans.

- (iii) From and after the date, if any, on which any Canadian Lender purchases an undivided interest and participation in any Canadian Agent Advance or Canadian Overdraft Accommodation pursuant to clause (ii) above, the Agent shall promptly distribute to such Canadian Lender, such Canadian Lender's Pro Rata Share of all payments of principal and interest and all proceeds of Collateral received by the Agent in respect of such Canadian Agent Advance or Canadian Overdraft Accommodation.
- (iv) Between Canadian Revolving Loan Settlement Dates, the Agent, to the extent no Canadian Agent Advances or Canadian Overdraft Accommodations are outstanding, may pay over to Royal Bank any payments received by the Agent, which in accordance with the terms of this Agreement would be applied to the reduction of the Canadian Revolving Loans, for application to Royal Bank's Canadian Revolving Loans. If, as of any Canadian Revolving Loan Settlement Date, collections received since then immediately preceding Canadian Revolving Loan Settlement Date have been applied to Royal Bank's Canadian Revolving Loans (other than to Canadian Agent Advances or Canadian Overdraft Accommodations in which such Canadian Lender has not yet funded its purchase of a participation pursuant to clause (ii) above), as provided for in the previous sentence, Royal Bank shall pay to the Agent for the accounts of the Canadian Lenders, to be applied to the outstanding Canadian Revolving Loans of such Canadian Lenders, an amount such that each Canadian Lender shall, upon receipt of such amount, have, as of such Canadian Revolving Loan Settlement Date, its Pro Rata Share of the Canadian Revolving Loans. During the period between Canadian Revolving Loan Settlement Dates, the Agent with respect to Canadian Agent Advances or Canadian Overdraft Accommodations, and each Canadian Lender with respect to the Canadian Revolving Loans other than Canadian Agent Advances or Canadian Overdraft Accommodations, shall be entitled to interest at the applicable rate or rates payable under this Agreement on the actual average daily amount of funds employed by Royal Bank, the Agent and the other Canadian Lenders.
- (v) Unless the Agent has received written notice from a Lender to the contrary, the Agent may assume that the applicable conditions precedent set forth in Article 8 have been satisfied and the requested Borrowing will not exceed Canadian Availability on any Funding Date for a Canadian Revolving Loan.

- (b) Canadian Lenders' Failure to Perform. All Canadian Revolving Loans (other than Canadian Agent Advances and Canadian Overdraft Accommodations) shall be made by the Canadian Lenders simultaneously and in accordance with their Pro Rata Shares. It is understood that (i) no Canadian Lender shall be responsible for any failure by any other Canadian Lender to perform its obligation to make any Canadian Revolving Loans hereunder, nor shall any Canadian Revolving Credit Commitment of any Canadian Lender be increased or decreased as a result of any failure by any other Canadian Lender to perform its obligation to make any Canadian Revolving Loans hereunder, (ii) no failure by any Canadian Lender to perform its obligation to make any Canadian Revolving Loans hereunder shall excuse any other Canadian Lender from its obligation to make any Canadian Revolving Loans hereunder, and (iii) the obligations of each Canadian Lender hereunder shall be several, not joint and several.
- (c) Defaulting Canadian Lenders. Unless the Agent receives notice from a Canadian Lender on or prior to the Effective Date or, with respect to any Borrowing after the Effective Date, at least one Business Day prior to the date of such Borrowing, that such Canadian Lender will not make available as and when required hereunder to the Agent that Canadian Lender's Pro Rata Share of a Borrowing, the Agent may assume that each Canadian Lender has made such amount available to the Agent in immediately available funds on the Funding Date. Furthermore, the Agent may, in reliance upon such assumption, make available to the Canadian Borrower on such date a corresponding amount. If any Canadian Lender has not transferred its full Pro Rata Share to the Agent in immediately available funds and the Agent has transferred a corresponding amount to the Canadian Borrower on the Business Day following such Funding Date that Canadian Lender shall make such amount available to the Agent, together with interest (in the same currency as the related Borrowing) at the Canadian Prime Rate for that day. A notice by the Agent submitted to any Canadian Lender with respect to amounts owing shall be conclusive, absent manifest error. If each Canadian Lender's full Pro Rata Share is transferred to the Agent as required, the amount transferred to the Agent shall constitute that Canadian Lender's Canadian Revolving Loan for all purposes of this Agreement. If that amount is not transferred to the Agent on the Business Day following the Funding Date, the Agent will notify the Canadian Borrower of such failure to fund and, within one (1) Business Day after demand by the Agent, the Canadian Borrower shall pay such amount to the Agent for the Agent's account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the Interest Rate applicable at the time to the Canadian Revolving Loans comprising that particular Borrowing. The failure of any Canadian Lender to make any Canadian Revolving Loan on any Funding Date (any such Canadian Lender, prior to the cure of such failure, being hereinafter referred to as a "Defaulting Canadian Lender") shall not relieve any other Canadian Lender of its obligation hereunder to make a Canadian Revolving Loan on that Funding Date. No Canadian Lender shall be responsible for any other Canadian Lender's failure to advance such other Canadian Lenders' Pro Rata Share of any Borrowing.

- (d) Retention of Defaulting Canadian Lender's Payments. The Agent shall not be obligated to transfer to a Defaulting Canadian Lender any payments made by the Canadian Borrower to the Agent for the Defaulting Canadian Lender's benefit; nor shall a Defaulting Canadian Lender be entitled to the sharing of any payments hereunder. Amounts payable to a Defaulting Canadian Lender shall instead be paid to or retained by the Agent and any such payments shall in the discretion of the Agent be held in a non-interest bearing account or otherwise invested as Agent shall see fit; provided that the amount of any such payments shall be returned to the Canadian Borrowers, if Canadian Borrowers are entitled to same under the terms of this Agreement, promptly following the removal of the Defaulting Canadian Lender pursuant to Section 12.16(e). Notwithstanding any other terms hereof, the Defaulting Canadian Lender shall not be entitled to interest in any amounts returned by Agent. In its discretion, to the extent the Canadian Borrowers have not reduced the Canadian Revolving Credit Commitments by repaying the outstanding borrowed Canadian Revolving Commitments of the Defaulting Canadian Lenders, the Agent may loan the Canadian Borrowers the amount of all such payments received or retained by it for the account of such Defaulting Canadian Lender. In its discretion, the Agent may loan the Canadian Borrower the amount of all such payments received or retained by it for the account of such Defaulting Canadian Lender. Any amounts so loaned to the Canadian Borrower shall bear interest at the rate applicable to Canadian Prime Rate Revolving Loans and for all other purposes of this Agreement shall be treated as if they were Canadian Revolving Loans to such Canadian Borrower, provided, however, that for purposes of voting or consenting to matters with respect to the Loan Documents and determining Pro Rata Shares, such Defaulting Canadian Lender shall be deemed not to be a "Canadian Lender" or "Lender". Until a Defaulting Canadian Lender cures its failure to fund its Pro Rata Share of any Borrowing (A) such Defaulting Canadian Lender shall not be entitled to any portion of the Canadian Unused Line Fee and (B) the Canadian Unused Line Fee shall accrue in favour of the Canadian Lenders which have funded their respective Pro Rata Shares of such requested Borrowing and shall be allocated among such performing Canadian Lenders ratably based upon their relative Canadian Revolving Credit Commitments. This Section shall remain effective with respect to such Canadian Lender until such time as the Defaulting Canadian Lender shall no longer be in default of any of its obligations under this Agreement. The terms of this Section shall not be construed to increase or otherwise affect the Canadian Revolving Credit Commitment of any Canadian Lender or relieve or excuse the performance by the Canadian Borrower of its duties and obligations hereunder.
- (e) Removal of Defaulting Canadian Lender. At the Canadian Borrower's request, the Agent or an Eligible Assignee reasonably acceptable to the Agent and the Canadian Borrower shall have the right (but not the obligation) to purchase from any Defaulting Canadian Lender, and each Defaulting Canadian Lender shall, upon such request, sell and assign to the Agent or such Eligible Assignee, all of the Defaulting Canadian Lender's outstanding Commitments hereunder. Such sale shall be consummated promptly after the Agent has arranged for a purchase by the Agent or an Eligible Assignee pursuant to an Assignment and Acceptance,

and at an aggregate price equal to the outstanding principal balance of the Defaulting Canadian Lender's and its related Revolving Loans, plus accrued interest and fees, without premium or discount, and plus all other amounts owing to such Defaulting Canadian Lender hereunder. In the event that a Defaulting Canadian Lender refuses or otherwise fails to execute an acceptable Assignment and Acceptance within two (2) Business Days of a request to do so, it shall be deemed to have executed the applicable Assignment and Acceptance by mere insertion of its name as "Assignor".

- (f) No Defaulting U.S. Lender Credit Extensions. Notwithstanding any other terms or conditions hereof, at any time when there is a Defaulting Canadian Lender, neither the Agent nor any Canadian Lender shall be required to make any Loans, issue any Letters of Credit or Credit Support, make available any Bank Products or otherwise extend any form of credit to the Canadian Borrowers ("**Defaulting Canadian Lender Credit Extensions**") to the extent any such Loan, Letter of Credit, Credit Support Bank Product or other extension of credit hereunder would require the Agent or any such Lender to obtain settlement with or payment or repayment or reimbursement from such Defaulting Canadian Lender, all of which Defaulting Canadian Lender Credit Extensions being in the sole discretion of the Agent and Canadian Lenders exercised in good faith.

12.17 Letters of Credit; Intra Lender Issues.

- (a) Notice of Issuance of Letters of Credit. On each U.S. Revolving Loan Settlement Date, the Agent shall notify each U.S. Lender of the issuance of all U.S. Letters of Credit since the prior U.S. Revolving Loan Settlement Date. On each Canadian Revolving Loan Settlement Date, the Agent shall notify each Canadian Lender of the issuance of all Canadian Letters of Credit since the prior Canadian Revolving Loan Settlement Date.
- (b) Participations in Letters of Credit.
- (i) Purchase of Participations. Immediately upon issuance of any Letter of Credit in accordance with Section 1.4(d), each applicable Lender (i.e. each U.S. Lender with respect to U.S. Letters of Credit and related Credit Support and each Canadian Lender with respect to Canadian Letters of Credit and related Credit Support) shall be deemed to have irrevocably and unconditionally purchased and received without recourse or warranty, an undivided interest and participation equal to such Lender's Pro Rata Share of the face amount of such Letter of Credit or the Credit Support provided through the Agent to the applicable Letter of Credit Issuer, if not the Bank or Royal Bank, in connection with the issuance of such Letter of Credit (including all obligations of the applicable Borrower with respect thereto, and any security therefor or guaranty pertaining thereto).
- (ii) Sharing of Reimbursement Obligation Payments.

- (A) Whenever the Agent receives a payment from the Canadian Borrower on account of reimbursement obligations in respect of a Canadian Letter of Credit or Canadian Credit Support as to which the Agent has previously received for the account of the Canadian Letter of Credit Issuer thereof payment from a Canadian Lender, the Agent shall promptly pay to such Canadian Lender such Canadian Lender's Pro Rata Share of such payment from such Canadian Borrower. Each such payment shall be made by the Agent on the next Canadian Revolving Loan Settlement Date.
 - (B) Whenever the Agent receives a payment from any U.S. Borrower on account of reimbursement obligations in respect of a U.S. Letter of Credit or U.S. Credit Support as to which the Agent has previously received for the account of the U.S. Letter of Credit Issuer thereof payment from a U.S. Lender, the Agent shall promptly pay to such U.S. Lender such U.S. Lender's Pro Rata Share of such payment from such U.S. Borrower. Each such payment shall be made by the Agent on the next U.S. Revolving Loan Settlement Date.
- (iii) Documentation.
- (A) Upon the request of any Canadian Lender, the Agent shall furnish to such Lender copies of any Canadian Letter of Credit, Canadian Credit Support for any Canadian Letter of Credit and such other documentation as may reasonably be requested by such Lender.
 - (B) Upon the request of any U.S. Lender, the Agent shall furnish to such U.S. Lender copies of any U.S. Letter of Credit, U.S. Credit Support for any U.S. Letter of Credit and such other documentation as may reasonably be requested by such U.S. Lender.
- (iv) Obligations Irrevocable. The obligations of each applicable Lender to make payments to the Agent with respect to any Letter of Credit or with respect to their participation therein or with respect to any Credit Support for any Letter of Credit or with respect to the U.S. Revolving Loans or Canadian Revolving Loans, as applicable, made as a result of a drawing under a Letter of Credit and the obligations of the Borrower for whose account the Letter of Credit or Credit Support was issued to make payments to the Agent, for the account of the applicable Lenders, shall be irrevocable and shall not be subject to any qualification or exception whatsoever, including any of the following circumstances:
- (I) any lack of validity or enforceability of this Agreement or any of the other Loan Documents;
 - (II) the existence of any claim, setoff, defence or other right which any Borrower or other Loan Party may have at any

time against a beneficiary named in a Letter of Credit or any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), any Lender, the Agent, the issuer of such Letter of Credit or any other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transactions (including any underlying transactions between any Borrower or other Loan Party or any other Person and the beneficiary named in any Letter of Credit);

- (III) any draft, certificate or any other document presented under the Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
- (IV) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Loan Documents;
- (V) the occurrence of any Default or Event of Default; or
- (VI) the failure of any of the Borrowers to satisfy the applicable conditions precedent set forth in Article 8.

(c) Recovery or Avoidance of Payments; Refund of Payments In Error. In the event any payment by or on behalf of any of the Borrowers received by the Agent with respect to any Letter of Credit or Credit Support provided for any Letter of Credit and distributed by the Agent to the applicable Lenders on account of their respective participations therein is thereafter set aside, avoided or recovered from the Agent in connection with any receivership, liquidation or bankruptcy proceeding, the applicable Lenders shall, upon demand by the Agent, pay to the Agent their respective Pro Rata Shares of such amount set aside, avoided or recovered, together with interest at the rate and in the currency required to be paid by the Agent upon the amount required to be repaid by it. Unless the Agent receives notice from a Borrower prior to the date on which any payment is due to the applicable Lenders that such Borrower will not make such payment in full as and when required, the Agent may assume that such Borrower has made such payment in full to the Agent on such date in immediately available funds and the Agent may (but shall not be so required), in reliance upon such assumption, distribute to each applicable Lender on such due date an amount equal to the amount then due such Lender from such Borrower. If and to the extent such Borrower has not made such payment in full to the Agent, each Lender shall repay to the Agent on demand such amount distributed to such Lender, together with interest thereon at the Federal Funds Rate for each day from the date such amount is distributed to such Lender until the date repaid.

(d) Indemnification by U.S. Lenders. To the extent not reimbursed by a U.S. Borrower and without limiting the obligations of the U.S. Borrowers hereunder,

the U.S. Lenders agree to indemnify the U.S. Letter of Credit Issuer ratably in accordance with their respective Pro Rata Shares, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorneys' fees) or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the U.S. Letter of Credit Issuer in any way relating to or arising out of any U.S. Letter of Credit or the transactions contemplated thereby or any action taken or omitted by the U.S. Letter of Credit Issuer under any U.S. Letter of Credit issued by the U.S. Letter of Credit Issuer or any Loan Document in connection therewith; provided, that no U.S. Lender shall be liable for any of the foregoing to the extent it arises from the gross negligence or wilful misconduct of the Person to be indemnified as determined in a formal non-appealable judgment of a court of competent jurisdiction. Without limitation of the foregoing, each U.S. Lender agrees to reimburse the U.S. Letter of Credit Issuer promptly upon demand for its Pro Rata Share of any costs or expenses payable by any of the U.S. Borrowers to the U.S. Letter of Credit Issuer, to the extent that the U.S. Letter of Credit Issuer is not promptly reimbursed for such costs and expenses by such U.S. Borrower. The agreement contained in this Section shall survive payment in full of all other Obligations.

- (e) Indemnification by Canadian Lenders. To the extent not reimbursed by the Canadian Borrower and without limiting the obligations of the Canadian Borrower hereunder, the Canadian Lenders agree to indemnify the Canadian Letter of Credit Issuer ratably in accordance with their respective Pro Rata Shares, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including attorneys' fees) or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Canadian Letter of Credit Issuer in any way relating to or arising out of any Canadian Letter of Credit or the transactions contemplated thereby or any action taken or omitted by the Canadian Letter of Credit Issuer under any Canadian Letter of Credit issued by the Canadian Letter of Credit Issuer or any Loan Document in connection therewith; provided that no Canadian Lender shall be liable for any of the foregoing to the extent it arises from the gross negligence or wilful misconduct of the Person to be indemnified. Without limitation of the foregoing, each Canadian Lender agrees to reimburse the Canadian Letter of Credit Issuer promptly upon demand for its Pro Rata Share of any costs or expenses payable by the Canadian Borrower to the Canadian Letter of Credit Issuer, to the extent that the Canadian Letter of Credit Issuer is not promptly reimbursed for such costs and expenses by the Canadian Borrower. The agreement contained in this Section shall survive payment in full of all other Obligations.

12.18 Concerning the Collateral and the Related Loan Documents.

Each Lender authorizes and directs the applicable Agent to enter into, execute and deliver the other Loan Documents, for the ratable benefit of such Agent and the Lenders. Each Lender agrees that any action taken by such Agent, or the Required Lenders, as applicable, in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by

such Agent, or the Required Lenders, as applicable, of their respective powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders. The U.S. Lenders acknowledge that the U.S. Revolving Loans, U.S. Agent Advances, U.S. Overdraft Accommodations, Bank Products obtained by the U.S. Borrower and all interest, fees and expenses hereunder in respect of Obligations of U.S. Borrower constitute one Debt, secured *pari passu* by all of the Collateral of the Borrowers directly and indirectly as primary Loan Parties and guarantors. The Canadian Lenders acknowledge that the Canadian Revolving Loans, Canadian Agent Advances, Canadian Overdraft Accommodations, Bank Products obtained by the Canadian Borrower and all interest, fees and expenses hereunder in respect of Obligations of the Canadian Borrower constitute one Debt, secured *pari passu* by all of the Collateral of the Borrowers, directly and indirectly as primary Loan Parties and guarantors. For greater certainty all the Revolving Loans and the Obligations of each Loan Party are cross-guaranteed and cross-collateralized.

12.19 Field Audit and Examination Reports; Disclaimer by Lenders.

By signing this Agreement, each Lender:

- (a) is deemed to have requested that the Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report (each a "Report" and collectively, "Reports") prepared by or on behalf of the Agent;
- (b) expressly agrees and acknowledges that neither the Bank nor the Agent (i) makes any representation or warranty as to the accuracy of any Report or (ii) shall be liable for any information contained in any Report;
- (c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agent or the Bank or other party performing any audit or examination will inspect only specific information regarding the relevant Loan Party and will rely significantly upon the relevant Loan Party's books and records, as well as on representations of the relevant Loan Party's personnel;
- (d) agrees to keep all Reports confidential and strictly for its internal use and not to distribute except to its participants or use any Report in any other manner, except as may be required by law, regulation or judicial proceeding; and
- (e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to any of the Borrowers or the indemnifying Lender's participation in or the indemnifying Lender's purchase of, a loan or loans of any of the Borrowers; and (ii) to pay and protect, and indemnify, defend and hold the Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses and other amounts (including Attorney Costs) incurred by the Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

12.20 Relation Among Lenders.

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of or (except as otherwise set forth herein in case of the Agent) authorized to act for, any other Lender.

12.21 Sharing of Information.

The Agent and the Lenders may share among themselves any information they may have from time to time concerning the Loan Parties whether or not such information is confidential, but shall have no obligation to do so (except for any obligations of the Agent to provide information to the extent required in this Agreement). The Loan Party Representative hereby consents to any such sharing of information among the Agent and the Lenders.

12.22 Arranger and Other Agent.

None of the Arranger nor any Lender or Affiliate thereof now or hereafter identified as a syndication agent hereunder solely in their respective capacities as such shall have any right, power, obligation, liability, responsibility or duty under this Agreement.

12.23 Electronic Platform, Etc.

The Loan Parties hereby acknowledge that (a) the Agent and/or the Arranger will make available to the Lenders materials and/or information provided by or on behalf of the Borrower and the other Loan Parties hereunder (collectively, "**Borrower Materials**") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "**Platform**") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that wish to receive only information that (i) is publicly available, (ii) is not material with respect to the Borrowers or the other Loan Parties or its or their respective securities for purposes of United States federal and state securities laws and Canadian federal and provincial securities laws or (iii) constitutes information of a type that would be publicly available if the Loan Parties were public reporting companies (collectively, the "**Public Side Information**")) and who may be engaged in investment and other market related activities with respect to the Borrower or the other Loan Parties or its or their respective securities (each, a "**Public Lender**"). Before distribution of any Borrower Materials to Lenders, the Borrowers agree to identify that portion of the Borrower Materials that may be distributed to the Public Lenders as "Public Information," which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof. By marking Borrower Materials as "PUBLIC," the Borrowers shall be deemed to have authorized the Agent, the Arranger and the Lenders to treat such Borrower Materials as containing only Public Side Information. All Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Lender." The Agent and the Arranger shall treat the Borrower Materials that are not marked "PUBLIC" as being suitable only for posting, and shall only post such Borrower Materials, on a portion of the Platform not designated "Public Lender."

ARTICLE 13 – GUARANTEES

13.1 The Guarantees

Each Guarantor, as primary obligor and not merely as a surety, hereby unconditionally and irrevocably, jointly and severally (solidarily), guarantees to the Agent and each of the Secured Parties the punctual payment when due in accordance with the terms hereof of all Obligations, of whatever kind and description, of the Borrowers to the Agent and each of the Secured Parties now or hereafter existing, whether direct or indirect, absolute or contingent, matured or unmatured, secured or unsecured pursuant to or arising out of or under this Agreement (including all interest that accrues after the commencement of any case or proceeding by or against the Borrowers under any federal or state bankruptcy, insolvency, receivership or similar law, whether or not allowed in such case or proceeding), including, without limitation, all Obligations (all such obligations so guaranteed are referred to herein as the “Guaranteed Obligations”).

13.2 Guarantee Absolute

Each Guarantor guarantees that the Guaranteed Obligations will be paid strictly in accordance with their terms regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Agent and/or Secured Parties with respect thereto. The liability of each Guarantor hereunder shall be solidary (joint and several) and absolute and unconditional irrespective of (and each Guarantor hereby waives, to the fullest extent permitted by applicable law, any defense relating to):

- (a) Any lack of validity or enforceability of the Obligations or the Guaranteed Obligations or any agreement or instrument relating thereto;
- (b) Any change in the time, manner or place of the payment of, or in any other term of, all or any of the Obligations or the Guaranteed Obligations, or any amendment or modification of or any consent to departure from this Agreement or any other Loan Document;
- (c) Any exchange, release, unopposability or nonperfection of any Collateral or any release or amendment to, waiver of, or consent to departure from, or any Guarantee for, all or any part of the Obligations or the Guaranteed Obligations;
- (d) Any whole or partial termination of this Guarantee as to any other Guarantor; or
- (e) Any other circumstance which might otherwise constitute a defence available to, or a discharge of, the Borrowers in respect of the Obligations or the Guaranteed Obligations or a Guarantor in respect of this Guarantee or the Guaranteed Obligations.

This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Obligations or the Guaranteed Obligations are rescinded or must otherwise be returned by the Agent and/or Secured Parties upon the bankruptcy or reorganization of any Guarantor or otherwise under applicable law, all as though such payment had not been made.

13.3 Consents, Waivers and Renewals

Each Guarantor hereby renounces to the benefits of division and discussion. Each Guarantor hereby waives promptness, diligence, notice of the acceptance hereof, notice of intent to accelerate and notice of acceleration and any other notice with respect to any of the Obligations or the Guaranteed Obligations and this Agreement and any requirement that the Agent and/or Secured Parties protect, secure, perfect, render opposable or insure any Agent's Lien or Lien on any Property subject thereto or exhaust any right or take any action against the Borrowers any Guarantor or any other Person or any Collateral before proceeding hereunder. Each Guarantor agrees that the Agent and/or Secured Parties may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Borrowers or the Guarantor extend the time of payment of, exchange or surrender any Collateral for, or renew any of the Obligations or the Guaranteed Obligations, and may also make any agreements with the Borrowers, any Guarantor or with any other party to or Person liable on any of the Obligations, or interested therein, for the extension, renewal, payment, compromise, discharge, or release thereof, in whole or in part, or for any modification of the terms thereof or of any agreement between the Agent and/or any Secured Parties and the Borrowers or any such other party or Person, without in any way impairing or affecting this Guarantee. Each Guarantor agrees to make payment to the Agent, for the rateable benefit of the Secured Parties, of any of the Obligations and the Guaranteed Obligations whether or not the Agent and/or any Lenders shall have resorted to any collateral security, or shall have proceeded against any other Loan Party principally or secondarily obligated with respect to any of the Obligations or the Guaranteed Obligations. The Agent and/or Secured Parties shall be free to deal with the Borrowers and each of the Guarantors as it sees fit.

13.4 Subrogation

No Guarantor shall exercise any rights which it may acquire by way of subrogation under this Agreement, by any payment made hereunder or otherwise, until all the Obligations and the Guaranteed Obligations shall have been paid in full. If any amount shall be paid to the Borrowers on account of such subrogation rights in violation of the foregoing restriction, such amount shall be held in trust for the benefit of the Agent (for itself and the other Secured Parties) and shall forthwith be paid to the Agent (for itself and the other Secured Parties) to be credited and applied to the Obligations, whether matured or unmatured, in accordance with the terms of this Agreement.

13.5 Protection Clause

Whenever herein a representation or warranty is expressed by a Guarantor or, subject to Section 13.1 above, any agreement to do any act or thing is made by a Guarantor, same shall be deemed to be a representation or warranty as to that Guarantor only and not a representation or warranty of any matter or circumstance of any other Guarantor and an agreement as to its conduct and not the conduct of any other Guarantor. Subject to Section 13.1 above, no Guarantor shall be liable for any obligation of any other Guarantor's Guaranteed Obligations.

13.6 Limitation on Guarantee of Obligations

- (a) In any action or proceeding with respect to any Guarantor involving any state or provincial corporate law, or any state or provincial or federal bankruptcy,

insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of such Guarantor under Section 13.1 hereof would otherwise be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under said Section 13.1, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Lender, the Agent or any other Person, be automatically limited and reduced to the highest amount which is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

- (b) To the extent that any Guarantor shall make a payment under this Agreement of all or any of the Guaranteed Obligations (a “Guarantor Payment”) which, taking into account all other Guarantor Payments then previously or concurrently made by the Guarantor, exceeds the amount which the Guarantor would otherwise have paid if the Guarantor had paid the aggregate Obligations satisfied by such Guarantor Payment in the same proportion that such Guarantor’s “Allocable Amount” (as defined below) (in effect immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of the Guarantor in effect immediately prior to the making of such Guarantor Payment, then, following payment in full in cash of the Obligations and termination of the Revolving Credit Commitments, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, the Guarantors for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.
 - (i) As of any date of determination, the “Allocable Amount” of any Guarantor shall be equal to the maximum amount of the claim which could then be recovered from such Guarantor under this Agreement without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law.
 - (ii) This subsection (b) is intended only to define the relative rights of Guarantors and nothing set forth in this subsection (b) is intended to or shall impair the obligations of Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Agreement.
 - (iii) The rights of the parties under this subsection (b) shall be exercisable upon the full and indefeasible payment of the Obligations and the termination of this Agreement and the other Loan Documents.
 - (iv) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of any Guarantor to which such contribution and indemnification is owing.

13.7 Guarantee of Payment

Each Guarantor further agrees that this Guarantee constitutes a guaranty of payment when due and not of collection, and waives any right to require that any resort be had by the Agent or any Secured Party to any of the Collateral or other security held for payment of the Guaranteed Obligations or to any balance of any deposit account or credit on the books of the Agent or any Secured Party in favour of any other Guarantor or any other Person or to any other guarantor of all or part of the Guaranteed Obligations.

13.8 Keepwell.

Each Loan Party that is a Qualified ECP Guarantor at the time that this Guarantee or the grant of the security interest under the Security Documents, in each case, by any Specified Loan Party, becomes effective with respect to any Swap Obligation, hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Loan Party with respect to such Swap Obligation as may be needed by such Specified Loan Party from time to time to honor all of its obligations under this Guarantee and the other Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP Guarantor's obligations and undertakings under this Article 13 voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations and undertakings of each Qualified ECP Guarantor under this Section 13.8 shall remain in full force and effect until the Obligations have been indefeasibly paid and performed in full. Each Qualified ECP Guarantor intends this Section 13.8 to constitute, and this Section 13.8 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of, each Specified Loan Party for all purposes of the Commodity Exchange Act.

ARTICLE 14 – MISCELLANEOUS

14.1 No Waivers; Cumulative Remedies.

No failure by an Agent or any Lender to exercise any right, remedy or option under this Agreement or any present or future supplement thereto or in any other agreement between or among any Loan Party and an Agent and/or any Lender or delay by the Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by the Agent or any Secured Party will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by the Agent or the Secured Parties on any occasion shall affect or diminish the Agent's and each Secured Party's rights thereafter to require strict performance by the Loan Parties of any provision of this Agreement. The Agent and the Secured Parties may proceed directly to collect the Obligations without any prior recourse to the Collateral. The Agent's and each Secured Party's rights under this Agreement will be cumulative and not exclusive of any other right or remedy which the Agent or any Lender may have.

14.2 Severability.

The illegality or unenforceability of any provision of this Agreement or any other Loan Document or any instrument or agreement required hereunder shall not in any way affect or

impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

14.3 Governing Law; Choice of Forum; Service of Process.

- (a) THIS AGREEMENT SHALL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF NOVA SCOTIA; PROVIDED, THAT IF THE LAWS OF ANY JURISDICTION OTHER THAN NOVA SCOTIA SHALL GOVERN IN REGARD TO THE VALIDITY, PERFECTION OR EFFECT OF PERFECTION OF ANY LIEN OR IN REGARD TO PROCEDURAL MATTERS AFFECTING ENFORCEMENT OF ANY LIENS IN COLLATERAL, SUCH LAWS OF SUCH OTHER JURISDICTIONS SHALL CONTINUE TO APPLY TO THAT EXTENT; PROVIDED, FURTHER, THAT THE AGENT AND THE LENDERS SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

- (b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE PROVINCE OF NOVA SCOTIA OR OF CANADA, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE LOAN PARTIES, THE AGENT AND THE LENDERS CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE LOAN PARTIES, THE AGENT AND THE LENDERS IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO. NOTWITHSTANDING THE FOREGOING: (1) THE AGENT AND THE LENDERS SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST ANY LOAN PARTY OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION THE AGENT OR THE LENDERS DEEM NECESSARY OR APPROPRIATE IN ORDER TO REALIZE ON THE COLLATERAL OR OTHER SECURITY FOR THE OBLIGATIONS AND (2) EACH OF THE PARTIES HERETO ACKNOWLEDGES THAT ANY APPEALS FROM THE COURTS DESCRIBED IN THE IMMEDIATELY PRECEDING SENTENCE MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE THOSE JURISDICTIONS.

- (c) EACH LOAN PARTY HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (RETURN RECEIPT REQUESTED) DIRECTED TO SUCH LOAN PARTY AT ITS ADDRESS SET FORTH IN SECTION 14.8 AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED FIVE (5) DAYS AFTER THE SAME SHALL HAVE BEEN SO DEPOSITED IN THE U.S. MAILED OR CANADA

POST IN EACH CASE POSTAGE PREPAID. NOTHING CONTAINED HEREIN SHALL AFFECT THE RIGHT OF THE AGENT OR THE LENDERS TO SERVE LEGAL PROCESS BY ANY OTHER MANNER PERMITTED BY LAW.

14.4 WAIVER OF JURY TRIAL.

EACH OF THE LOAN PARTIES, THE SECURED PARTIES AND THE AGENT IRREVOCABLY WAIVES ITS RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR ANY AGENT RELATED PERSON, PARTICIPANT OR ASSIGNEE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. EACH OF THE LOAN PARTIES, THE LENDERS AND THE AGENT AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

14.5 Survival of Representations and Warranties.

All of each Loan Party's representations and warranties contained in this Agreement shall survive the execution, delivery and acceptance thereof by the parties, notwithstanding any investigation by the Agent or the Lenders or their respective agents.

14.6 Other Security and Guarantees.

The Agent may, without notice or demand and without affecting the Loan Parties' obligations hereunder, from time to time: (a) take from any Person and hold collateral (other than the Collateral) for the payment of all or any part of the Obligations and exchange, enforce or release such collateral or any part thereof; and (b) accept and hold any endorsement or guarantee of payment of all or any part of the Obligations and release or substitute any such endorser or guarantor or any Person who has given any Lien in any other collateral as security for the payment of all or any part of the Obligations or any other Person in any way obligated to pay all or any part of the Obligations.

14.7 Fees and Expenses.

Each Borrower agrees, jointly and severally, to pay to the Agent for its benefit, on demand, all reasonable costs and expenses (other than any Indemnified Taxes, which are governed by Section 4.1, and any costs or losses governed by Section 4.3 or Section 4.4) that the Agent pays or incurs in connection with the negotiation, preparation, syndication,

consummation, administration, enforcement and termination of this Agreement or any of the other Loan Documents, including: (a) Attorney Costs; (b) costs and expenses (including Attorney Costs) for any amendment, supplement, waiver, consent or subsequent closing in connection with the Loan Documents and the transactions contemplated thereby; (c) costs and expenses of lien and title searches and title insurance; (d) taxes, fees and other charges for recording the filing financing statements and continuations, and other actions to perfect, protect, and continue the Agent's Liens (including costs and expenses paid or incurred by the Agent in connection with the consummation of this Agreement); (e) sums paid or incurred to pay any amount or take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; (f) costs of appraisals, inspections and verifications of the Collateral and other due diligence with respect to the Collateral and the Loan Parties, including travel, lodging, and meals for inspections of the Collateral and any Loan Party's operations by the Agent plus a \$1,000 per Person per day charge for field examinations and audits and the preparation of reports thereof; and (g) costs and expenses of forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining Receipt Accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral. In addition, each Borrower agrees, jointly and severally, to pay reasonable costs and expenses incurred by the Agent (including Attorney Costs) to the Agent, for their benefit, on demand, and to the other Lenders for their benefit, on demand, and to pay to the Lenders' all reasonable fees, expenses and disbursements incurred by such other Lenders for one law firm retained by such other Lenders, in each case, paid or incurred to obtain payment of the Obligations, enforce the Agent's Liens, sell or otherwise realize upon the Collateral, and otherwise enforce the provisions of the Loan Documents or to defend any claims made or threatened against the Agent or any Lender arising out of the transactions contemplated hereby (including preparations for and consultations concerning any such matters). The foregoing shall not be construed to limit any other provisions of the Loan Documents regarding costs and expenses to be paid by any of the Borrowers. All of the foregoing costs and expenses shall be, at Agent's option, (i) debited from any Canadian or U.S. Designated Account, as applicable, or any other bank account of the Canadian or U.S. Loan Parties maintained with Royal Bank or the U.S. Cash Management Provider, as applicable, or (ii) charged to the Borrowers' Loan Accounts as Revolving Loans, all as described and further permitted pursuant to Section 3.6.

14.8 Notices.

Except as otherwise provided herein, all notices, demands and requests that any party is required or elects to give to any other shall be in writing or by a telecommunications device capable of creating a written record, and any such notice shall become effective (a) upon personal delivery thereof, including, but not limited to, delivery by overnight mail and courier service, (b) four (4) days after it shall have been mailed by Canada Post or United States mail, first class, certified or registered, with postage prepaid or (c) in the case of notice by such a telecommunications device, when properly transmitted, in each case addressed to the party to be notified as follows:

If to the Agent:

Royal Bank of Canada
200 Bay Street
12th Floor

Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7

Attention: Agency Services Group
Telecopy No.: (416) 842-4023

If to Royal Bank:

Royal Bank of Canada
200 Bay Street
30th Floor, South Tower
Toronto, Ontario M5J 2J5

Attention: Anna Bernat
Telecopy No.: (416) 842-5884

If to the Bank:

Royal Bank of Canada
One Liberty Plaza
3rd Floor
New York, New York

Attention: Dustin Craven
Telecopy No.: (212) 428-2319

If to a Loan Party:

High Liner Foods Incorporated
100 Battery Point Road
Lunenburg, Nova Scotia
B0J 2C0

Attention: Tim Rorabeck
Telecopy No.: (902) 634-6228

with copies to:

Norton Rose Fulbright Canada LLP
222 Bay Street, Suite 3000,
P.O. Box 53, Toronto ON
M5K 1E7

Attention: David Amato
Telecopy No.: (416) 216-3930

or to such other address as each party may designate for itself by like notice. Failure or delay in delivering copies of any notice, demand, request, consent, approval, declaration or other communication to the persons designated above to receive copies shall not adversely affect the

effectiveness of such notice, demand, request, consent, approval, declaration or other communication.

14.9 Waiver of Notices.

Unless otherwise expressly provided herein, each Loan Party waives presentment, protest and notice of demand or dishonour and protest as to any instrument, notice of intent to accelerate any or all of the Obligations and notice of acceleration of any or all of the Obligations, as well as any and all other notices to which it might otherwise be entitled. No notice to or demand on any Loan Party which the Agent or any Lender may elect to give shall entitle such Loan Party to any or further notice or demand in the same, similar or other circumstances.

14.10 Binding Effect.

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective representatives, successors, and assigns of the parties hereto; provided, however, that no interest herein may be assigned by any Loan Party without prior written consent of the Agent and each Lender. The rights and benefits of the Agent and the Lenders hereunder shall, if such Persons so agree, inure to any party acquiring any interest in the Obligations or any part thereof.

14.11 Indemnity of the Agent and the Secured Parties by the Loan Parties.

- (a) Each Loan Party agrees, jointly and severally, to defend, indemnify and hold the Agent Related Persons, and each Secured Party and each of its respective officers, directors, employees, counsel, advisors, representatives, agents and attorneys-in-fact (each, an "Indemnified Person") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time (including at any time following repayment of the Revolving Loans and the termination, resignation or replacement of the Agent or replacement of any Lender) be imposed on, incurred by or asserted against any such Indemnified Person in any way relating to or arising out of this Agreement, any other Loan Document or any document contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by any such Indemnified Person under or in connection with any of the foregoing, including with respect to any investigation, litigation or proceeding (including any Insolvency Proceeding or appellate proceeding) related to or arising out of this Agreement, any other Loan Document or the Revolving Loans or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto (all the foregoing, collectively, the "Indemnified Liabilities"); provided, that the Loan Parties shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent they are found by a final decision of a court of competent jurisdiction to have resulted from the wilful misconduct or gross negligence of such Indemnified Person. The agreements in this Section shall survive payment of all other Obligations.
- (b) Each Loan Party agrees, jointly and severally, to indemnify, defend and hold harmless each Indemnified Person from any loss or liability related to or arising

out of its role as a Lender or Affiliate of a Lender under this Agreement, any other Loan Document or the Revolving Loans or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto, and directly or indirectly arising out of the use, generation, manufacture, production, storage, Release, threatened Release, discharge, disposal or presence of a Contaminant relating to any Loan Party's operations, business or property; provided, that the Loan Parties shall have no obligation under this Section 14.11(b) to any Indemnified Person with respect to any loss or liability to the extent they are found by a final decision of a court of competent jurisdiction to have resulted from the unlawful conduct, wilful misconduct or gross negligence of such Indemnified Person, as the case may be. This indemnity will apply whether the Contaminant is on, under or about any Loan Party's property or operations or property leased to any Loan Party. The indemnity includes but is not limited to Attorneys Costs. This indemnity will survive repayment of all other Obligations.

14.12 Limitation of Liability.

NO CLAIM MAY BE MADE BY ANY LOAN PARTY, ANY SECURED PARTY OR OTHER PERSON AGAINST THE AGENT, ANY LENDER OR THE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, COUNSEL, REPRESENTATIVES, AGENT OR ATTORNEYS IN FACT OF ANY OF THEM FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH, AND EACH LOAN PARTY AND EACH SECURED PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOUR.

14.13 Final Agreement.

This Agreement and the other Loan Documents are intended by each Loan Party, the Agent, the Lenders and the other Secured Parties to be the final, complete and exclusive expression of the agreement between them. This Agreement and the other Loan Documents (including in any event the syndication provisions of the above mentioned commitment letter and provisions of the Fee Letter (which is considered a Loan Document)) supersede any and all prior oral or written agreements relating to the subject matter hereof. No modification, rescission, waiver, release or amendment of any provision of this Agreement or any other Loan Document shall be made, except by a written agreement signed by the Loan Parties party thereto and a duly authorized officer of each of the Agent and the requisite Lenders.

14.14 Counterparts.

This Agreement may be executed in any number of counterparts, and by the Agent, each Lender and each Loan Party in separate counterparts, each of which shall be an original, but all of which shall together constitute one and the same agreement; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Delivery of an executed counterpart

signature page of this Agreement by telecopier or other electronic means shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Captions.

The captions contained in this Agreement are for convenience of reference only, are without substantive meaning and should not be construed to modify, enlarge or restrict any provision.

14.16 Right of Setoff.

In addition to any rights and remedies of the Lenders provided by law, if an Event of Default exists or any or all of the Revolving Loans have been accelerated, each Lender is authorized at any time and from time to time, without prior notice to any Loan Party, any such notice being waived by each of the Loan Parties to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Lender or any Affiliate of such Lender to or for the credit or the account of any Loan Party against any and all Obligations owing to such Lender, now or hereafter existing, irrespective of whether or not the Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured. Each Lender agrees promptly to notify the Canadian Borrower and the Agent after any such set-off and application made by such Lender; provided, however, that the failure to give or the delay in giving such notice shall not affect the validity of such set-off and application. NOTWITHSTANDING THE FOREGOING, PAYMENTS SHALL BE APPLIED IN ACCORDANCE WITH SECTION 3.7 AND NO LENDER SHALL EXERCISE ANY RIGHT OF SET OFF, BANKER'S LIEN OR THE LIKE AGAINST ANY DEPOSIT ACCOUNT OR PROPERTY OF ANY LOAN PARTY HELD OR MAINTAINED BY SUCH LENDER WITHOUT THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT.

14.17 Confidentiality.

- (a) Each Loan Party hereby consents that the Agent and each Lender may issue and disseminate to the public general information describing the credit accommodation entered into pursuant to this Agreement, including the name and address of any Loan Party and a general description of any Loan Party's business and may use any Loan Party's name in advertising and other promotional material.
- (b) Each Lender severally agrees to take normal and reasonable precautions and exercise due care to maintain the confidentiality of all information provided to the Agent or such Lender by or on behalf of the Loan Parties, under this Agreement or any other Loan Document, except to the extent that such information (i) was or becomes generally available to the public other than as a result of disclosure by the Agent or such Lender or (ii) was or becomes available on a nonconfidential basis from a source other than a Loan Party, provided that such source is not bound by a confidentiality agreement or is not acting in a fiduciary or trust position or capacity with a Loan Party known to the Agent or such Lender; provided, however, that the Agent and any Lender may disclose such information

(1) at the request or pursuant to any requirement of any Governmental Authority to which the Agent or such Lender is subject or in connection with an examination of the Agent or such Lender by any such Governmental Authority; (2) pursuant to subpoena or other court process (and the Agent or such Lender, as the case may be, shall endeavour to provide the Canadian Borrower with prior notice of such disclosure to the extent practicable and shall, at the sole cost and expense of the Loan Parties, cooperate, to the extent practicable and not in a manner adverse to the Agent or such Lender, with the Canadian Borrower if the Canadian Borrower seeks a protective order with respect to the relevant information); (3) when required to do so in accordance with the provisions of any applicable Requirement of Law; (4) to the extent permitted by law and to the extent reasonably required in connection with any litigation or proceeding (including, but not limited to, any bankruptcy proceeding) to which an Agent, any Lender or any of their respective Affiliates may be party (and such Agent or such Lender, as the case may be, shall endeavour to provide the Canadian Borrower with prior notice of such disclosure to the extent practicable and shall, at the sole cost and expense of the Loan Parties, cooperate, to the extent practicable and not in a manner adverse to such Agent or such Lender, with the Canadian Borrower if the Canadian Borrower seeks a protective order with respect to the relevant information); (5) to the extent reasonably required in connection with the exercise of any remedy hereunder or under any other Loan Document; (6) to such Agent's or such Lender's independent auditors, accountants, attorneys and other professional advisors and such Agent's or such Lender's Affiliates, employees, directors and officers (and such Agent or such Lender, as the case may be, shall advise such auditors, accountants, attorneys, other professional advisors, Affiliates, employees, directors or officers of the confidential nature of such information); (7) to any prospective Participant or Assignee under any Assignment and Acceptance, actual or potential, provided that such prospective Participant or Assignee agrees to keep such information confidential to the same extent required of the Lenders hereunder; (8) as expressly permitted under the terms of any other document or agreement regarding confidentiality to which a Loan Party is party or is deemed party with the Agent or such Lender, and (9) to its Affiliates who are informed of and who agree to maintain the confidentiality of the information.

14.18 Conflicts with Other Loan Documents.

Other than as to the Intercreditor Agreement, unless otherwise expressly provided in this Agreement (or in another Loan Document by specific reference to the applicable provision contained in this Agreement), if any provision contained in this Agreement conflicts with any provision of any other Loan Document, the provision contained in this Agreement shall govern and control.

14.19 Appraisals.

- (a) The Agent shall, once in each calendar year, engage an appraiser to conduct and deliver an Inventory Appraisal of the Inventory of each Borrower. Each such

Inventory Appraisal to be in form and scope satisfactory to the Agent and using a methodology requested by the Agent.

- (b) Notwithstanding the provisions of clause (a) of this Section 14.19, whenever a Default or Event of Default exists, the Agent may engage an appraiser to conduct and deliver appraisals of any or all of the Collateral, as frequently as the Agent considers reasonably necessary, each such appraisal to be in form and scope satisfactory to the Agent and using a methodology requested by the Agent.

The Borrowers agree, jointly and severally, to pay the Agent on demand the cost of each appraisal conducted pursuant to this Section 14.19.

14.20 Judgment Currency.

If for the purpose of obtaining judgment in any court it is necessary to convert an amount due hereunder in the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the relevant Agent or the relevant Lender, as the case may be, could purchase in the Toronto foreign exchange market, the Original Currency with the Second Currency on the date two (2) Business Days preceding that on which judgment is given. Each Loan Party agrees that its obligation in respect of any Original Currency due from it hereunder shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following the date the relevant Agent or relevant Lender, as the case may be, receives payment of any sum so adjudged to be due hereunder in the Second Currency, such Agent or such Lender may, in accordance with normal banking procedures, purchase, in the Toronto foreign exchange market, the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could have been so purchased is less than the amount originally due in the Original Currency, each Loan Party agrees as a separate obligation and notwithstanding any such payment or judgment to indemnify such Agent or such Lender, as the case may be, against such loss. The term "rate of exchange" in this Section 14.20 means the spot rate at which the relevant Agent or relevant Lender, in accordance with normal practices, is able on the relevant date to purchase the Original Currency with the Second Currency, and includes any premium and costs of exchange payable in connection with such purchase.

14.21 Appointment of Loan Party Representative; Reliance Upon Authority.

Each Loan Party hereby designates the Canadian Borrower as its representative and agent on its behalf (the "**Loan Party Representative**") for the purposes of (i) in the case of a Borrower, issuing on such Borrower's behalf Notices of Borrowing and Notices of Continuation/Conversion, giving instructions with respect to the disbursement of the proceeds of Revolving Loans to be made to such Borrower, selecting interest rate options for such Borrower and requesting Letters of Credit for the account of such Borrower and (ii) giving and receiving on such Loan Party's behalf all other notices, directions, instructions, requests, other communications and consents hereunder or under any of the other Loan Documents and taking all other actions (including in respect of compliance with covenants and consenting or agreeing to any amendment or waiver of compliance with any provision of any Loan Document) on behalf of such Loan Party under the Loan Documents. The Loan Party Representative hereby accepts such appointment. The Agent and each Lender may regard any notice, direction, instruction,

request or other communication pursuant to any Loan Document from the Loan Party Representative as a notice, direction, instruction, request or communication, as the case may be, from the applicable Loan Party or Loan Parties, and may give any notice or other communication required or permitted to be given to any Loan Party or Loan Parties hereunder to the Loan Party Representative on behalf of such Loan Party or Loan Parties. Each Loan Party agrees that each notice, election, direction, instruction, request, other communication, representation and warranty, consent, covenant, agreement and undertaking or other action made or taken on its behalf by the Loan Party Representative shall be deemed for all purposes to have been made or taken by such Loan Party and shall be binding upon and enforceable against such Loan Party to the same extent as if the same had been made or taken directly by such Loan Party.

14.22 PATRIOT Act, Sanctions, Etc.

- (a) To the extent applicable, each Loan Party is in compliance, in all material respects, with (i) the *Trading with the Enemy Act*, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) the PATRIOT Act, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) or other applicable laws relating to terrorism or money laundering.
- (b) None of the Loan Parties nor any of their Subsidiaries, any director, officer, employee or controlled Affiliate of any Loan Party or any of its Subsidiaries is the subject of any Sanctions; and no Loan Party will directly or indirectly use the proceeds of the facilities made available hereunder or otherwise knowingly make available such proceeds to any Person for the purpose of financing any activities or business of or with any Person currently the subject of any Sanctions or in violation of any Sanctions.
- (c) The Agent and the Lenders hereby notify each Borrower that pursuant to the requirements of the PATRIOT Act, the Agent and the Lenders are required to obtain, verify and record information that identifies each Borrower, including its legal name, address, tax ID number and other information that will allow the Agent and the Lenders to identify it in accordance with the PATRIOT Act. The Agent and the Lenders will also require information regarding each personal guarantor, if any, and may require information regarding the Borrowers' management and owners, such as legal name, address, social security number and date of birth.

14.23 Foreign Asset Control Regulations

Neither of the advance of the Revolving Loans nor the use of the proceeds of any thereof will violate the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (which for the avoidance of doubt shall include, but shall not be limited to (a) Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the

"Executive Order") and (b) the USA PATRIOT Act. Furthermore, none of the Borrowers or their Affiliates (a) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (b) knowingly engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person" or in any manner violative of any such order. No part of the proceeds of the Revolving Loans will be used by the Loan Parties, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, or the *Corruption of Foreign Public Officials Act* (Canada), as amended.

14.24 Canadian Anti-Money Laundering Legislation

- (a) Each Loan Party acknowledges that, pursuant to the Proceeds of Crime Act and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws (collectively, including any guidelines or orders thereunder, "AML Legislation"), the Lenders may be required to obtain, verify and record information regarding the Loan Parties and their respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Loan Parties, and the transactions contemplated hereby. Each Loan Party shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or any prospective assignee or participant of a Lender, any Letter of Credit Issuer or any 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 any Loan Party or any authorized signatories of the Loan Parties 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 the 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 does not have any obligation to ascertain the identity of the Loan Parties or any authorized signatories of the Loan Parties on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from any Loan Party or any such authorized signatory in doing so.

14.25 Accounting Changes.

In the event that any Accounting Change (as defined below) shall occur and such change results in a change in the method of calculation of financial ratios, standards or terms in this Agreement, then, at the request of the Canadian Borrower or the Required Lenders, the Canadian Borrower and the Agent agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such Accounting Changes with the desired result that the criteria for evaluating the Borrowers' financial condition shall be the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Canadian Borrower, the Agent and the Required Lenders, all financial ratios, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. "Accounting Changes" refers to changes in accounting principles required by GAAP and includes any change in the treatment of leases as Capital Leases or operating leases on a Person's balance sheets.

14.26 No Advisory or Fiduciary Responsibility.

In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrower and each other Guarantor acknowledges and agrees that (i) (A) the arranging and other services regarding this Agreement provided by the Agent, the Lenders and the Arrangers are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Agent, the Lenders and the Arrangers, on the other hand, (B) each Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Agent, the Lenders and the Arrangers is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not and will not be acting as an advisor, agent or fiduciary for the Borrower, any of its Affiliates or any other Person and (B) none of the Agent, the Lenders, the Lead Arranger or the Arrangers have any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agent, the Lenders, the Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Agent, the Lenders or the Arrangers have any obligation to disclose any of such interests to the Borrower or any of its Affiliates. To the fullest extent permitted by law, each of the Borrower and each Guarantor hereby waives and releases any claims that it may have against the Agent, the Lenders and the Arrangers with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

14.27 Acknowledgement Regarding Any Supported QFCs.

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for hedge agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank

Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 14.27, the following terms have the following meanings:

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Covered Entity**” means any of the following:

(i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

14.28 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

14.29 Intercreditor Agreement

The Loan Parties, the Agent, the Lenders and the other Secured Parties acknowledge that the exercise of certain of the Agent's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement. Except as specified herein, nothing contained in the Intercreditor Agreement shall be deemed to modify any of the provisions of this Agreement and the other Loan Documents, which, as among the Loan Parties, the Agent, the Lenders and the other Secured Parties shall remain in full force and effect.

14.30 Existing Credit Agreement Amended and Restated.

This Agreement shall amend and restate the Existing Credit Agreement in its entirety, with the parties hereby agreeing that there is no novation of the Existing Credit Agreement. On the Effective Date, the rights and obligations of the parties under the Existing Credit Agreement shall be subsumed within and be governed by this Agreement; provided, however, that each of the "Revolving Loans" (as such term is defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement on the Effective Date shall, for purposes of this Agreement, be included as Revolving Loans hereunder and each of the "Letters of Credit" (as defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement on the Effective Date shall be Letters of Credit hereunder.

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[signature pages follow]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date first above written.

"CANADIAN BORROWER"

HIGH LINER FOODS INCORPORATED

[Signed "Timothy Rorabeck"]

By: Timothy Rorabeck

Title: Executive VP Corporate Affairs,
General Counsel & Corporate Secretary

[Signed "Paul Jewer"]

By: Paul Jewer

Title: Executive Vice President & Chief
Financial Officer

"U.S. BORROWERS"

**HIGH LINER FOODS (USA),
INCORPORATED**

[Signed "Timothy Rorabeck"]

By: Timothy Rorabeck

Title: Executive Vice President & Secretary

[Signed "Paul Jewer"]

By: Paul Jewer

Title: Executive Vice President, CFO
& Treasurer

"GUARANTORS"

[Signatures for Subsidiary Guarantors Redacted]

"AGENT"

ROYAL BANK OF CANADA

[Signed "Yvonne Brazier"]

By: Yvonne Brazier

Title: Manager, Agency Services

"CANADIAN LENDERS"

ROYAL BANK OF CANADA

[Signed "Anna Bernat"]

By: Anna Bernat

Title: Attorney in Fact

By:

Title:

"CANADIAN LENDERS" continued

**CANADIAN IMPERIAL BANK OF
COMMERCE**

[Signed "Courtney Savage"]

By: Courtney Savage

Title: Authorized Signatory

[Signed "Matther Van Gelder"]

By: Matthew Van Gelder

Title: Authorized Signatory

"CANADIAN LENDERS" continued

BANK OF MONTREAL

[Signed "Gordon Hayes"]

By: Gordon Hayes

Title: Managing Director, Corporate
Finance, ABL

[Signed "Anthony Lam"]

By: Anthony Lam

Title: Director, Asset Based Lending,
Corporate Finance Division

"CANADIAN LENDERS" continued

**JPMORGAN CHASE BANK, N.A.,
TORONTO BRANCH**

[Signed "Jeffrey Coleman"]

By: Jeffrey Coleman

Title: Executive Director

By:

Title:

"CANADIAN LENDERS" continued

RABOBANK CANADA

[Signed "Kimberley Fobert"]

By: Kimberley Fobert

Title: Managing Director

[Signed "Sandra Seaton-Barnes"]

By: Sandra Seaton-Barnes

Title: Executive Director

"U.S. LENDERS"

ROYAL BANK OF CANADA

[Signed "Anna Bernat"]

By: Anna Bernat

Title: Attorney In Fact

By:

Title:

"U.S. LENDERS" continued

**CANADIAN IMPERIAL BANK OF
COMMERCE, NEW YORK BRANCH**

[Signed "Courtney Savage"]

By: Courtney Savage

Title: Authorized Signatory

[Signed "Matthew Van Gelder"]

By: Matthew Van Gelder

Title: Authorized Signatory

"U.S. LENDERS" continued

**BANK OF MONTREAL, CHICAGO
BRANCH**

[Signed "Randon Gardley"]

By: Randon Gardley

Title: Vice President

By:

Title:

"U.S. LENDERS" continued

JPMORGAN CHASE BANK, N.A.

[Signed "Donna DiForio"]

By: Donna Di Forio

Title: Authorized Officer

By:

Title:

"U.S. LENDERS" continued

RABOBANK CANADA

[Signed "Kimberley Fobert"]

By: Kimberley Fobert

Title: Managing Director

[Signed "Sandra Seaton-Barnes"]

By: Sandra Seaton-Barnes

Title: Executive Director

ANNEX A
to
Credit Agreement

Definitions

Capitalized terms used in the Loan Documents shall have the following respective meanings (unless otherwise defined therein), and all section references in the following definitions shall refer to sections of the Agreement:

"**Accordion Fee**" has the meaning specified in Section 2.7.

"**Account**" or "**Accounts**" shall mean (exclusive of any debts or liabilities owing by any directors, officers or employees of the Loan Parties) any and all of any Loan Party's now existing and future: (a) accounts (as defined in the PPSA or the UCC, as applicable), and any and all other receivables (whether or not specifically listed on schedules furnished to the Agent), including, without limitation, all accounts created by, or arising from, any Loan Party's sales, leases, rentals of goods or renditions of services to its customers, including, but not limited to, those accounts arising under any Loan Party's trade names or styles, or through any Loan Party's divisions; (b) any and all instruments, documents, chattel paper (including electronic chattel paper); (c) indemnification rights and tax refunds; (d) the proceeds or royalties of any and all licensing agreements or arrangements between any Loan Party and any licensee of any of such Loan Party's General Intangibles; (e) reserves and credit balances arising in connection with or pursuant hereto; (f) guarantees, supporting obligations, payment intangibles and letter of credit rights given to any Loan Party on behalf of a customer of such Loan Party in support of any "Accounts"; (g) insurance policies or rights relating to any of the foregoing; (h) General Intangibles pertaining to any and all of the foregoing (including, without limitation, all rights to payment, including, without limitation, those arising in connection with bank and non-bank credit cards) and including, without limitation, books and records and any electronic media and software thereto; (i) notes, deposits or property of account debtors securing the obligations of any such account debtors to any Loan Party; (j) cash and non-cash proceeds (as defined in the PPSA or the UCC, as applicable) of any and all of the foregoing; and (k) all monies and claims for monies now or hereafter due and payable in connection with any and all of the foregoing or otherwise.

"**Account Debtor**" means each Person obligated in any way on or in connection with an Account or Chattel Paper.

"**Accounting Changes**" has the meaning specified in Section 14.25.

"**Acquisition**" means any acquisition after the Effective Date by any Loan Party, by any means, of all or substantially all of the assets or capital stock, or of an operating division or a business unit, of any Person.

"**Adjusted Aggregate Availability**" means the sum of (a) Canadian Borrowing Base, and (b) U.S. Borrowing Base, minus, the sum of (i) Aggregate Canadian Revolver Outstandings, (ii) Aggregate US Revolver Outstandings, (iii) one hundred percent (100%) of the aggregate undrawn amount of all Letters of Credit issued and outstanding under the Canadian Online LC Accommodation, plus the aggregate amount of any unpaid reimbursement obligations in respect

of all Letters of Credit issued and outstanding under the Canadian Online LC Accommodation, (iv) any Borrowings under the Canadian Overdraft Accommodation, (v) one hundred percent (100%) of the aggregate undrawn amount of all Letters of Credit issued and outstanding under the U.S. Online LC Accommodation, plus the aggregate amount of any unpaid reimbursement obligations in respect of all Letters of Credit issued and outstanding under the U.S. Online LC Accommodation, (iv) any Borrowings under the U.S. Overdraft Accommodation, and (v) all trade payables of the Obligors that are overdue or aged in excess of historical levels.

"Adjustment Date" has the meaning specified in Section 1.8.

"Affiliate" means any Person which beneficially owns or holds, directly or indirectly, 15% or more of the Capital Stock of such Person.

"Agent" and **"Administrative Agent"** and **"Collateral Agent"** means Royal Bank, solely in its capacity as administrative agent and collateral agent for the Lenders, and any successor agent.

"Agent Advances" means the collective reference to U.S. Agent Advances and Canadian Agent Advances.

"Agent-Related Persons" means the Agent, together with its Affiliates, and the officers, directors, employees, counsel, representatives, agents and attorneys in fact of the Agent and such Affiliates.

"Agent's Liens" means the Liens in the Collateral granted to the Agent, for the benefit of the Secured Parties, pursuant to this Agreement and the other Loan Documents.

"Aggregate Borrowing Base" means, collectively, the Canadian Borrowing Base and the U.S. Borrowing Base.

"Aggregate Canadian Revolver Outstandings" means, at any date of determination, without duplication: the sum of (a) the aggregate unpaid principal balance of all Canadian Revolving Loans, (b) the aggregate amount of Pending Revolving Loans requested by the Canadian Borrower, (c) one hundred percent (100%) of the aggregate undrawn amount of all outstanding Canadian Letters of Credit issued under the Canadian Direct LC Accommodation and (d) the aggregate amount of any unpaid reimbursement obligations in respect of all Canadian Letters of Credit issued under the Canadian Direct LC Accommodation.

"Aggregate U.S. Revolver Outstandings" means, at any date of determination, without duplication: the sum of (a) the aggregate unpaid principal balance of all U.S. Revolving Loans, (b) the aggregate amount of Pending Revolving Loans requested by the U.S. Borrower, (c) one hundred percent (100%) of the aggregate undrawn amount of all outstanding U.S. Letters of Credit issued under the U.S. Direct LC Accommodation and (d) the aggregate amount of any unpaid reimbursement obligations in respect of all U.S. Letters of Credit issued under the U.S. Direct LC Accommodation.

"Agreement" means the Credit Agreement to which this Annex A is attached, as from time to time amended, modified or restated.

"**Allocable Amount**" has the meaning specified in Section 13.6.

"**Anti-Terrorism Laws**" means any laws relating to terrorism or money laundering, including the *Proceeds of Crime Act* and the *USA PATRIOT Act* (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"**Applicable Margin**" means, for purposes of calculating the applicable interest rate for any day for any Revolving Loan or other Obligations, and the applicable rate of the Letter of Credit Fees for any day under Section 2.6, the percentage corresponding to the Average Adjusted Aggregate Availability for the Applicable Margin Test Period ending on the last day of the most recent fiscal quarter for which Responsible Officer's Certificates (in the form of Exhibit G) have been delivered to the Agent pursuant to Section 5.2(e) (subject to the immediately succeeding sentence):

Pricing Level	Average Adjusted Aggregate Availability	Applicable Margin	
		Canadian Prime Rate Revolving Loans, Canadian Base Rate Revolving Loans and U.S. Prime Rate Revolving Loans	BA Equivalent Revolving Loans, LIBOR Revolving Loans and Letter of Credit Fees
I	An amount greater than 66⅔% of the Commitments	* %	* %
II	An amount greater than or equal to 33⅓% but less than or equal to 66⅔% of the Commitments	* %	* %
III	An amount less than 33⅓% of the Commitments	* %	* %

[* Percentages Redacted]

The Applicable Margins shall be adjusted (up or down) prospectively, determined by reference to the pricing grid set forth above, on a quarterly basis on the date (each a "Calculation Date") that is the first day of the first calendar month following the calendar month in which Responsible Officer's Certificates (in the form of Exhibit G) are delivered to the Agent pursuant to Section 5.2(e) as at and for the fiscal quarter just ended, as the case may be, based upon the Average Adjusted Aggregate Availability for the Applicable Margin Test Period ending on the last day of such fiscal quarter. If an Event of Default has occurred and is continuing the Applicable Margins shall, whether or not any default rates also apply, upon notice of such Event of Default by the Agent, revert to Pricing Level III and during the continuance of any Default or Event of Default no reduction may occur until the first day of the first calendar month following the date on which such Default or Event of Default is waived or cured by the Required Lenders. If the Responsible Officer's Certificate is not delivered in accordance with Section 5.2(e), the Applicable Margin shall revert to Pricing Level III and no reduction may occur until the Business Day following the date on which such Responsible Officer's Certificate is delivered.

"**Applicable Margin Test Period**" means a period of one fiscal quarter.

"**Arranger**" has the meaning specified in the preamble hereto.

"**Assignee**" has the meaning specified in Section 11.2(a).

"**Assignment and Acceptance**" has the meaning specified in Section 11.2(a).

"**Attorney Costs**" means and includes all fees, expenses and disbursements of any law firm or other counsel engaged by the Agent.

"**Availability**" means U.S. Availability or Canadian Availability, as the context requires.

"**Average Adjusted Aggregate Availability**" means, for any period of determination, average Adjusted Aggregate Availability for such period, as calculated by the Agent.

"**BA Equivalent Interest Payment Date**" means, with respect to a BA Equivalent Revolving Loan, (i) the last day of each BA Equivalent Interest Period applicable to such BA Equivalent Revolving Loan, and (ii) the Termination Date.

"**BA Equivalent Interest Period**" means, with respect to each BA Equivalent Revolving Loan, the period selected by the Canadian Borrower hereunder and being of one, two or three months' duration, in each case commencing on the Funding Date of such BA Equivalent Revolving Loan or on the Canadian Continuation/Conversion Date on which the Canadian Revolving Loan is converted into or continued as a BA Equivalent Revolving Loan; provided that in any case the last day of each BA Equivalent Interest Period shall also be the first day of the next BA Equivalent Interest Period and further provided that the last day of each BA Equivalent Interest Period shall be a Business Day and if the last day of a BA Equivalent Interest Period selected by the Canadian Borrower is not a Business Day, the Canadian Borrower shall be deemed to have selected a BA Equivalent Interest Period the last day of which is the Business Day next following the last day of the BA Equivalent Interest Period otherwise selected, unless such next following Business Day falls in the next calendar month in which event the Canadian Borrower shall be deemed to have selected a BA Equivalent Interest Period the last day of which is the Business Day next preceding the last day of the BA Equivalent Interest Period otherwise selected and further provided that the last BA Equivalent Interest Period hereunder shall expire on or prior to the Stated Termination Date.

"**BA Equivalent Revolving Loan**" means a Canadian Revolving Loan during any period in which it bears interest based on the BA Rate.

"**BA Rate**" means, for the BA Equivalent Interest Period of each BA Equivalent Revolving Loan, the rate of interest per annum equal to the average annual rate applicable to Canadian dollar bankers' acceptances having an identical or comparable term as the proposed BA Equivalent Revolving Loan displayed and identified as such on the display referred to as the "CDOR Page" (or any display substituted therefor) of Reuter Monitor Money Rates Service as at approximately 10:00 A.M. (Toronto time) on such day (or, if such day is not a Business Day, as of 10:00 A.M. (Toronto time) on the immediately preceding Business Day), provided that if such rate does not appear on the CDOR Page at such time on such date, the BA Rate will be the annual discount rate (rounded upward to the nearest whole multiple of 1/100 of 1%) as of 10:00 A.M. (Toronto time) on such day at which Royal Bank is then offering to purchase Canadian

dollar bankers' acceptances accepted by it having such specified term (or a term as closely as possible comparable to such specified term).

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Bank" means Royal Bank of Canada, acting through its branch located at One Liberty Plaza, New York, New York.

"Bank Products" means any of the following products, services or facilities extended to Canadian Borrower or U.S. Borrowers by Royal Bank or any of its Affiliates or, in the case of (a), (c) and (d) below, extended to U.S. Borrowers by the U.S. Cash Management Provider or, in the case of (b) below, extended to a Borrower by Lenders or any of their Affiliates: (a) cash management or related services including any Overdrafts or U.S. Overdrafts (provided any such Overdrafts are accounted for as Overdraft Accommodations); (b) products under Hedging Agreements not to exceed the Hedging Sublimit; (c) commercial credit card and merchant card services; and (d) other banking products or services as may be requested by Canadian Borrower or U.S. Borrowers, other than Letters of Credit. For any of the foregoing Hedging Agreements to be included in the Hedging Reserve or to be included for purposes of a *pari passu* distribution in priority to other Hedging Agreements amongst any Lender and a Loan Party (which were not disclosed to Agent in accordance with (i), (ii), and (iii) below) under, and as set forth in, Section 3.7, and in accordance with Section 1.5, the applicable Lender (or its Affiliates) and Borrower must have previously provided written notice to Agent of (i) the existence of such Hedge Agreement, and (ii) the maximum dollar amount of Hedging Exposure and obligations of Borrowers arising thereunder (the "Hedging Amount"). The Hedging Amount may be changed from time to time upon written notice to Agent by the applicable Lender and Borrower. No Hedging Amount may be established at any time that an Event of Default exists.

"Bankruptcy Code" means Title 11 of the United States Code (11 U.S.C. § 101 et seq.).

"BIA" means The *Bankruptcy and Insolvency Act* (Canada) (or any successor statute), as amended from time to time, and includes all regulations thereunder.

"Blocked Account Agreement" means an agreement among a Loan Party, the Agent and Royal Bank, Bank or the U.S. Cash Management Provider, as applicable, in form and substance reasonably satisfactory to the Agent, concerning the collection of payments which represent the proceeds of Accounts or of any other Collateral of a Loan Party and the establishment of "control" (as defined in the UCC) of the Agent with respect to U.S. deposit accounts subject to a Blocked Account Agreement.

"Borrower" and **"Borrowers"** have the meanings specified in the preamble hereto.

"Borrowing" means a borrowing hereunder consisting of U.S. Revolving Loans made on the same day by the U.S. Lenders to U.S. Borrowers or of Canadian Revolving Loans made on the same day by the Canadian Lenders to the Canadian Borrower or by the Agent in the case of a Borrowing to a Borrower consisting of an Agent Advance or the issuance of a Letter of Credit hereunder.

"Borrowing Base Certificate" means a certificate by a Responsible Officer of each of the Canadian Borrower and U.S. Borrower, substantially in the form of Exhibit B (or another form acceptable to the Agent) setting forth the calculation of the U.S. Borrowing Base and the Canadian Borrowing Base, including a calculation of each component thereof, all in such detail as shall be reasonably satisfactory to the Agent. All calculations of the U.S. Borrowing Base and the Canadian Borrowing Base in connection with the preparation of any Borrowing Base Certificate shall be certified to the Agent; provided, that the Agent shall have the right to review and adjust, in the exercise of its reasonable credit judgment, any such calculation (1) to reflect its reasonable estimate of declines in value of any of the Collateral described therein, and (2) to the extent that such calculation is not in accordance with this Agreement.

"Business Day" means (a) for all purposes other than as covered by clause (b) and (c) any day that is not a Saturday, Sunday, or a day on which banks in Toronto, Ontario are required or permitted to be closed, and (b) with respect to all notices, determinations, fundings and payments in connection with the LIBOR Rate or LIBOR Rate Revolving Loans, any day that is a Business Day pursuant to clause (a) above and that is also a day on which trading in U.S. Dollars is carried on by and between banks in the London interbank market, and (c) with respect to all U.S. Dollar denominated Borrowings, any day other than a day on which banks in New York, New York are required or permitted to be closed.

"Canadian Accounts" means the Accounts of a Canadian Loan Party.

"Canadian Agent Advances" has the meaning specified in Section 1.2(j).

"Canadian Availability" means (a) the lesser of (x) the Maximum Canadian Revolver Amount and (y) the sum of (i) the Canadian Borrowing Base, plus (ii) solely to the extent the Aggregate Canadian Revolver Outstandings exceeds the Canadian Borrowing Base, the U.S. Availability (if any, to the extent that it is available) and up to a maximum aggregate amount of \$25,000,000) minus (b) Reserves established with respect to the Canadian Borrower (other than Reserves deducted in the calculation of the Canadian Borrowing Base), minus (c) the Aggregate Canadian Revolver Outstandings (excluding the aggregate unpaid principal balance of all Canadian Overdraft Accommodations) at such time relating to extensions of credit made (or, in the case of Pending Revolving Loans, to be made to or for the account of the Canadian Borrower), minus (d) the Canadian Online LC Accommodation Maximum Amount, minus (e) the Canadian Overdraft Accommodation Maximum Amount minus (f) the U.S. Canadian Borrowing Base Utilization.

"Canadian Base Rate" means, at any time, the rate of interest per annum equal to the greater of (i) the rate which the principal office of Royal Bank in Toronto, Ontario announces from time to time as the reference rate of interest for loans in U.S. Dollars to its Canadian borrowers; and (ii) the Federal Funds Rate (expressed as a 365 day rate) plus * %, and (iii) * %

[* Percentage Redacted]

per annum above the LIBOR Rate having a term of 1 month adjusted automatically with each change in such rates all without the necessity of any notice to the Canadian Borrower or any other Person.

"Canadian Base Rate Revolving Loan" means a Canadian Revolving Loan during any period in which it bears interest based on the Canadian Base Rate.

"Canadian Borrower" has the meaning specified in the preamble hereto.

"Canadian Borrowing Base" means, with respect to the Canadian Borrower, at any time, an amount equal to (a) the sum of up to (A) (i) *%) of the Net Amount of Eligible Accounts of the Canadian Borrower that are not Eligible Accounts set forth in (a)(A)(ii) and (iii) of this definition, (ii) * %) of the Net Amount of Eligible Accounts that are (x) Letter of Credit Eligible Accounts of the Canadian Borrower or (y) Eligible Accounts of the Canadian Borrower insured on terms, and by insurance providers, satisfactory to the Agent in its discretion, both of which are not Investment Grade Eligible Accounts, and (iii) * %) of the Net Amount of Eligible Accounts of the Canadian Borrower that are Investment Grade Eligible Accounts, and (iv) * %) of the Eligible Cash Equivalents of the Canadian Borrower; plus (B) the least of (i) * %) of the value of Eligible Inventory of the Canadian Borrower valued at cost (on a first in, first out basis), (ii) * %) of the Net Orderly Liquidation Value of Eligible Inventory of the Canadian Borrower, and (iii) the Inventory Maximum; minus (b) Reserves from time to time established by the Agent in its reasonable credit judgment with respect to the Canadian Borrower.

"Canadian Collateral" means all Collateral of the Canadian Borrower and the Canadian Loan Parties.

"Canadian Continuation/Conversion Date" means the date on which a Canadian Revolving Loan is converted into or continued as a BA Equivalent Revolving Loan or a LIBOR Revolving Loan.

"Canadian Credit Support" has the meaning specified in Section 1.4(a)(i).

"Canadian Defined Benefit Pension Plan" means a pension plan for the purposes of any applicable pension benefits standards, statute or regulation in Canada, which contains a "defined benefit provision," as defined in subsection 147.1(1) of the *Income Tax Act* (Canada).

"Canadian Designated Account" has the meaning specified in Section 1.2(c).

"Canadian Direct LC Accommodation" has the meaning specified in Section 1.4(a)(i).

"Canadian Dollars" or **"CDN Dollars"** means lawful money of Canada.

"Canadian Lender" means each Lender that has a Canadian Revolving Credit Commitment or is the holder of a Canadian Revolving Loan or is a participant in a Canadian Letter of Credit or Canadian Credit Support; and, unless an Event of Default has occurred and is continuing, such Lender shall be a Canadian Qualified Lender.

"**Canadian Letter of Credit**" has the meaning specified in Section 1.4(a)(i).

"**Canadian Letter of Credit Fee**" has the meaning specified in Section 2.6(a).

"**Canadian Letter of Credit Issuer**" means Royal Bank or any affiliate of Royal Bank.

"**Canadian Letter of Credit Subfacility**" means, in respect of the Canadian Direct LC Accommodation, \$50,000,000 (or the Equivalent Amount in CDN Dollars).

"**Canadian Loan Party**" means a Loan Party that is organized or amalgamated under the laws of Canada or any province or territory thereof.

"**Canadian Notice of Borrowing**" has the meaning specified in Section 1.2(b)(i).

"**Canadian Notice of Continuation/Conversion**" has the meaning specified in Section 2.2(a)(ii).

"**Canadian Online LC Accommodation**" has the meaning specified in Section 1.4(a)(i).

"**Canadian Online LC Accommodation Maximum Amount**" means \$5,000,000 (or the Equivalent Amount in CDN Dollars), as such amount may be increased or decreased, as applicable, in accordance with Section 1.6.

"**Canadian Overdraft Accommodation**" has the meaning specified in Section 1.2(k).

"**Canadian Overdraft Accommodation Maximum Amount**" means \$5,000,000 (or the Equivalent Amount in CDN Dollars), as such amount may be increased or decreased, as applicable, in accordance with Section 1.6.

"**Canadian Prime Rate**" means, at any time, the rate of interest per annum equal to the greater of (i) the rate which the principal office of Royal Bank in Toronto, Ontario quotes, publishes and refers to as its "prime rate" and which is its reference rate of interest for loans in Canadian Dollars to its Canadian borrowers; and (ii) the sum of (y) the average rate for Canadian Dollar bankers' acceptances having a term of 1 month that appears on the Reuters Screen CDOR Page (or any replacement of such page) as of 10:00 a.m. (Toronto time) on the date of determination, as reported by Royal Bank, and (z) * %, adjusted automatically with each quoted or published change in such rate, all without the necessity of any notice to the Canadian Borrower or any other Person.

"**Canadian Prime Rate Revolving Loan**" means a Canadian Revolving Loan during any period in which it bears interest based on the Canadian Prime Rate.

"**Canadian Qualified Lender**" a financial institution that is listed on Schedule I, II, or III of the *Bank Act* (Canada), has received an Approval to have a financial establishment in Canada pursuant to Section 522.21 of the *Bank Act* (Canada) or is not a foreign bank for purposes of the *Bank Act* (Canada), and if such financial institution is not resident in Canada and is not deemed to be resident in Canada for purposes of the *Income Tax Act* (Canada), that financial institution deals at arm's length with each Canadian Loan Party for purposes of the *Income Tax Act* (Canada).

[* Percentage Redacted]

"**Canadian Revolver Commitment Adjustment**" has the meaning specified in Section 1.8.

"**Canadian Revolving Credit Commitment**" means, as to any Lender, the obligation of such Lender, if any, to make Canadian Revolving Loans and participate in Canadian Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading "Canadian Revolving Credit Commitment" opposite such Lender's name on Schedule 1.2 or in the Assignment and Acceptance pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof.

"**Canadian Revolving Loans**" has the meaning specified in Section 1.2 and includes each Canadian Agent Advance and each Canadian Overdraft Accommodation.

"**Canadian Security Agreement**" means the amended and restated general security agreement dated as of the date hereof among the Canadian Loan Parties and the Agent for the benefit of the Agent and the Lenders.

"**Canadian Security Documents**" means the Canadian Security Agreement, the Hypothec and any other agreements executed by one or more of the Canadian Loan Parties pursuant to which the Agent has been granted a Lien to secure any and all of the Obligations of (i) the Canadian Borrower in its capacity as a Borrower and as a Guarantor, and (ii) any other Canadian Loan Party.

"**Canadian Subsidiary**" means any direct or indirect Subsidiary of any Borrower which is organized or amalgamated under the laws of Canada or any province or territory thereof.

"**Canadian Unused Line Fee**" has the meaning specified in Section 2.5(a).

"**Canadian U.S. Borrowing Base Utilization**" means the excess of (a) the total Aggregate Canadian Revolver Outstandings of the Canadian Lenders, minus (b) the Canadian Borrowing Base.

"**Capital Adequacy Regulation**" means any guideline, request or directive of any central bank or other Governmental Authority or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy or liquidity of any bank or of any corporation controlling a bank.

"**Capital Expenditures**" means, for any Person, any expenditures or costs made by such Person for the acquisition, maintenance or repair of fixed or capital assets that are required to be capitalized on the balance sheet of such Person in accordance with GAAP, including, without limitation, the incurrence or assumption of any Debt (including, without limitation, Debt under Capital Leases) in respect of such fixed or capital asset, and, without double counting, any principal payment made in respect of such incurrence or assumption provided that Capital Expenditures shall not include (x) capital expenditures made to restore, replace or rebuild assets to the condition of such assets immediately prior to any casualty or other insured damage to, or any taking under power of expropriation, eminent domain or by condemnation or similar proceeding of, such assets to the extent such expenditures are made with insurance proceeds, expropriation or condemnation awards or damage recovery proceeds relating to any such casualty, damage, taking, expropriation, condemnation or similar proceeding or (y) a Permitted

Investment (but shall, for the avoidance of doubt, include any Capital Expenditure made with the proceeds of such Permitted Investment by a Loan Party that is the recipient thereof).

"Capital Lease" means any lease of property which, in accordance with GAAP, should be reflected as a capital lease on the balance sheet of a Person.

"Capital Stock" of any Person shall mean any and all shares, interests, rights to purchase, warrants, options, contingent share issuances, participations or other equivalents of or interests in (however designated) equity (including partnership interests) of such Person, including any Preferred Stock, but excluding any debt securities convertible into or exchangeable for such equity.

"Cash Dominion Event" means (a) the failure of the Borrowers to maintain Adjusted Aggregate Availability of at least the greater of (i) \$15,000,000 and (ii) an amount equal to ten percent (10%) of the lesser of (1) the Maximum Revolver Amount, and (2) the Aggregate Borrowing Base, in each case for five (5) consecutive business days, or (b) if any Event of Default has occurred; provided that, once a Cash Dominion Event has been triggered, such Cash Dominion Event shall be deemed continuing until (a) Adjusted Aggregate Availability has returned for thirty (30) consecutive calendar days to at least the greater of (i) \$15,000,000 and (ii) an amount equal to ten percent (10%) of the lesser of (1) the Maximum Revolver Amount, and (2) the Aggregate Borrowing Base, and/or (b) the specified Event of Default is no longer continuing.

"Cash Equivalents" means:

(a) direct obligations of Canada or the United States of America or any agency thereof or obligations guaranteed by Canada or the United States of America, provided that such obligations mature within one year from the date of acquisition thereof;

(b) certificates of deposit maturing within one year from the date of acquisition, bankers' acceptances, Eurodollar bank deposits or overnight bank deposits, in each case issued by, created by or with any Lender or any bank or trust company organized under the laws of Canada or the United States of America or any state thereof having capital and surplus aggregating at least \$1,000,000,000;

(c) acquisitions of commercial paper given a rating of "A-1" or better by Standard & Poor's Corporation or "P-1" or better by Moody's Investors Service, Inc. and maturing not more than 90 days from the date of creation thereof; and

(d) shares of money market mutual or similar funds which invest at least 95% of their assets in assets satisfying the requirements of clauses (a) through (c) of this definition.

"CCAA" means *Companies' Creditors Arrangement Act* (Canada), (or any successor statute), as amended from time to time, and includes all regulations thereunder.

"Change of Control" means (a) when any Person (other than Thornridge Holdings Limited) or group of Persons (acting collectively) owns and controls, beneficially and of record, directly or indirectly, 50% of the Voting Stock of the Canadian Borrower; (b) a change in the majority of directors of any Borrower, unless nominated, appointed or approved for

consideration by shareholder for election by the then majority of directors; (c) all or substantially all of Canadian Borrower's consolidated assets are sold or transferred; (d) the Canadian Borrower shall cease to own, directly or indirectly, 100% of the Capital Stock of the U.S. Borrower; provided that if the U.S. Borrower ceases to be a direct wholly-owned Subsidiary of Canadian Borrower then each Subsidiary of Canadian Borrower that has direct or indirect ownership interest in U.S. Borrower shall be a Loan Party and pledge its assets to the Agent pursuant to the Security Documents and become subject to Section 7.22; or (e) any "change of control" (or comparable term) in any document pertaining to the Term Loan Facility.

"**Chattel Paper**" means, with respect to a Loan Party, all of such Loan Party's now owned or hereafter acquired chattel paper, as defined in the PPSA and Article 9 of the UCC (as applicable), including electronic chattel paper.

"**Clearing Bank**" means Royal Bank, the Bank or any other banking institution, acceptable to Agent, with whom a Receipt Account has been established pursuant to a Blocked Account Agreement.

"**Closing Date**" means December 20, 2007.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Collateral**" means the "Collateral" as defined in any Security Document and all other property or assets that are required under the terms of the Loan Documents to be subject to Liens in favour of the Agent for the benefit of the Secured Parties and shall include the Mortgaged Properties, if any.

"**Commitment**" means, at any time with respect to a Lender, the U.S. Revolving Credit Commitment or Canadian Revolving Credit Commitment of such Lender, as applicable, and "Commitments" means, at any time, the sum of the aggregate U.S. Revolving Credit Commitments of all U.S. Lenders at such time plus the aggregate Canadian Revolving Credit Commitments of all Canadian Lenders at such time.

"**Commodity Exchange Act**" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"**Confirmation Agreement**" means that certain Confirmation, Ratification and Amending Agreement dated as of the date hereof and among the Loan Parties and the Agent.

"**Contaminant**" means any waste, pollutant, hazardous substance, toxic substance, hazardous waste, special waste, petroleum or petroleum derived substance or waste, asbestos in any form or condition, polychlorinated biphenyls ("PCBs") or any constituent of any such substance or waste.

"**CRA**" means the Canada Revenue Agency and any Governmental Authority succeeding to any of its principal functions under the Income Tax Act (Canada) and other Canadian taxing statutes.

"**Credit Support**" means a collective reference to U.S. Credit Support and Canadian Credit Support.

"Debt" means, without duplication, all liabilities, obligations and indebtedness of the any Loan Party to any Person, of any kind or nature, now or hereafter owing, arising, due or payable, howsoever evidenced, created, incurred, acquired or owing, whether primary, secondary, direct, contingent, fixed or otherwise, in each case consisting of indebtedness for borrowed money or the deferred purchase price of property, excluding trade payables, but including in any event (a) all Obligations; (b) all obligations and liabilities of any Person secured by any Lien on the property of any Loan Party; (c) all obligations or liabilities created or arising under any Capital Lease or conditional sale or other title retention agreement with respect to property used or acquired by any Loan Party, even if the rights and remedies of the lessor, seller or lender thereunder are limited to repossession of such property; provided, however, that all such obligations and liabilities which are limited in recourse to such property shall be included in Debt only to the extent of the book value of such property as would be shown on a balance sheet of such Loan Party, as the case may be, prepared in accordance with GAAP; (d) all obligations and liabilities under Guarantees; and (e) the present value of lease payments due under any synthetic leases under which any Loan Party is treated as the owner of the property leased for tax purposes but which is treated as an operating lease under GAAP.

"Default" means any event or circumstance which, with the giving of notice, the lapse of time or both, would (if not cured, waived or otherwise remedied during such time) constitute an Event of Default.

"Default Rate" means a fluctuating per annum interest rate at all times equal to the sum of (a) the otherwise applicable Interest Rate plus (b) two percentage points per annum. Each Default Rate shall be adjusted simultaneously with any change in the applicable Interest Rate. In addition, the Default Rate shall result in an increase in the Letter of Credit Fee by two percentage points per annum.

"Defaulting Canadian Lender" means a Canadian Lender who is a Defaulting Lender.

"Defaulting Canadian Lender Credit Extension" has the meaning specified in Section 12.16(f).

"Defaulting Lender" means any Lender, as determined by the Agent, (i) that has failed or refused to abide by its obligations under this Agreement, including without limitation, its obligation to make available to Agent its Pro Rata Share of any Revolving Loans, expenses or setoff or purchase its Pro Rata Share of a participation interest in Letters of Credit, Overdraft Accommodations and Agent Advances, (ii) that has otherwise failed to pay over to the Agent any other amount required to be paid by it hereunder within two (2) days of receipt from the Agent of written notice thereof, (iii) that has notified any Borrower, the Agent, any Letter of Credit Issuer or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under other agreements in which it commits to extend credit, (iv) as to which the Agent, any other Lender or Letter of Credit Issuer has a good faith belief that such Lender has defaulted in fulfilling its obligations under one or more other syndicated credit facilities, or (v) which has (a) become or is insolvent or a Person that controls such Lender has become or is insolvent, (b) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, interim receiver, receiver and manager, administrator, liquidator, conservator, requestor trustee or custodian appointed for it, or has

taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or a Person that controls such Lender has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, interim receiver, receiver and manager, administrator, liquidator, conservator, requestrator trustee or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment, or (c) become the subject of a Bail-In Action.

"Defaulting U.S. Lender" means a U.S. Lender who is a Defaulting Lender.

"Defaulting U.S. Lender Credit Extension" has the meaning specified in Section 12.15(f).

"Distribution" means, in respect of any Person: (a) the payment or making of any dividend or other distribution of property in respect of capital stock or other equity or partnership interests (or any options or warrants for or other rights with respect to, such stock or other equity or partnership interests) of such Person, other than distributions in capital stock or other equity or partnership interests (or any options or warrants for such stock or other equity or partnership interests) or the same class; (b) the redemption or other acquisition by such Person or any of its Subsidiaries of any capital stock or other equity or partnership interests (or any options or warrants for such stock or other equity or partnership interests) of such Person.

"DOL" means the United States Department of Labour or any successor department or agency.

"EBITDA" [Definition Redacted]

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent;

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Effective Date" means the date of this Agreement.

"Effective Date Transactions" has the meaning specified in the Recitals to this Agreement.

"Eligible Accounts" means all Accounts arising in the ordinary course of a Loan Party's business, but excluding interest, late charges, penalties, collection costs and other similar sums due or payable in respect thereof, upon which the Agent's Liens constitutes a first-ranking, duly registered, published and perfected Lien ranking in priority to all other Liens (except Permitted Liens) and that are not ineligible as the basis for Revolving Loans and/or Letters of Credit, based on the Agent's satisfactory field examinations and audits and the following criteria and on such other criteria as the Agent may from time to time establish in the exercise of its good faith credit discretion. Without intending to limit the Agent's good faith credit discretion to establish other criteria of eligibility, Eligible Accounts of a Loan Party shall not include, without duplication, any Account of such Loan Party:

(a) which has been outstanding for more than ninety (90) days past the invoice date or with respect to which more than sixty (60) days have elapsed since the due date;

(b) with respect to which any of the representations, warranties, covenants, or agreements contained in this Agreement are incorrect or have been breached in any material respect;

(c) with respect to which Account (or any other Account due from such Account Debtor, whether owing to such Loan Party), in whole or in part, a check, promissory note, draft, trade acceptance, Chattel Paper or other instrument for the payment of money has been received, presented for payment and returned uncollected for any reason;

(d) which represents a progress billing (as hereinafter defined) or as to which such Loan Party has extended the time for payment without the consent of the Agent; for the purposes hereof, "progress billing" means any invoice for goods sold or leased or services rendered under a contract or agreement pursuant to which the Account Debtor's obligation to pay such invoice is conditioned upon such Loan Party's completion of any further performance under the contract or agreement;

(e) as to which any one or more of the following events has occurred with respect to the Account Debtor on such Account: death or judicial declaration of incompetence of an Account Debtor who is an individual; the filing by or against the Account Debtor of a request, proposal, notice of intent to file a proposal, proceeding, action or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as a bankrupt, winding-up, or other relief under the bankruptcy, insolvency, restructuring, liquidation, winding up, corporate or similar laws of Canada or the United States, any province, state or territory thereof, or any foreign jurisdiction, now or hereafter in effect; the making of any general assignment by the Account Debtor for the benefit of creditors; the appointment of a receiver, trustee, monitor, custodian, liquidator, administrator, interim receiver, monitor or trustee or other official for the Account Debtor or for any of the assets of the Account Debtor, including, without limitation, the appointment of or taking possession by a "custodian" as defined in the *Bankruptcy Code* of the United States or a "trustee" under the BIA; the institution by or against the Account Debtor of any other type of insolvency, liquidation, bankruptcy, winding up or reorganization proceeding (under the laws of Canada, the United States or otherwise, including applicable corporate statutes, the BIA and the CCAA or of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of, the Account Debtor; the sale, assignment, or transfer of all or any material part of the assets of the Account Debtor; the non-payment generally by the Account Debtor of its debts as they become due; or the cessation of the business of the Account Debtor as a going concern;

(f) owed by an Account Debtor if fifty percent (50%) or more of the aggregate Dollar amount (with any Account payable in a foreign currency being converted to Dollars for this purpose) of outstanding Accounts owed at such time by such Account Debtor thereon is classified as ineligible under clause (a) above;

(g) owed by an Account Debtor if such Account Debtor: (i) does not maintain its chief executive office or registered office in Canada or the United States of America or its territories or protectorates; or (ii) is not organized under the laws of Canada or any Province thereof or the United States of America or any state thereof (except in respect of Accounts in the

case of clauses (i) and (ii) which are credit insured pursuant to insurance policies maintained by a Loan Party with export insurers acceptable to the Agent and all terms thereof, including risks and amounts of coverage, and all such policies and any Proceeds payable thereunder have been validly assigned to the Agent on terms acceptable to the Agent); or (iii) is the government of any country or sovereign state, or of any state, province, municipality, or other political subdivision thereof, or of any department, agency, public corporation, or other instrumentality thereof, except to the extent that the Agent otherwise determines in its discretion the Account to be eligible on an account-by-account basis based on, among other things, compliance with all applicable laws in order to obtain a valid and enforceable assignment (in the case of clause (iii));

(h) owed by an Account Debtor which is an employee of a Loan Party, or by a subsidiary of a Loan Party, or by an Affiliate of a Loan Party or which is an Intercompany Account;

(i) which is owed by an Account Debtor but only to the extent to which any Loan Party is indebted in any way, or to the extent to which the Account Debtor has made or asserted, or a Loan Party has otherwise reported, any right of set off, compensation, counterclaim, offset, discount (including accruals related thereto), allowance, charge-back, rebate payable, contra claim or any other dilutive factors by the Account Debtor, unless the Account Debtor has entered into an agreement acceptable to the Agent to waive all such rights; or if the Account Debtor thereunder has disputed liability or made any claim with respect to any other Account due from such Account Debtor (whether such Account is owing to such Loan Party or any other Loan Party); but in each such case only to the extent of such indebtedness, setoff, charge-back, counterclaim, offset, compensation, discount, allowance, rebate, dispute, claim or any other dilutive factors; or any Accounts to the extent of any unapplied credits or credits in prior;

(j) which represents a cash sale or cash on delivery sale;

(k) which represents a re-billed (unless the previous account has been cancelled and replaced and the re-bill is dated the date of the replaced Account for aging purposes) or redated account;

(l) owed by the government of the United States of America or Canada or any department, agency, public or Crown corporation or other instrumentality thereof, unless, in the case of an Account owed to (i) a Canadian Loan Party by the government of Canada or any department agency, public or Crown corporation or other instrumentality thereof, the *Financial Administration Act* (Canada), and (ii) a U.S. Loan Party by the government of the United States or any department, agency, public corporation or other instrumentality thereof, the *Federal Assignment of Claims Act* of 1940, as amended (31 U.S.C. § 3727 et seq.), and any other steps necessary to perfect the Agent's Liens therein, have been complied with to the Agent's satisfaction with respect to such Account;

(m) which represents, in whole or in part, a sale on a bill-and-hold, guaranteed sale, sale and return, sale on approval, consignment, or other repurchase or return basis;

(n) in respect of which an Loan Party is not the sole payee and remittance party, with sole lawful and absolute title thereto free and clear of any Lien (other than a Lien in favour of the Agent and/or Agent or a Permitted Lien (as opposed to being voluntarily granted) and which are unregistered and not yet due and payable));

- (o) which is payable in a currency other than Canadian Dollars and U.S. Dollars;
- (p) which Account (or any other Account due from such Account Debtor, whether owing to such Loan Party or any other Loan Party) is evidenced by a promissory note or other instrument or by Chattel Paper;
- (q) which is owed by a customer, or affiliated group of customers, which is obligated to the Loan Parties respecting Accounts, the aggregate unpaid balance of which exceeds twenty-five percent (25%) (thirty-five percent (35%) for Sysco Corporation only) of the aggregate unpaid balance of all otherwise Eligible Accounts owed to the Loan Parties at such time by such customers, but only to the extent of such excess.
- (r) for goods not shipped and delivered or otherwise not representing a final sale or otherwise representing a pre-billed Account or Accounts for unshipped or incomplete goods or services or otherwise with respect to which the goods giving rise to such Account have not been shipped and, if required to create a valid Account, delivered to the Account Debtor or the services giving rise to such Account have not been performed by the Loan Party and, if applicable, accepted by the Account Debtor, or the Account Debtor revokes its acceptance of such goods or services or such Account otherwise arises from an incomplete sale or service;
- (s) if the sale giving rise thereto was not made in compliance in all respects with all applicable laws;
- (t) if not representing a trade receivable;
- (u) which arises out of an enforceable contract or order which, by its terms, forbids, restricts or makes void or unenforceable the granting of a Lien by the Borrower to the Agent with respect to such Account;
- (v) which represents any unapplied cash or credits;
- (w) if the Agent believes, in the exercise of its good faith credit discretion, that the prospect of collection of such Account is impaired, or that the Account is uncollectible or otherwise doubtful or that the Account may not be paid by reason of the Account Debtor's financial inability to pay;
- (x) with respect to which the Account Debtor is located in any state of the United States or province of Canada which requires the filing of a Notice of Business Activities Report or registration or licensing to carry on business or similar report, registration or licensing in order to permit such Loan Party to seek judicial enforcement in such state of the United States or province of Canada of payment of such Account, unless such Loan Party has qualified to do business in such state or province or has filed a Notice of Business Activities Report or registration or licensing to carry on business or equivalent report, registration or licensing for the then current year;
- (y) which arises out of a sale not made in the ordinary course of such Loan Party's business; or

(z) which the Agent in the exercise of its good faith credit discretion determines to be ineligible for any other reasons deemed necessary by Agent in its reasonable business judgment, including, without limitation, those which are customary in the commercial lending industry.

"Eligible Assignee" means (a) a commercial bank, commercial finance company or other asset based lender, having total assets in excess of \$1,000,000,000 and for which the consent of the Canadian Borrower has been received (provided, that (x) no consent of the Canadian Borrower shall be unreasonably withheld or delayed, and (y) no consent of the Canadian Borrower shall be required if a Default or Event of Default has occurred and is continuing); (b) any Lender; or (c) any Affiliate of any Lender; provided, however, that an Eligible Assignee shall in all cases (when no Event of Default is continuing) be a financial institution that (i), if such Person is to hold Canadian Obligations, is a Canadian Qualified Lender, (ii) is an Affiliate of a Canadian Lender and is a Canadian Qualified Lender, (iii) it, which may include one of its Affiliates, shall have both a Canadian Revolving Credit Commitment and a U.S. Revolving Credit Commitment, (iv) is not a trade competitor of any Loan Party, and (v) is not a Loan Party or an Affiliate of a Loan Party. Notwithstanding the foregoing, if an Event of Default has occurred and is continuing, any Person reasonably acceptable to the Agent may be an Eligible Assignee.

"Eligible Cash Equivalents" means, with respect to a Loan Party, the Cash Equivalents of such Loan Party which the Agent, in the exercise of its reasonable credit judgment, determines to be Eligible Cash Equivalents. Without limiting the exercise of the Agent's reasonable credit judgment, the following eligibility criteria must be satisfied in determining Eligible Cash Equivalents:

- (a) Cash Equivalents in which a Loan Party has lawful and absolute title;
- (b) Cash Equivalents which are free from any express or implied at law Lien, trust or other beneficial interest (other than (i) a Lien in favour of Agent, for the benefit of Lenders, (ii) a non-consensual Lien arising by operation of law notified to the Agent for which a reserve has been established against the Borrowing Base, and (iii) inchoate Liens for which amounts are not yet due and payable); and
- (c) Cash Equivalents in which Agent holds a fully perfected first-priority security interest prior to the rights of, and enforceable as such against, any other Persons pursuant to an account/control agreement satisfactory to Agent and any other legal requirement necessary for perfecting a security interest in such assets with such priority.

"Eligible Inventory" shall mean the gross amount of each Loan Party's raw material and finished goods Inventory valued in Dollars at cost, (determined on first in, first out basis) that is subject to a valid, first priority and fully perfected security interest and hypothec in favour of the Agent, on behalf of the Lenders, subject to Permitted Liens, which, at all times continues to be acceptable to the Agent in the exercise of its reasonable business judgment. Without intending to limit the Agent's reasonable business judgment discretion to establish other criteria of eligibility, Eligible Inventory shall not include, without limitation, any (a) packaging materials and supplies, (b) slow moving (excluding Inventory hold positions due to stocking of seasonal fish), unmerchantable/unsaleable or obsolete Inventory (obsolete Inventory being Inventory not sold within one year of purchase/completion); (c) expired Inventory; (d) Inventory not located at locations owned by a Loan Party or Inventory located at any other location of a Loan Party not

subject to a landlord waiver in form and substance satisfactory to the Agent in its reasonable business judgment or in respect of which Agent has agreed to appropriate reserves, (e) Inventory located on owned or leased vessels, (f) Inventory returned or rejected by a Loan Party's customers (other than goods that are undamaged and resalable in the normal course of business in the Agent's reasonable business judgment), including, without limitation, goods to be returned to a Loan Party's suppliers, (g) damaged Inventory, (h) spoiled Inventory, (i) Inventory in transit to or from third parties unless in transit from a third party supplier or Sjovik ehf (anywhere in the world) and (A) acquired under a documentary/trade Letter of Credit which has not been drawn, (B) documentary collection transactions, or (C) which has been prepaid, and in the case of both (A) and (B) of this clause, (i) the purchase order is in the name of a Borrower and title has passed to such Borrower, (ii) Agent is named as consignee or owner on all bills of lading and other title documents, and Agent has received evidence of same, (iii) the Inventory would otherwise constitute Eligible Inventory hereunder, and (iv) the Inventory is insured (on terms and with insurers) to the satisfaction of the Agent in its reasonable discretion, provided that only \$25,000,000 of such in-transit Eligible Inventory may be eligible under the Canadian and U.S. Borrowing Bases with a maximum amount of \$5,000,000 in respect of documentary collection transactions, (j) Inventory in the possession of a warehouseman, bailee, Affiliate or Subsidiary of any Loan Party, unless all applicable warehousemen, bailees or third parties have executed a waiver and notice of security interest agreement in favour of the Agent (in form and substance satisfactory to the Agent) and/or the Agent shall otherwise be satisfied that Agent has a first entitlement, lien and priority perfected security interest in such Inventory, subject to Permitted Liens, (k) consignment Inventory; (l) reserves required by the Agent in its reasonable discretion, including, without limitation, for special order goods, market value declines, bill and hold (deferred shipment) and consignment sales, (m) that is not in good condition, is unmerchantable or does not meet all standards imposed by any Governmental Authority, having regulatory authority over such goods, their use or sale; (n) that is not currently either usable or salable, at prices approximating at least cost, in the normal course of such Loan Party's business or that is slow moving, defective or stale; and (o) Inventory not acceptable to the Agent for any other reasons deemed necessary by the Agent in its reasonable business judgment, including, without limitation, those which are customary either in the commercial finance industry or in the lending practices of the Agent.

"Environmental Laws" means all federal, provincial, state, municipal, local or foreign laws, statutes, common law duties, rules, regulations, ordinances and codes, together with all administrative orders, directives, decisions, policies, guidelines, directed duties, licenses, authorizations, decrees, orders and permits of, and agreements with, any Governmental Authority, in each case relating to environmental, health and safety matters.

"Environmental Lien" means a Lien in favour of any Governmental Authority or any other Person for (a) any liability under Environmental Laws or (b) damages arising from, or costs incurred by such Governmental Authority or other Person in response to, a Release or threatened Release of a Contaminant into the environment.

"Equipment" means, with respect to a Loan Party, all of such Loan Party's now owned and hereafter acquired machinery, equipment, furniture, furnishings, fixtures and other tangible personal property (except Inventory), including embedded software, motor vehicles, aircraft, dies, tools, jigs, molds and office equipment, as well as all of such types of property leased by such Loan Party and all of such Loan Party's rights and interests with respect thereto under such

leases (including, without limitation, options to purchase); together with all present and future additions and accessions thereto, replacements therefor, component and auxiliary parts and supplies used or to be used in connection therewith, and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto; wherever any of the foregoing is located and includes “equipment” as defined in the UCC.

"Equivalent Amount" means, on any date, the amount of Dollars into which an amount of CDN Dollars may be converted or the amount of CDN Dollars into which an amount of Dollars may be converted, in either case, at, in the case of the Canadian Borrower, the Agent's spot buying rate in Toronto, Canada as at approximately 12:00 noon (Toronto time) on such date and, in the case of U.S. Borrower, the Bank's spot buying rate in New York, New York as at approximately 12:00 noon (New York City time) on such date.

"ERISA" means the *Employee Retirement Income Security Act* of 1974, as amended, and the rules and regulations promulgated thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with any Loan Party within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan, (b) a withdrawal by any Loan Party or any ERISA Affiliate from a Pension Plan during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations which is treated as such a withdrawal under Section 4062(e) of ERISA, (c) a complete or partial withdrawal by any Loan Party or any ERISA Affiliate from a Multi-employer Plan or other Pension Plan regulated or governed by other applicable legislation or notification that a Multi-employer Plan or Pension Plan regulated or governed by or other applicable legislation is insolvent or is in critical, endangered or at risk status, (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA or other law, or the commencement of proceedings by the PBGC pursuant to Section 4042 of ERISA or other applicable Governmental Authority to terminate a Pension Plan or to appoint a trustee to administer any Pension Plan or Multi-employer Plan, or (e) the imposition of any liability under Title IV of ERISA or other applicable legislation (other than for PBGC premiums due but not delinquent under Section 4007 of ERISA or other similar legislation) upon any Loan Party or any ERISA Affiliate.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" has the meaning specified in Section 9.1.

"Exchange Act" means the *Securities Exchange Act* of 1934, and regulations promulgated thereunder.

"Exchange Rate" means, as of any date in respect of the conversion of an amount on such date denominated in a particular currency (the "specified currency") into an amount specified in another currency (the "alternative currency") or in respect of the calculation on such

date of the amount of the alternative currency which is equivalent to an amount of the specified currency, the spot exchange rate prevailing on the London foreign exchange market on such date for the exchange of the specified currency for the alternative currency, as determined by the Bank.

"Excluded Subsidiary" means (a) any Subsidiary that is prohibited or restricted by applicable Requirement of Law from providing a Guarantee or if such Guarantee would require governmental (including regulatory) consent, approval, license or authorization, (b) any other Subsidiary with respect to which the cost, difficulty, burden or consequences (including any adverse tax consequences) of providing the Guarantee is excessive in relation to the value afforded thereby, as reasonably determined by the Agent and the Canadian Borrower, and (c) Rubicon Resources.

"Excluded Swap Obligations" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 13.8 and any other "keepwell, support or other agreement" for the benefit of such Guarantor and any and all guarantees of such Guarantor's Swap Obligations by other Loan Parties) at the time the Guarantee of such Guarantor, or a grant by such Guarantor of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guaranty or security interest is or becomes excluded in accordance with the first sentence of this definition.

"Excluded Taxes" means, in relation to any Lender, (a) Taxes imposed or levied by any jurisdiction on or measured by the overall net income of such Lender or any of its applicable lending offices, (b) other Taxes including franchise Taxes, Taxes on doing business or Taxes measured by capital or net worth imposed or levied by any jurisdiction on such Lender or any of its applicable lending offices as a result of such Lender (i) carrying on a trade or business therein or having a permanent establishment therein, (ii) being organized under the laws of such jurisdiction or any political subdivision thereof, (iii) being or being deemed to be resident in such jurisdiction for income tax purposes, or (iv) having any other present or former connection with such jurisdiction (other than a connection arising solely from such Lender or its applicable lending office having executed, delivered or performed its obligations under the Loan Documents or received a payment under a Loan Document or enforced its rights under a Loan Document), or which would not have been imposed had such Lender satisfied a relevant authority that such Lender was not a person mentioned in clause (i), (ii), (iii) or (iv) above, (c) any United States or Canadian (including state and local provincial) withholding taxes to the extent that the obligation to withhold amounts existed on the date that such Person became a Lender under this Agreement, except in each case to the extent that such Person is an assignee of any other Lender that was entitled, at the time the assignment to such party became effective, to receive additional amounts under Section 4.1, (d) taxes that are attributable to the failure (other than such failure resulting from a change in Requirements of Law) by a Lender to deliver the documentation required to be delivered pursuant to Section 12.10, and (e) any United States

federal withholding Taxes imposed on amounts payable to an entity as a result of such entity's failure to comply with FATCA to establish a complete exemption from withholding thereunder.

"Existing Credit Agreement" has the meaning specified in the Recitals to this Agreement.

"Existing DB Plans" means the Canadian Defined Benefit Pension Plans listed in and described as such in Schedule 6.19.

"FATCA" means Sections 1471 through 1474 of the Code, as in effect on the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any intergovernmental agreements pursuant to any of the foregoing.

"FDIC" means the Federal Deposit Insurance Corporation, and any Governmental Authority succeeding to any of its principal functions.

"Federal Funds Rate" means, for any day, the rate per annum (not less than zero) and rounded upwards, if necessary, to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to the Bank on such day on such transactions as determined by the Agent.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System or any successor thereto.

"Fee Letter" has the meaning specified in Section 2.4.

"Financial Statements" means the consolidated financial statements of the Canadian Borrower and its Subsidiaries, prepared in accordance with GAAP, and any other financial statements required to be given to the Agent and Lenders pursuant to this Agreement. Any such financial statements which this Agreement requires be audited, shall be so audited by auditors as reasonably approved by the Agent (Agent acknowledging that both Ernst & Young LLP and KPMG LLP are approved auditing firms).

"Fiscal Year" means each of the Loan Party's fiscal year for financial accounting purposes, which will end on the Saturday closest to December, 31, if December 31 is not a Saturday.

"Fixed Assets" means, with respect to any Loan Party, the Equipment and Real Estate of such Loan Party.

"Fixed Charge Coverage Ratio" means, with respect to any fiscal period of Canadian Borrower on a consolidated basis the ratio of (i) EBITDA for such fiscal period, plus, payments made by Loan Parties (including, without duplication, payments made by ISF (USA), LLC whether or not it was a Loan Party at the time) under operating leases for such fiscal period, minus, cash income taxes paid by Loan Parties (including, without duplication, those paid by ISF (USA), LLC whether or not it was a Loan Party at the time) during such fiscal period minus Capital Expenditures of the Loan Parties (including, without duplication, those of ISF (USA), LLC whether or not it was a Loan Party at the time) paid in cash during such fiscal period to (ii) Fixed Charges for such fiscal period, but excluding voluntary excess cash flow prepayments of the Term Loan Facility up to a maximum aggregate amount of \$15,000,000 for such fiscal period, provided that, both before and after such prepayment, Adjusted Aggregate Availability is greater than \$50,000,000.

"Fixed Charges" means, with respect to any fiscal period of Canadian Borrower on a consolidated basis, without duplication, the sum of (A) all payments and prepayments of principal on Funded Debt of the Loan Parties made or required to be made during such fiscal period; (B) net cash interest expense of the Loan Parties for such fiscal period; (C) payments made by Loan Parties under operating leases during such fiscal period; and (D) the excess, if any, of the aggregate amount of Distribution and share/stock buy backs made by Canadian Borrower during such fiscal period over the amount of cash funds received by Loan Parties through the exercise of stock options owned by such Loan Parties during such fiscal period; provided, that, for purposes of determining Fixed Charges with respect to any applicable fiscal period of Canadian Borrower, shall also be included, without duplication, Fixed Charges incurred by ISF (USA), LLC in the same fiscal period whether or not it was a Loan Party at the time.

"Funding Date" means, with respect to a Borrowing, the date on which such Borrowing occurs.

"Funded Debt" means the sum, without duplication, of (a) the aggregate amount of Debt (including the Obligations) of the Loan Parties consisting of or relating to (i) the borrowing of money or the obtaining of credit (other than trade payables incurred in the ordinary course of business), or (ii) Capital Leases, plus (b) Debt of the type referred to in clause (a) of another Person guaranteed by a Loan Party, in each case on a consolidated basis for the Loan Parties.

"GAAP" means at any particular time with respect to any Loan Party, international financial reporting standards generally accepted in Canada and recommended or approved by the Canadian Institute of Chartered Accountants and in effect at such time, consistently applied; provided, however, that, if employment of more than one principle shall be permissible at such time in respect of a particular accounting matter, "GAAP" shall refer to the principle which is then employed by the applicable Loan Party with the concurrence of its independent public or chartered accountants, who are reasonably acceptable to the Agent.

"Governmental Authority" means any nation or government, any state, province, municipality or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing and any

department, agency, board, commission, tribunal, committee or instrumentality of any of the foregoing.

"Guarantee" or **"Guaranty"** means, with respect to any Person, all obligations of such Person which in any manner directly or indirectly guarantee or assure, or in effect guarantee or assure, the payment or performance of any Debt of any other Person (the "guaranteed obligations"), or assure or in effect assure the holder of the guaranteed obligations against loss in respect thereof, including any such obligations incurred through an agreement, contingent or otherwise: (a) to purchase the guaranteed obligations or any property constituting security therefor; (b) to advance or supply funds for the purchase or payment of the guaranteed obligations or to maintain a working capital or other balance sheet condition; or (c) to lease property or to purchase any debt or equity securities or other property or services.

"Guaranteed Obligations" has the meaning specified in Section 13.1.

"Guarantor Payment" has the meaning specified in Section 13.6.

"Guarantors" has the meaning specified in the preamble.

"Hedge Agreement" means any and all transactions (whether under an ISDA or otherwise), agreements or documents (including ISDAs) entered into with any Lender or any Affiliate of a Lender (or any Person that was a Lender or an Affiliate of a Lender at the time such Hedging Agreement was entered into), which provides for an interest rate, credit, commodity or equity swap, cap, floor, collar, forward foreign exchange transaction, derivative, currency swap, cross currency rate swap, currency option, or any combination of, or option with respect to, these or similar transactions, for the purpose of hedging a Loan Party's exposure to fluctuations in interest or exchange rates, loan, credit exchange, security or currency valuations or commodity prices.

"Hedging Exposure" means, at any time and subject to the Hedging Sublimit, the sum of the amount determined by the Agent (in its sole discretion with consideration given to any determinations provided to the Agent by the Lenders (and their Affiliates) providing Hedge Agreements) to be the credit risk associated with all outstanding Hedge Agreements. The total of all such Hedging Exposures of all Lenders (and their Affiliates) not to exceed the Hedging Sublimit. Any Hedging Exposure denominated in CDN Dollars shall be the Dollar equivalent thereof.

"Hedging Reserve" means all reserves which the Agent from time to time establishes in its reasonable credit judgment for Hedging Agreements then provided or outstanding which shall, at all times, be at least an amount that is equal to all Hedging Exposure in respect to such Hedging Agreements outstanding.

"Hedging Sublimit" means the maximum aggregate amount of \$30,000,000 of Hedging Exposure.

"Hypothec" means the Deeds of Movable Hypothecs dated December 19, 2011 among the Canadian Borrower, the other Canadian Loan Parties party thereto and the Agent for the benefit of the Agent and the Lenders.

"Inactive Subsidiaries" has the meaning specified in Section 6.27.

"Indemnified Taxes" means Taxes other than Excluded Taxes and Other Taxes.

"Instruments" means, with respect to a Loan Party, all instruments as such term is defined in the UCC and in the PPSA (as applicable), now owned or hereafter acquired by such Loan Party.

"Intercompany Accounts" means all assets and liabilities, however arising, which are due to any Loan Party or its Subsidiaries from, which are due from any Loan Party or its Subsidiaries to, or which otherwise arise from any transaction by any Loan Party or its Subsidiaries with, any Affiliate.

"Intercreditor Agreement" means the intercreditor agreement originally dated as of December 19, 2011 and as amended and restated as of April 24, 2014, among the Agent and the Term Loan Facility Agent and acknowledged by each Borrower and each Guarantor, as it may be amended, supplemented, modified, replaced or restated from time to time in accordance with this Agreement.

"Interest Rate" means each or any of the interest rates, including the Default Rate, set forth in Section 2.1.

"Inventory" means, with respect to a Loan Party, all of such Loan Party's now owned and hereafter acquired "inventory" (as defined in the PPSA and Article 9 of the UCC), including, without limitation, goods and merchandise, wherever located, to be furnished under any contract of service or held for sale or lease, all returned goods, raw materials, raw and processed fish and fish products, work in process, finished goods (including embedded software), other materials and supplies of any kind, nature or description which are used or consumed in such Loan Party's business or used in connection with the manufacture, packing, shipping, advertising, selling or finishing of such goods, merchandise and all documents of title or other documents representing them.

"Inventory Appraisal" means with respect to a Borrower, each appraisal of Inventory of such Borrower delivered to the Agent pursuant to Section 14.19 by appraisers satisfactory to the Agent.

"Inventory Maximum" means collectively and combined for the Canadian Borrower and the U.S. Borrowers, (i) \$125,000,000 during the months of April through to November in any year, or (ii) \$140,000,000 during the months of December, January, February or March in any year. For greater certainty, all Borrowings made by the Canadian Borrower and U.S. Borrowers in respect of margined Eligible Inventory under their respective Borrowing Bases shall not exceed the foregoing amounts on an aggregate basis.

"Investment Grade Eligible Accounts" means Eligible Accounts that are owing by an Account Debtor who has a credit rating of "BBB-" or better by Standard Poor's Corporation or "Baa3" or better by Moody's Investor Services.

"Investment Property" means, with respect to a Loan Party, all of such Loan Party's right, title and interest in and to any and all: (a) securities whether certificated or uncertificated;

(b) securities entitlements; (c) securities accounts; (d) commodity contracts; or (e) commodity accounts and includes “investment property” as defined in the UCC.

"IRS" means the Internal Revenue Service and any Governmental Authority succeeding to any of its principal functions under the Code.

"Latest Projections" means the projections most recently received by the Agent pursuant to Section 5.2(f).

"Lender" and **"Lenders"** have the meanings specified in the preamble hereto and shall include the Agent to the extent of any Agent Advance outstanding; provided that no such Agent Advance shall be taken into account in determining any Lender's Pro Rata Share.

"Letter of Credit Eligible Accounts" means Eligible Accounts that are supported by letters of credit acceptable to Agent; provided that the maximum stated amount of all such letters of credit shall not at any time have an initial expiry greater than one-hundred and twenty (120) days from the date the Eligible Accounts, of which they support, have been listed in any Borrowing Base Certificate, and which letters of credit may be drawn on or after 60 days from the invoice date of the Eligible Accounts, of which they support.

"Letter of Credit Fees" means the collective reference to the U.S. Letter of Credit Fees, the Canadian Letter of Credit Fees.

"Letter of Credit Issuer" means the Canadian Letter of Credit Issuer or the U.S. Letter of Credit Issuer, as applicable.

"Letters of Credit" means the collective reference to U.S. Letters of Credit and Canadian Letters of Credit.

"LIBOR Continuation/Conversion Date" means the date on which a Revolving Loan is converted into or continued as a LIBOR Revolving Loan.

"LIBOR Interest Payment Date" means, with respect to a LIBOR Revolving Loan, (i) the last day of each LIBOR Interest Period applicable to such LIBOR Revolving Loan and (ii) the Termination Date.

"LIBOR Interest Period" means, as to any LIBOR Revolving Loan, the period commencing on the Funding Date of such LIBOR Revolving Loan or on the LIBOR Continuation/Conversion Date on which the Revolving Loan is converted into or continued as a LIBOR Revolving Loan, and ending on the date one, two, three or six months thereafter (or, if agreed to by all applicable Lenders, nine or twelve months, or a shorter period as may be agreed to by all applicable Lenders) as selected by (x) the U.S. Borrower in its U.S. Notice of Borrowing, in the form attached hereto as Exhibit D 1, or U.S. Notice of Continuation/Conversion, in the form attached hereto as Exhibit E 1, or (y) the Canadian Borrower in its Canadian Notice of Borrowing, in the form attached hereto as Exhibit D 2, or Canadian Notice of Continuation/Conversion, in the form attached hereto as Exhibit E 2, provided that:

(a) if any LIBOR Interest Period would otherwise end on a day that is not a Business Day, that LIBOR Interest Period shall be extended to the following Business Day unless the result of such extension would be to carry such LIBOR Interest Period into another calendar month, in which event such LIBOR Interest Period shall end on the preceding Business Day;

(b) any LIBOR Interest Period pertaining to a LIBOR Revolving Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such LIBOR Interest Period) shall end on the last Business Day of the calendar month at the end of such LIBOR Interest Period; and

(c) no LIBOR Interest Period shall extend beyond the Stated Termination Date.

"LIBOR Rate" means, for any LIBOR Interest Period with respect to LIBOR Revolving Loan, the rate of interest per annum which appears on the Reuters screen LIBOR 01 page at approximately 11:00 a.m. (London time) two Business Days before the first day of such LIBOR Interest Period; or if such Reuters Screen is not available, the rate of interest which appears on page 3750 of the Telerate screen at approximately 11:00 a.m. (London time) two Business Days before the first day of such LIBOR Interest Period; or if such Telerate screen is not available, then the LIBOR Rate shall be the annual rate of interest determined by Royal Bank as being the rate of interest at which it would be prepared to offer to leading banks in the London interbank market for delivery on the first day of the relevant LIBOR Interest Period for a period equal to the LIBOR Interest Period for deposits in U.S. Dollars in an amount comparable to the relevant LIBOR Revolving Loan requested by the applicable Borrower.

"LIBOR Revolving Loan" means a Revolving Loan during any period in which it bears interest based on the LIBOR Rate.

"Lien" means: (a) any interest in property securing an obligation owed to, or a claim by, a Person, whether such interest is based on the common law, statute or contract, and including without limitation, a security interest, hypothec, prior claim, charge, claim or lien arising from a mortgage, deed of trust, encumbrance, pledge, hypothecation, assignment, deposit arrangement, agreement, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes; (b) to the extent not included under clause (a), (i) any rights of repossession or similar rights of unpaid suppliers, (ii) any reservation, exception, encroachment, easement, servitude, right of way, covenant, condition, restriction, lease or other title exception or encumbrance affecting property and (iii) any other lien, charge, privilege, secured claim, title retention, garnishment right, deemed trust, encumbrance or other right affecting property, choate or inchoate, whether or not crystallized or fixed, whether or not for amounts due or accruing due, arising by any statute, act of law of any jurisdiction at common law or in equity or by agreement; and (c) any contingent or other agreement to provide any of the foregoing.

"Loan Account" means, with respect to each Borrower, the loan account of such Borrower, which account shall be maintained by the Agent.

"Loan Documents" means this Agreement, the Security Documents, the Blocked Account Agreement, the Fee Letter, the Intercreditor Agreement, the Hedge Agreements, the Confirmation Agreement and any other agreements, instruments, and documents heretofore, now or hereafter evidencing, securing, guaranteeing or otherwise relating to any or all of the

Obligations, the Collateral or any other aspect of the transactions contemplated by this Agreement.

"Loan Parties" means a collective reference to the Borrowers and the Guarantors, and "Loan Party" means any one of them.

"Majority Lenders" means at any time Lenders whose Pro Rata Shares in respect of the Total Facility aggregate more than 50.1% provided, that so long as there are only two Lenders, "Majority Lenders" means both of such Lenders.

"Margin Stock" means "margin stock" as such term is defined in Regulation T, U or X of the Federal Reserve Board.

"Material Adverse Effect" means (a) a material adverse change in, or a material adverse effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the Loan Parties taken as a whole or the Collateral; (b) a material legal impairment of the ability of any Loan Party to perform under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

"Maximum Canadian Revolver Amount" means \$70,000,000 (or the Equivalent Amount thereof), as such amount may be increased or decreased, as applicable, in accordance with Section 1.8.

"Maximum Rate" has the meaning specified in Section 2.3.

"Maximum Revolver Amount" means \$150,000,000 (or the Equivalent Amount thereof).

"Maximum U.S. Revolver Amount" means \$80,000,000, as such amount may be increased or decreased, as applicable, in accordance with Section 1.8.

"Mortgage" has the meaning specified in Section 7.22.

"Mortgaged Properties" means each owned parcel of Real Estate listed on Schedule 7.22 and any property covered by a Mortgage pursuant to Section 7.22.

"Multi employer Plan" means a "multi employer plan" as defined in Section 4001(a)(3) of ERISA which is or was at any time during the current year or the immediately preceding six (6) years contributed to by any Loan Party or any ERISA Affiliate.

"Net Amount of Eligible Accounts" means, at any time, with respect to a Loan Party, the gross amount of Eligible Accounts of such Loan Party less sales, excise or similar taxes, and less (without duplication for any amounts excluded in the determination of Eligible Accounts of such Loan Party) returns, discounts, claims, credits (applied or unapplied), adjustments, allowances, accrued rebates, offsets, deductions, counterclaims, disputes and other defences of any nature at any time issued, owing, granted, outstanding, available or claimed.

"Net Orderly Liquidation Percentage" means, with respect to Inventory of a Loan Party at any time, the ratio (expressed as a percentage) computed by dividing (i) (x) if such percentage is being determined on the Effective Date or on any date prior to the first delivery of an Inventory Appraisal of such Loan Party's Inventory required pursuant to Section 14.19, the net recovery value of the Inventory of such Loan Party (which in any event shall give effect to all costs and expenses of liquidation), as set forth in the Inventory Appraisal of such Loan Party's Inventory delivered to the Agent prior to the Effective Date and (y) if such percentage is being determined on or after the date of the first delivery of an Inventory Appraisal of such Loan Party's Inventory required pursuant to Section 14.19, the net recovery value of the Inventory of such Loan Party (which in any event shall give effect to all costs and expenses of liquidation), as set forth in the Inventory Appraisal of such Loan Party's Inventory most recently delivered to the Agent pursuant to Section 14.19 by (ii) the value of the Inventory of such Loan Party, valued at cost, as set forth in the corresponding Inventory Appraisal.

"Net Orderly Liquidation Value" means, with respect to the Inventory of a Loan Party at any time, an amount equal to the product of (i) the value of the Inventory of such Loan Party at such time valued at the lower of cost (on a first-in, first-out basis) or market, multiplied by (ii) the Net Orderly Liquidation Percentage for such Loan Party in effect at such time.

"Net Proceeds" has the meaning specified in Section 3.3(a).

"Non-Consenting Lender" has the meaning specified in Section 11.1(b).

"Notice of Borrowing" means a Canadian Notice of Borrowing or a U.S. Notice of Borrowing, as appropriate.

"Notice of Continuation/Conversion" means a Canadian Notice of Continuation/Conversion or a U.S. Notice of Continuation/Conversion, as appropriate.

"Obligations" means all present and future loans, advances, liabilities, obligations, covenants, duties and debts owing by the Loan Parties to the Agent and/or any Lender, arising under or pursuant to this Agreement or any of the other Loan Documents, whether or not evidenced by any note or other instrument or document, whether arising from an extension of credit, opening of a letter of credit, acceptance, loan, guaranty, guarantee, indemnification or otherwise, whether direct or indirect, absolute, matured or contingent, due or to become due, now existing or hereafter arising, created or incurred, primary or secondary, as principal or guarantor and including without limitation all principal, interest, (including all interest that accrues after the commencement of any case or proceeding by or against a Loan Party under any federal, provincial or state bankruptcy, insolvency, receivership or similar law, whether or not allowed in such case proceeding), charges, expenses, fees, attorneys' fees, filing fees and any other sums, in each case, chargeable to any of the Loan Parties hereunder or under any of the other Loan Documents; provided that "Obligations" shall exclude all Excluded Swap Obligations. "Obligations" includes, without limitation and in any event, (a) all debts, liabilities and obligations now or hereafter arising from or in connection with Letters of Credit, (b) all debts, liabilities and obligations now or hereafter arising from or in connection with Bank Products, (c) the Guaranteed Obligations and (d) any Overdrafts any U.S. Overdrafts; provided that "Obligations" shall exclude all Excluded Swap Obligations.

"**OFAC**" means The Office of Foreign Assets Control of the United States Department of the Treasury.

"**Other Taxes**" means any present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or under any other Loan Document or from the execution, delivery or registration of, or otherwise with respect to, this Agreement or any other Loan Documents excluding Excluded Taxes.

"**Overdraft Accommodations**" means, collectively, the Canadian Overdraft Accommodation and the U.S. Overdraft Accommodation.

"**Overdrafts**" means the amounts, if any, by which any individual bank account maintained by the Canadian Borrower with Royal Bank is overdrawn or otherwise has a negative cash balance, whether in consequence of any electronic transfer or otherwise, but excludes any Canadian Overdraft Accommodations.

"**PACA**" means the Perishable Agriculture Commodities Act, 1930 and all regulations promulgated thereunder, as amended from time to time.

"**Participant**" means any Person who shall have been granted the right by any Lender to participate in the financing provided by such Lender under this Agreement, and who shall have entered into a participation agreement in form and substance satisfactory to such Lender.

"**PATRIOT Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

"**PBA**" means the *Pension Benefits Act* (Nova Scotia) and all regulations thereunder as amended from time to time and any successor legislation.

"**PBGC**" means the Pension Benefit Guaranty Corporation or any Governmental Authority succeeding to the functions thereof.

"**Pending Revolving Loans**" means, at any time, the aggregate principal amount of all Revolving Loans requested in any Notice of Borrowing received by the Agent which have not yet been advanced.

"**Pension Plan**" means any pension plan (including any Canadian Defined Benefit Pension Plan) that is subject to or registered under the PBA, or covered by other Canadian or provincial pension legislation including the *Income Tax Act* (Canada), or a pension plan (as defined in Section 3(2) of ERISA) that is subject to Title IV of ERISA Section 302 of ERISA, Section 412 of the Code or pension plan maintained in any non Canadian or U.S. jurisdiction or which any Loan Party or Target sponsors, maintains or to which it makes, is making or is obligated to make contributions, or has made contributions at any time during the immediately preceding six (6) plan years.

"Permitted Acquisition" means any Acquisition after the Effective Date, so long as the Agent shall have received evidence on or prior to the effective date of such Acquisition that each of the following conditions has been satisfied:

- (a) (A) the aggregate value of the consideration paid (including for greater certainty by the assumption of Debt) for any individual acquisition, consolidation, merger or amalgamation, and in the aggregate for all acquisitions, consolidations, mergers or amalgamations (i) in any calendar year, shall not exceed \$250,000,000, (ii) during the term of this Agreement, shall not exceed \$400,000,000 (inclusive of the aggregate amount of investments in joint ventures permitted in paragraph (o) of the definition of Permitted Investments), exclusive of amounts funded by equity or debt permitted hereunder, in either case raised to finance such transactions, without the prior written consent of the Required Lenders acting reasonably;
- (B) such Acquisition shall have been approved by the board of directors of the Person (or similar governing body if such Person is not a corporation) which is the subject of such Acquisition and such Person shall not have announced that it will oppose such Acquisition (unless such was withdrawn) or shall not have commenced any action which alleges that such Acquisition will violate Applicable Law; and
- (C) if the Acquisition is an Acquisition of Capital Stock, (i) a Loan Party shall acquire and own, directly or indirectly, a majority of the Capital Stock in the Person being acquired or (ii) shall control a majority of any voting interests or otherwise control the governance of the Person being acquired subject to any local jurisdictional ownership requirement;
- (b) no Default or Event of Default is in existence at the time of such Acquisition or would be caused thereby after giving effect thereto;
- (c) all representations and warranties shall be true and correct as if restated immediately following the consummation of such acquisition, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date;
- (d) substantially all of such business, assets and operations so acquired, or of the Person so acquired, consists of a line of business that is related, ancillary or complementary to the lines of business the Loan Parties were engaged in as at the Effective Date;
- (e) the Fixed Charge Coverage Ratio of the Canadian Borrower and its Subsidiaries, calculated as of the last day of the most recently completed month of the Canadian Borrower for which Financial Statements have been delivered pursuant to Section 5.2(c), calculated on a pro forma basis after giving effect to such Acquisition and all transactions related thereto and any Fixed Charges incurred or assumed in connection therewith, shall be greater than *;
- (f) Adjusted Aggregate Availability of the Canadian Borrower and its Subsidiaries, for the thirty (30) days prior to such Acquisition and, calculated on a pro forma basis, after giving effect to such Acquisition, shall, in the case of any Acquisition where the aggregate

[* Ratio Redacted]

consideration paid (as determined in accordance with subparagraph (a) of this definition, which shall include, for greater certainty, any such Acquisition) (x) (i) in any calendar year does not exceed \$50,000,000, and (ii) during the term of this Agreement does not exceed \$200,000,000, not be less than the greater of (1) \$15,000,000 and (2) an amount equal to 8% of the lesser of (aa) the Maximum Revolver Amount, and (bb) the Aggregate Borrowing Base, and (y) (i) in any calendar year does not exceed \$250,000,000, and (ii) during the term of this Agreement does not exceed \$400,000,000, not be less than the greater of (1) \$31,500,000 and (2) an amount equal to 17.5% of the lesser of (aa) the Maximum Revolver Amount, and (bb) the Aggregate Borrowing Base;

(g) the Agent has received at least thirty (30) days' prior written notice of such acquisition (or such shorter period as the Agent may agree) and, as soon as available and in any event at least three (3) Business Days (or such shorter period as the Agent may agree) prior to the consummation of such acquisition, copies of substantially final drafts of all agreements delivered in connection therewith, and prior to the actual closing, marked copies of changed pages to such agreements;

(h) Agent has received a certificate from the Canadian Borrower's chief financial officer or other financial officer (in such Person's capacity as such) certifying that all of the applicable conditions contained herein to treating such acquisition as a Permitted Acquisition have been satisfied; and

(i) such acquisition is consummated in compliance with all material Requirements of Law. In addition to all other eligibility criteria provided for under the Agreement, it is agreed and understood that in no event shall any Accounts or Inventory acquired in connection with a Permitted Acquisition be deemed eligible for advance hereunder unless and until, and notwithstanding Section 7.22 hereof, (i) such new Subsidiary promptly becomes a Guarantor hereunder and executes and delivers a Guarantor Adhesion Agreement (in the form attached as Exhibit H) and executes a Security Agreement and any other applicable Security Documents or Loan Documents required by the Agent and the applicable UCC/PPSA registrations are conducted and registered, (ii) such Loan Party and such Subsidiary shall have delivered or caused to be delivered to the Agent legal opinions and other documents relating to matters described in this clause (i) above, which opinions and other documents shall be in form and substance, and (in the case of legal opinions) from counsel, reasonably satisfactory to the Agent, and (iii) the Agent has completed (at the Loan Parties' expense) a collateral audit and appraisal of any such property so acquired.

"Permitted Investments" means:

(a) acquisitions of Fixed Assets to be used in the business of any Loan Party so long as of the acquisition costs thereof constitute Capital Expenditures, they are not prohibited hereunder;

(b) acquisitions of Inventory, supplies, other current assets and expenditures or investments in the ordinary course of business that would be accounted for as expenses and not required to be capitalized under GAAP;

(c) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and supplies, in each case in the ordinary course of business;

(d) extensions of trade credit in the ordinary course of business;

(e) investments made as a result of the receipt of non-cash consideration from a Disposition made in compliance with Section 7.11;

(f) investments made by any Person that becomes a Subsidiary after the date hereof; provided that such Investment exists at the time such Person becomes a Subsidiary and are not made in contemplation of or in connection with such Person becoming a Subsidiary;

(g) loans and advances made in the ordinary course of business to their respective employees so long as the aggregate principal amount thereof at any time outstanding (excluding employee credit cards for expenses relating to the business of the Loan Parties, temporary advances for payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and which are made in the ordinary course of business) shall not exceed \$500,000;

(h) investments existing on the Effective Date and identified on Schedule 7.12;

(i) investments consisting of intercompany loans among the Loan Parties or equity or other investments by one Loan Party in another Loan Party;

(j) Hedge Agreements entered into in the ordinary course of business and not for speculative purposes;

(k) investments in Cash Equivalents:

(l) investments received as part of the consideration received in connection with any Disposition not prohibited under Section 7.11;

(m) any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits, in each case made in the ordinary course of business by any Loan Party;

(n) investments in and/or otherwise constituting Permitted Acquisitions;

(o) subject to the restrictions hereof (including Affiliate transactions in Section 7.17), investments in any Excluded Subsidiary or any line of business (that is related, ancillary or complementary to the lines of business the Loan Parties were engaged in as at the Effective Date) venture, by a Loan Party so long as the aggregate amount outstanding of all such investments does not exceed (x) \$100,000,000 with respect to all Excluded Subsidiaries (other than Rubicon Resources), and (y) \$10,000,000 at any one time outstanding with respect to Rubicon Resources (so long as it is an Excluded Subsidiary); provided, however, that at the time of making such investment (i) there shall be no Default or Event of Default in existence at the time of such investment or would be caused thereby after giving effect thereto, (ii) Adjusted Aggregate Availability of the Canadian Borrower and its Subsidiaries, for the thirty (30) days

prior to such investment and, calculated on a pro forma basis, after giving effect to such investment, shall not be less than the greater of (1) \$31,500,000 and (2) an amount equal to 17.5% of the lesser of (aa) the Maximum Revolver Amount, and (bb) the Aggregate Borrowing Base, and (iii) the Fixed Charge Coverage Ratio of the Canadian Borrower and its Subsidiaries, calculated as of the last day of the most recently completed month of the Canadian Borrower for which Financial Statements have been delivered pursuant to Section 5.2(c), calculated on a pro forma basis after giving effect to such investment and all transactions related thereto and any Fixed Charges incurred or assumed in connection therewith, shall be greater than * ;

(p) prepayments to sellers of inventory in the ordinary course of business; and

(q) an investment acquired by a Loan Party in order to secure an obligation of such Loan Party with respect to any Supplemental Executive Retirement Plan existing as of the Effective Date for any current or former employee of such Loan Party provided that the principal amount of any such investment shall reduce on a dollar-for-dollar basis any Letter of Credit issued as security for such Supplemental Executive Retirement Plan.

"Permitted Liens" means:

(a) Liens for taxes, assessments, charges or other governmental levies not delinquent or statutory Liens for taxes, assessments, charges or other governmental levies not delinquent; provided that the payment of such taxes, assessments, charges or other governmental levies under this clause (a) which are due and payable is being contested in good faith and by appropriate proceedings diligently pursued and as to which adequate financial reserves have been established on the applicable Loan Party's books and records and a stay of enforcement of any such Lien is in effect;

(b) the Agent's Liens;

(c) Liens consisting of deposits made in the ordinary course of business in connection with, or to secure payment of, obligations under worker's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of Debt) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of Debt) or to secure statutory obligations (other than (x) liens arising under ERISA or Canadian federal or provincial statutes in relation to pension plans or any other applicable employee benefit plan law or (y) Environmental Liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds;

(d) Liens securing the claims or demands of materialmen, mechanics, carriers, warehousemen, landlords and other like Persons incurred in the ordinary course of business and not delinquent;

(e) Liens constituting encumbrances in the nature of reservations, exceptions, zoning restrictions, encroachments, easements, rights of way, covenants running with the land and other similar title exceptions or encumbrances affecting any Real Estate;

(f) Liens arising from judgments and attachments in connection with court proceedings provided that the attachment or enforcement of such Liens would not result in an

[* Ratio Redated]

Event of Default hereunder and such Liens are being contested in good faith by appropriate proceedings, adequate reserves have been set aside and no material assets or property of the Canadian Borrower or any other Loan Party is subject to a material risk of loss or forfeiture and the claims in respect of such Liens are fully covered by insurance (subject to ordinary and customary deductibles) and a stay of execution pending appeal or proceeding for review is in effect;

(g) Liens in effect as of the Effective Date described in Schedule 7.15 securing Debt described in Schedule 7.15;

(h) Liens on Fixed Assets securing Capital Leases and purchase money Debt, in each instance, permitted in Section 7.15;

(i) Liens in respect of the Term Loan Facility (subject to the Intercreditor Agreement).

(j) the extension or renewal of any Lien permitted by clause (g) of this definition; provided, that (x) such Lien shall at no time be extended or renewed to cover any assets or property other than such assets or property existing on the Effective Date subject to the Lien being extended or renewed and (y) the Debt secured by such Lien is permitted under this Agreement;

(k) Liens on amounts deposited in connection with obtaining worker's compensation or other unemployment insurance or to secure obligations to a utility when required by such utility in connection with the operations of Borrower or its Subsidiaries;

(l) Liens on amounts deposited in connection with the making or entering into of bids, tenders, or leases in the ordinary course of business;

(m) Liens arising as of a matter of law, such as bankers and other similar statutory liens and other rights of offset, in connection with deposit, securities, or commodities accounts in the ordinary course of business;

(n) Liens consisting of reclamation rights and similar statutory rights arising as a matter of applicable law in favour of the seller of goods to any Loan Party so long as such Liens secure only the purchase price of and apply only to the goods or other property sold;

(o) Liens on amounts deposited as security for surety or appeal bonds in connection with obtaining such bonds in the ordinary course of business;

(p) Liens existing on property or assets prior to the acquisition thereof by any Loan Party in a Permitted Acquisition if such Lien was not incurred in contemplation of the acquisition of such asset and does not extend to any other assets or property of such Loan Party and liens on funds on deposit or escrow in connection with a Permitted Acquisition; and

(q) Liens consisting of claims under PACA.

"Person" means any individual, sole proprietorship, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, trust, unincorporated organization, association, corporation, Governmental Authority or any other entity.

"Plan" means an employee benefit plan (or employee pension benefit plan) which any Loan Party or Target sponsors or maintains or to which any Loan Party makes, is making or is obligated to make contributions and includes any Pension Plan.

"PPSA" means the *Personal Property Security Act* (Nova Scotia) (or any successor statute) or similar legislation of any other jurisdiction the laws of which are required by such legislation to be applied in connection with the issue, perfection, enforcement, validity or effect of security interests and includes all regulations thereunder.

"Preferred Stock", as applied to the Capital Stock of any corporation, shall mean Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such corporation, over shares of Capital Stock of any other class of such corporation.

"Priority Payables" means any amounts due and not paid for wages and vacation pay (including amounts protected by the *Wage Earner Protection Program Act* (Canada)), severance pay, amounts due and not paid under any legislation relating to workers' compensation or to employment insurance, all amounts deducted or withheld and not paid and remitted when due under the *Income Tax Act* (Canada), sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of GST input credits) or similar applicable provincial legislation, government royalties, amounts currently or past due and not paid for realty, municipal or similar taxes (to the extent impacting personal or movable property) and all unfunded solvency deficiency amounts under, and all amounts currently or past due and not contributed, remitted or paid to, any Plan or under the Canada Pension Plan or the PBA or the *Pensions Benefit Act* (Newfoundland and Labrador) or the *Pensions Benefit Act* (Ontario), or any similar statutory or other claims that would have or would reasonably be expected to have priority over any Liens granted to the Agent in the future.

"Proceeds of Crime Act" means Proceeds of Crime (Money Laundering) and *Terrorist Financing Act* (Canada) (or any successor statute), as amended from time to time, and includes all regulations thereunder.

"Proprietary Rights" means, with respect to a Loan Party, all of such Loan Party's now owned and hereafter arising or acquired: patents, patent rights, copyrights, works which are the subject matter of copyrights, trademarks, service marks, trade names, trade styles, patent, trademark and service mark applications, and all licenses (to the extent sublicenseable) and rights related to any of the foregoing, including those patents, trademarks, service marks, trade names and copyrights set forth on Schedule 6.12 hereto, and all other rights under any of the foregoing, all extensions, renewals, reissues, divisions, continuations, and continuations in part of any of the foregoing.

"Pro Rata Share" means (a) in the context solely of the revolving line of credit provided to the Canadian Borrower, means, with respect to a Lender at any time, a fraction (expressed as a percentage), the numerator of which is the amount of such Lender's Canadian Revolving Credit

Commitment at such time and the denominator of which is the sum of the amounts of all of the Lenders' Canadian Revolving Credit Commitments at such time, or if no Canadian Revolving Credit Commitments are outstanding at such time, a fraction (expressed as a percentage), the numerator of which is the amount of Obligations (other than any Obligations under Bank Products) owed to such Lender at such time with respect to the revolving line of credit provided hereunder to the Canadian Borrower and the denominator of which is the aggregate amount of the Obligations (other than any Obligations under Bank Products) owed to all Lenders at such time with respect to the revolving line of credit provided hereunder to the Canadian Borrower, and (b) in the context solely of the revolving line of credit provided hereunder to the U.S. Borrower means, with respect to a Lender at any time, a fraction (expressed as a percentage), the numerator of which is the amount of such Lender's U.S. Revolving Credit Commitment at such time and the denominator of which is the sum of the amounts of all of the Lenders' U.S. Revolving Credit Commitments at such time, or if no U.S. Revolving Credit Commitments are outstanding at such time, a fraction (expressed as a percentage), the numerator of which is the amount of Obligations (other than any Obligations under Bank Products) owed to such Lender at such time with respect to the revolving line of credit provided hereunder to the U.S. Borrower and the denominator of which is the aggregate amount of the Obligations (other than any Obligations under Bank Products) owed to all Lenders at such time with respect to the revolving line of credit provided hereunder to the U.S. Borrower, and (c) in the context of the Total Facility means, with respect to a Lender at any time, a fraction (expressed as a percentage), the numerator of which is the sum of such Lender's Canadian Revolving Credit Commitment at such time plus its U.S. Revolving Credit Commitment at such time and the denominator of which is the sum of the amounts of all of the Lenders' Commitments at such time, or if no such Canadian Revolving Credit Commitments or U.S. Revolving Credit Commitments are outstanding at such time, a fraction (expressed as a percentage), the numerator of which is the amount of Obligations (other than Obligations under Bank Products) owed to such Lender at such time, and the denominator of which is the aggregate amount of the Obligations (other than any Obligations under Bank Products) owed to all Lenders at such time.

"Qualified ECP Guarantor" shall mean, at any time, each Loan Party with total assets exceeding \$10,000,000 or that qualifies at such time as an "eligible contract participant" under the Commodity Exchange Act and can cause another person to qualify as an "eligible contract participant" at such time under §1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Real Estate" means all of each Loan Party's now or hereafter owned or leased estates in real property, including, without limitation, all fees, leaseholds and future interests, together with all of each Loan Party's now or hereafter owned or leased interests in the improvements thereon, the fixtures attached thereto and the easements appurtenant thereto.

"Receipt Account" means each Canadian and U.S. bank account subject to a Blocked Account Agreement, to which the proceeds of Accounts and other Collateral are deposited or credited and which is maintained in the name of the Agent or the applicable Loan Party, as the Agent may determine, on terms acceptable to the Agent.

"Release" means a release, spill, emission, leaking, pumping, pouring, emptying, injection, disposal, discharge, escaping, dumping or leaching of a Contaminant into the environment.

"Replacement Lender" shall have the meaning specified in Section 11.3.

"Report" shall have the meaning specified in Section 12.19.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA or the regulations thereunder, other than any such event for which the 30 day notice requirement under ERISA has been waived in regulations issued by the PBGC.

"Required Lenders" means at any time Lenders whose Pro Rata Shares in respect of the Total Facility aggregate more than 66^{2/3}% provided, that so long as there are only two Lenders, "Required Lenders" means both of such Lenders.

"Requirement of Law" means, as to any Person, any law (statutory or common), treaty, rule or regulation or determination of an arbitrator, court of law or of a Governmental Authority, in each case applicable to or binding upon the Person or any of its property or to which the Person or any of its property is subject.

"Reserves" means reserves that limit the availability of credit hereunder, consisting of reserves against the Canadian Borrowing Base or the U.S. Borrowing Base (and, in the case of clause (i) below only, against Canadian Availability and U.S. Availability), in each instance, established by the Agent from time to time in the Agent's reasonable credit judgment, without duplication, and in each case to the extent not already taken into account in the calculation of the applicable Borrowing Base. Without limiting the generality of the foregoing, the following reserves shall be deemed to be a reasonable exercise of the Agent's credit judgment: (x), (a) a reserve for accrued, unpaid interest then due on the Obligations, (b) reserves for rent at a leased, warehouse or bailment location for which the Agent has not received a collateral access or similar agreement, which reserve shall be in an amount equal to the lesser of (i) 3 months' rent or (ii) applicable Availability provided by the Eligible Inventory at such location, and reserves for other statutory liens (including, without limitation, for liens arising from the nonpayment of claims or demands when due permitted in clause (c) of the defined term Permitted Liens), (d) Inventory shrinkage reserves and Inventory cost test reserves, (d) reserves for taxes, assessments, charges and other governmental levies which are delinquent, (e) customs and freight charges relating to transportation of Inventory, (f) royalty reserves, if any, on brands or other Proprietary Rights relating to Inventory, (g) \$2,000 per Canadian employee and (y)(a) as a result of negative forecasts and/or trends in a Loan Party's business, industry, profits, operations or financial condition, (b) other issues, circumstances or facts that could otherwise negatively impact a Loan Party, its business, profits, operations, industry, financial condition or assets, (c) lease payments or similar charges to ensure unfettered access to the Collateral, (d) any claim or Lien, against any part of the Collateral which may be in priority to the Agent, (e) any credit memos which have not yet been issued, (f) debit memos, (g) dilution of Accounts, (h) based on the Agent's reasonable assessment in respect of those (i) suppliers the Agent has identified would be likely to exercise unpaid seller's thirty (30) day goods rights to repossess goods or revendication rights, (ii) fishermen, farmers or aquaculturists who would be likely to exercise their rights pursuant to Section 81.2 of the *Bankruptcy and Insolvency Act* (Canada), (i) any Inventory value adjustments as may be required by the Agent or the Lenders from time to time to reflect an Inventory value of the lower of cost or market in accordance with GAAP (without duplication to the calculation of the Borrowing Base), (j) of any indemnity granted by the Agent or the Lenders to any Person in connection with the depository and blocked account arrangements contemplated by the Loan

Documents, (k) additionally as regards to the Canadian Borrower, reserves established by the Agent for amounts payable by the Canadian Borrower and secured by any Liens, choate or inchoate, which rank or which would reasonably be expected to rank in priority to the Agent's and/or Lenders' Liens and/or for amounts which represent costs relating to the enforcement of the Agent's Liens including, without limitation, in connection with Priority Payables, (l) payables to vendors entitled to the benefits of PACA, and (m) Hedging Reserves.

"Responsible Officer" means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or a vice president of finance, corporate controller of a Loan Party or any other authorized officer; or, with respect to compliance with financial covenants and the preparation of the Borrowing Base Certificate of a Borrower, the chief financial officer, the treasurer, assistant treasurer or a vice president of finance of such Borrower or any other officer having substantially the same authority and responsibility.

"Revolving Credit Commitment" means the collective reference to the Canadian Revolving Credit Commitment and the U.S. Revolving Credit Commitment.

"Revolving Loans" means the collective reference to the Canadian Revolving Loans and the U.S. Revolving Loans.

"Royal Bank" means Royal Bank of Canada.

"Rubicon Resources" means, Rubicon Resources, LLC, a Delaware limited liability company.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the United Nations Security Council, (c) the Government of Canada, or (d) any other Governmental Authority with jurisdiction over any Lender or any Loan Party or any of their respective Subsidiaries or Affiliates.

"Secured Parties" or **"Secured Party"** has the meaning specified in Section 12.1 and includes, without limiting such meaning in Section 12.1, (i) the Agent, (ii) each Lender and each Affiliate of a Lender who is a counterparty to a Hedge Agreement, and (iii) each former Lender and each Affiliate of such former Lender who is a counterparty to a Hedge Agreement issued while such former Lender was a Lender hereunder.

"Securities Act" shall mean the *U.S. Federal Securities Act* of 1933, as amended, and the rules and regulations promulgated thereunder.

"Security Documents" means the U.S. Security Agreement, the Canadian Security Agreement and any other agreement entered into by any Loan Party pursuant to which the Agent has been granted a Lien to secure any or all of the Obligations of any Borrower or of any Guarantor or pursuant to which any Loan Party reaffirms its grant of security interests under any then-existing Security Documents.

"Seller" has the meaning specified in the Recitals to this Agreement.

"**Solidary**" as used herein shall be read and interpreted in accordance with the Civil Code of Quebec.

"**Solvent**" means, when used with respect to any Person, that at the time of determination:

(a) the assets of such Person, at a fair valuation, are in excess of the total amount of its debts (including contingent liabilities); and

(b) the present fair saleable value of its assets is greater than its probable liability on its existing debts as such debts become absolute and matured; and

(c) it is then able and expects to be able to pay its debts (including contingent debts and other commitments) as they mature; and

(d) it has capital sufficient to carry on its business as conducted and as proposed to be conducted.

For purposes of determining whether a Person is Solvent, the amount of any contingent liability shall be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability of such Person.

"**Specified Loan Party**" means any Loan Party that is not an "eligible contract participant" under the Commodity Exchange Act (determined prior to giving effect to Section 13.8).

"**Stated Termination Date**" means April 24, 2023.

"**Subordinated Debt**" means unsecured Debt subordinated to the Agent and Lenders on terms and pursuant to agreements acceptable to the Agent and Lenders in their discretion.

"**Subsidiary**" of a Person means any corporation, association, partnership, limited liability company, joint venture or other business entity of which more than fifty percent (50%) of the voting stock or other voting equity interests (in the case of Persons other than corporations), is owned or controlled directly or indirectly, by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof. Unless the context otherwise clearly requires, references herein to a "Subsidiary" refer to a Subsidiary of the Canadian Borrower.

"**Supporting Letter of Credit**" has the meaning specified in Section 1.4(g).

"**Swap Obligations**" means with respect to any Guarantor any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"**Target Eligibility Effective Date**" has the meaning given to such term in the First Amendment.

"**Taxes**" means any and all present or future taxes, levies, imposts, deductions, charges or withholdings (including backup withholding), and all liabilities with respect thereto including penalties and interest, imposed by a Governmental Authority.

"Term Loan Agreement" means that certain Amended and Restated Term Loan Agreement dated as of the date hereof by and among, amongst others, the Canadian Borrower, as borrower, the Term Loan Facility Agents and the lenders party thereto.

"Term Loan Facility" means the term loan facility established pursuant to the Term Loan Agreement with a principal balance outstanding, as of the Effective Date, of U.S.\$300,000,000, as amended, notified, restated or supplemented from time to time to the extent permitted by the Intercreditor Agreement.

"Term Loan Facility Agent" means the Royal Bank of Canada as administrative and collateral agent for the lenders under the Term Loan Agreement.

"Termination Date" means the earliest to occur of (i) the Stated Termination Date, (ii) the date that is 90 days prior to the maturity date of the Term Loan Facility, (iii) the date the Total Facility is terminated either by the Borrowers pursuant to Section 3.2 or by the Required Lenders pursuant to Section 9.2, and (iv) the date this Agreement is otherwise terminated for any reason whatsoever pursuant to the terms of this Agreement.

"Termination Event" means (a) the whole or partial withdrawal of the Canadian Borrower or any Canadian Loan Party from a Pension Plan during a plan year; or (b) the filing of a notice of interest to terminate in whole or in part a Pension Plan or the treatment of a Pension Plan amendment as a termination of partial termination; or (c) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee appointed to administer a Pension Plan; or (d) any other event or condition which might constitute grounds for the termination of, winding up or partial termination of winding up or the appointment of trustee to administer, any Pension Plan;

"Total Facility" has the meaning specified in Section 1.1.

"Transactions" means the execution and delivery of this Agreement and the Term Loan Agreement on the date hereof and related transactions (including the payment of fees and expenses in connection herewith and therewith).

"Transfer" has the meaning specified in Section 7.11.

"UCC" means the Uniform Commercial Code, as in effect from time to time, of the State of New York or of any other state the laws of which are required as a result thereof to be applied in connection with the issue of perfection or nonperfection or priority of security interests, provided, that to the extent that the UCC is used to define any term herein or in any other documents and such term is defined differently in different Articles or Divisions of the UCC, the definition of such term contained in Article or Division 9 of the applicable UCC shall govern.

"Unfunded Pension Liability" means the excess of a Plan's projected benefit obligation, as defined in SFAS No. 87, over the market value of that Plan's assets and also includes any unfunded liability or solvency deficiency as determined for the purposes of the PBA or other applicable laws.

"Unused Canadian Letter of Credit Subfacility" means, at any time, an amount equal to the Canadian Letter of Credit Subfacility at such time minus the sum of (a) the aggregate

undrawn amount of all outstanding Canadian Letters of Credit issued under the Canadian Direct LC Accommodation plus, without duplication, (b) the aggregate unpaid reimbursement obligations with respect to all Canadian Letters of Credit issued under the Canadian Direct LC Accommodation.

"Unused Canadian Online LC Accommodation" means, at any time, an amount equal to the Canadian Online LC Accommodation Maximum Amount at such time minus the sum of (a) the aggregate undrawn amount of all outstanding Canadian Letters of Credit issued under the Canadian Online LC Accommodation, plus, without duplication, (b) the aggregate unpaid reimbursement obligations with respect to all Canadian Letters of Credit issued under the Canadian Online LC Accommodation.

"Unused Line Fees" means a collective reference to the Canadian Unused Line Fee and the U.S. Unused Line Fee.

"Unused U.S. Letter of Credit Subfacility" means, at any time, an amount equal to the U.S. Letter of Credit Subfacility at such time minus the sum of (a) the aggregate undrawn amount of all outstanding U.S. Letters of Credit issued under the U.S. Direct LC Accommodation plus, without duplication, (b) the aggregate unpaid reimbursement obligations with respect to all U.S. Letters of Credit issued under the U.S. Direct LC Accommodation.

"Unused U.S. Online LC Accommodation" means, at any time, an amount equal to the U.S. Online LC Accommodation Maximum Amount at such time minus the sum of (a) the aggregate undrawn amount of all outstanding U.S. Letters of Credit issued under the U.S. Online LC Accommodation, plus, without duplication, (b) the aggregate unpaid reimbursement obligations with respect to all U.S. Letters of Credit issued under the U.S. Online LC Accommodation.

"U.S. Accounts" means the Accounts of the U.S. Loan Parties.

"U.S. Agent Advances" has the meaning specified in Section 1.3(i).

"U.S. Availability" means at any time (a) the lesser of (x) the Maximum U.S. Revolver Amount and (y) the sum of (i) the U.S. Borrowing Base, plus (ii) solely to the extent the Aggregate U.S. Revolver Outstandings exceeds the U.S. Borrowing Base, the Canadian Availability (if any, to the extent that it is available) and up to a maximum aggregate amount of \$25,000,000 minus (b) Reserves established with respect to the U.S. Loan Parties (other than Reserves deducted in the calculation of the U.S. Borrowing Base), minus (c) the Aggregate U.S. Revolver Outstandings (excluding the aggregate unpaid principal balance of all U.S. Overdraft Accommodations) at such time relating to extensions of credit made (or, in the case of Pending Revolving Loans, to be made to or for the account of any U.S. Borrower) minus (d) the U.S. Online LC Accommodation Maximum Amount, minus (e) the U.S. Overdraft Accommodation Maximum Amount, minus (f) the Canadian U.S. Borrowing Base Utilization.

"U.S. Borrower" means, prior to the Permitted Merger, High Liner Foods (USA), Incorporated. and, subsequent to the Permitted Merger, U.S. Mergeco.

"U.S. Borrowing Base" means, with respect to the U.S. Borrowers, at any time, an amount equal to (a) the sum of up to (A) (i) * %) of the Net Amount of

[* Percentage Redacted]

Eligible Accounts of the U.S. Borrowers that are not Eligible Accounts set forth in (a)(A)(ii) and (iii) of this definition, (ii) * %) of the Net Amount of Eligible Accounts that are (x) Letter of Credit Eligible Accounts of the U.S. Borrowers or (y) Eligible Accounts of the U.S. Borrowers insured on terms, and by insurance providers, satisfactory to the Agent in its discretion, both of which are not Investment Grade Eligible Accounts, (iii) * %) of the Net Amount of Eligible Accounts of the U.S. Borrowers that are Investment Grade Eligible Accounts, and (iv) * %) of Eligible Cash Equivalents of the U.S. Borrowers; plus (B) the least of (i) * %) of the value of Eligible Inventory of the U.S. Borrowers valued at cost (on a first in, first out basis), (ii) * %) of the Net Orderly Liquidation Value of Eligible Inventory of the U.S. Borrowers, and (iii) the Inventory Maximum; minus (b) Reserves from time to time established by the Agent in its reasonable credit judgment with respect to the U.S. Loan Parties.

"U.S. Canadian Borrowing Base Utilization" means the excess of (a) the total Aggregate U.S. Revolver Outstandings of the U.S. Lenders, minus (b) the U.S. Borrowing Base.

"U.S. Cash Management Provider" has the meaning specified in Section 1.5.

"U.S. Continuation/Conversion Date" means the date on which a U.S. Revolving Loan is converted into or continued as a LIBOR Revolving Loan.

"U.S. Credit Support" has the meaning specified in Section 1.4(a)(ii).

"U.S. Designated Account" has the meaning specified in Section 1.3(c).

"U.S. Dollar" or **"U.S.\$"** or **"\$"** or **"Dollars"** mean dollars in the lawful currency of the United States.

"U.S. Lender" means each Lender that has a U.S. Revolving Credit Commitment or that holds a U.S. Revolving Loan or is a participant in a U.S. Letter of Credit or U.S. Credit Support.

"U.S. Letter of Credit" has the meaning specified in Section 1.4(a)(ii).

"U.S. Letter of Credit Fee" has the meaning specified in Section 2.6.

"U.S. Letter of Credit Issuer" means JPMorgan Chase Bank, N.A., or any other financial institution that issues any U.S. Letter of Credit pursuant to this Agreement.

"U.S. Letter of Credit Subfacility" means, in respect of the U.S. Direct LC Accommodation, the Equivalent Amount in U.S. Dollars of \$10,000,000.

"U.S. Loan Parties" means, collectively, all Loan Parties that are organized under the laws of a jurisdiction of the United States of America or any State thereof or the District of Columbia, and **"US Loan Party"** means any one of them.

"U.S. Notice of Borrowing" has the meaning specified in Section 1.3(b)(i).

"U.S. Notice of Continuation/Conversion" has the meaning specified in Section 2.2(b).

"U.S. Online LC Accommodation" has the meaning specified in Section 1.4(a)(ii).

"U.S. Online LC Accommodation Maximum Amount" means \$5,000,000, as such amount may be increased or decreased, as applicable, in accordance with Section 1.6.

"U.S. Overdrafts" means the amounts, if any, by which any individual bank account maintained by the U.S. Borrower with the U.S. Cash Management Provider is overdrawn or otherwise has a negative cash balance, whether in consequence of any electronic transfer or otherwise, but excludes any U.S. Overdraft Accommodations.

"U.S. Overdraft Accommodation" has the meaning specified in Section 1.3(j).

"U.S. Overdraft Accommodation Maximum Amount" means \$5,000,000, as such amount may be increased or decreased, as applicable, in accordance with Section 1.6.

"U.S. Prime Rate" means, for any day, the rate of interest per annum equal to the greater of (i) the rate determined by the Bank from time to time as its prime commercial lending rate for U.S. Dollar loans in the United States for such day (ii) * % per annum above the Federal Funds Rate and (iii) the then-current rate applicable to one-month LIBOR Loans (determined after giving effect to any floor applicable pursuant to the definition thereof) plus * % per annum. Such rate is not necessarily the lowest rate that the Agent is charging any corporate customer. Any change in the prime rate determined by the Agent shall take effect at the opening of business on the date of such determination. Each interest rate based upon the U.S. Prime Rate shall be adjusted simultaneously with any change in the U.S. Prime Rate.

"U.S. Prime Rate Revolving Loan" means a U.S. Revolving Loan during any period in which it bears interest based on the U.S. Prime Rate.

"U.S. Revolving Credit Commitment" means, as to any Lender, the obligation of such Lender, if any, to make U.S. Revolving Loans and participate in U.S. Letters of Credit in an aggregate principal and/or face amount not to exceed the amount set forth under the heading "U.S. Revolving Credit Commitment" opposite such Lender's name on Schedule 1.2 or in the Assignment and Acceptance pursuant to which such Lender became a party hereto, as the same may be changed from time to time pursuant to the terms hereof.

"U.S. Revolving Loan Settlement" have the meanings specified in Section 12.15(a)(i).

"U.S. Revolving Loan Settlement Date" have the meanings specified in Section 12.15(a)(i).

"U.S. Revolving Loans" has the meaning specified in Section 1.3 and includes each U.S. Agent Advance and each U.S. Overdraft Accommodation.

"U.S. Security Agreement" means the amended and restated general security agreement, dated as of the date hereof among the U.S. Loan Parties and the Agent for the benefit of the Agent and the Lenders.

"U.S. Security Documents" means the U.S. Security Agreement and any other agreement entered into by one or more Loan Parties pursuant to which the Agent has been granted a Lien to secure any or all of the Obligations of such Loan Parties.

[* Percentage Redacted]

"**U.S. Unused Line Fee**" has the meaning specified in Section 2.5(a).

"**Voting Stock**" of a corporation shall mean all classes of Capital Stock of such corporation then outstanding and normally entitled to vote in the election of directors.

"**Weighted Average Life to Maturity**" means, when applied to any Debt, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Debt multiplied by the amount of such payment, by (2) the sum of all such payments.

"**Wholly Owned Loan Party**" means a wholly owned direct or indirect Subsidiary of the Canadian Borrower that is a Loan Party.

"**Write-Down and Conversion Powers**" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule

Accounting Terms. Any accounting term used in this Agreement shall have, unless otherwise specifically provided herein, the meaning customarily given in accordance with GAAP, and all financial computations in this Agreement shall be computed, unless otherwise specifically provided therein, in accordance with GAAP as consistently applied and using the same method for inventory valuation as used in the preparation of the Financial Statements.

Interpretive Provisions.

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words "hereof," "herein," "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and Subsection, Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.
- (c)
 - (i) The term "documents" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced.
 - (ii) The term "including" is not limiting and means "including without limitation."
 - (iii) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including," the words "to" and "until" each mean "to but excluding" and the word "through" means "to and including."

- (d) Any reference made in this Agreement to “Agent”, “Agent” or “Lender” shall so be construed as to include its successors and permitted assigns.
- (e) Any reference made in this Agreement to a time of day is, unless otherwise stated, a reference to Toronto time.
- (f) Any reference made in this Agreement to Sections, Articles, Exhibits or Schedules is, unless otherwise indicated, a reference to Sections and Articles of this Agreement and to Exhibits and Schedules to this Agreement, as the case may be. The provisions of each Exhibit and Schedule shall constitute provisions of this Agreement as though repeated at length herein.
- (g) Any reference made in this Agreement to a “fiscal quarter” means, in relation to a Loan Party, one of the four (4) consecutive periods in each Fiscal Year each of thirteen (13) weeks in duration (as adjusted for leap years).
- (h) In this Agreement, (a) the singular includes the plural and vice versa, (b) “in writing” or “written” includes printing, typewriting, or any electronic means of communication capable of being visibly reproduced at the point of reception, including telex, telecopy and telegraph, (c) the headings, the table of contents, the Articles and the Sections are inserted for convenience only and are to be ignored in construing this Agreement, (d) a document, notice, note, bill of exchange or other instrument shall be deemed to have been validly signed and executed if it has been signed by either an original signature or a facsimile signature or stamp, and (e) all references to amounts of money shall, unless otherwise indicated, be references to Dollars.
- (i) All references to parties herein shall unless otherwise expressly provided, include each such party’s successors and permitted assigns.
- (j) For the purpose of determining compliance with covenant and default limitations set forth in the Agreement, amounts expressed in Dollars shall be measured by aggregating the applicable items denominated in Dollars with the Equivalent Amounts expressed in Dollars of such items denominated in Canadian Dollars.
- (k) Unless otherwise expressly provided herein, (i) references to agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent such amendments and other modifications are not prohibited by the terms of this Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting the statute or regulation.
- (l) In addition, (x) the Dodd–Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173), all laws in respect thereto, all interpretations and applications thereof and any compliance by a Lender with any request or directive relating thereto and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign

regulatory authorities, in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to be adopted subsequent to the Effective Date.

- (m) The captions and headings of this Agreement and other Loan Documents are for convenience of reference only and shall not affect the interpretation of this Agreement.
- (n) This Agreement and the other Loan Documents are the result of negotiations among and have been reviewed by counsel to the Agent, the Loan Parties and the other parties hereto, and are the products of all parties. Accordingly, they shall not be construed against the Lenders or the Agent merely because of the Agent's or Lenders' involvement in their preparation.
- (o) Unless otherwise expressly stated herein, wherever in this Agreement reference is made to a rate of interest or fee "per annum" or a similar expression is used, such interest or fee will be calculated on the basis of a calendar year of three hundred and sixty (360) days. All payments of interest to be made hereunder will be paid both before and after maturity and before and after default and/or judgment, if any, until payment thereof, and interest will accrue on overdue interest, if any.
- (p) All Canadian Revolving Loans (other than Canadian Base Rate Revolving Loans and Canadian Revolving Loans that are LIBOR Revolving Loans) shall be made and denominated in Canadian Dollars and all Canadian Base Rate Revolving Loans and Canadian Revolving Loans that are LIBOR Revolving Loans shall be made and denominated in U.S. Dollars. All U.S. Revolving Loans shall be made and denominated in U.S. Dollars. Canadian Revolving Loans (other than Canadian Base Rate Revolving Loans and Canadian Revolving Loans that are LIBOR Revolving Loans), interest thereon shall all be payable in Canadian Dollars. Canadian Base Rate Revolving Loans, all U.S. Revolving Loans and Canadian Revolving Loans that are LIBOR Revolving Loans, interest thereon shall all be payable in U.S. Dollars. However, for purposes of determining compliance with covenant and default limitations, all fees and amounts payable hereunder (other than the U.S. Borrower's or any other Loan Party's payment obligations expressly payable in U.S. Dollars) and all calculations hereunder, including, without limitation, the amount of the Borrowing Base of each Borrower (including the U.S. Borrower), the Aggregate Canadian Revolver Outstandings, the Maximum Revolver Amount, the Maximum Canadian Revolver Amount, the Canadian Letter of Credit Subfacility, U.S. Availability Canadian Availability and each Lender's Commitment as of any date shall all be calculated and stated in Dollars, and for such purposes any items denominated in Canadian Dollars included in such calculation shall be converted into Dollars at the Exchange Rate prevailing on such date, as determined by the Agent.

Solidary Interests/Civil Code of Quebec.

The Loan Parties confirm and agree that:

- (a) subject to Section 9, the rights of the Agent and each Lender, from time to time a party to this Agreement by way of assignment or otherwise are solidary and as

regards the Obligations owing from time to time to each Lender, each of the Agent and the Agent and such Lender is entitled, when permitted pursuant to Section 9, to: (i) demand payment of the amounts of all Revolving Loans outstanding from time to time in respect of such Obligations; (ii) exact the whole performance of such Obligations from the Loan Parties; (iii) benefit from the Agent's Liens and the Collateral in respect of such Obligations; (iv) give a full acquittance of such Obligations (each Lender hereby agreeing to be bound by any such acquittance); and (v) exercise all rights and recourses under the Loan Documents with respect to those Obligations. The Obligations of the Borrowers, as the case may be, with respect to any Revolving Loans, advanced by or Letter of Credit issued or arranged by or Bank Products arranged by or under this Agreement, as the case may be, will form part of the Obligations, will be secured by the Agent's Liens and the Collateral and the Agent and the Lenders, will have a solidary interest therein; and

- (b) the obligations to make Revolving Loans and to issue or arrange for the issuance of Letters of Credit or Bank Products is several, and not joint and several or solidary and, accordingly, the Borrowers' recourse against any Lender with respect thereto, will be limited to the amount of such Lender's commitment in the Total Facility.
- (c) For purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Québec, (q) "personal property" shall be deemed to include "movable property", (r) "real property" shall be deemed to include "immovable property", (s) "tangible property" shall be deemed to include "corporeal property", (t) "intangible property" shall be deemed to include "incorporeal property", (u) "security interest" and "mortgage" shall be deemed to include a "hypothec", (v) all references to filing, registering or recording under the UCC or the PPSA shall be deemed to include publication under the Civil Code of Québec, (w) all references to "perfection" of or "perfected" Liens shall be deemed to include a reference to the "opposability" of such Liens to third parties, (x) any "right of offset", "right of setoff" or similar expression shall be deemed to include a "right of compensation", (y) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, and (z) an "agent" shall be deemed to include a "mandatary".

EXHIBIT A

FORM OF ASSIGNMENT AND ACCEPTANCE AGREEMENT

This **ASSIGNMENT AND ACCEPTANCE AGREEMENT** (this “Assignment and Acceptance”) dated as of _____, 20__ is made between [_____] (the “U.S. Assignor”) and _____ (the “U.S. Assignee”) or _____ (the “Canadian Assignor”) and _____ (the “Canadian Assignee”).

RECITALS

WHEREAS, [the U.S. Assignor], [the Canadian Assignor] is party to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the “Credit Agreement”), made by and among High Liner Foods Incorporated, a Nova Scotia company (the “Canadian Borrower”) and High Liner Foods (USA), Incorporated, a Delaware corporation, (the “U.S. Borrower”, and together with the Canadian Borrower, collectively the “Borrowers”), the guarantors signatories thereto, (each, a “Guarantor”), the financial institutions from time to time parties thereto as Lenders (the “Lenders”), Royal Bank of Canada (“Royal Bank”), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the “Collateral Agent”) and Royal Bank, as arranger (the “Arranger”). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

WHEREAS, as provided under the Credit Agreement, [the U.S. Assignor has a U.S. Revolving Credit Commitment to make U.S. Revolving Loans to the U.S. Borrower and participate in U.S. Letters of Credit and U.S. Credit Support in an aggregate principal amount at any time outstanding not to exceed U.S.\$_____] or [the Canadian Assignor has a Canadian Revolving Credit Commitment to make Canadian Revolving Loans to the Canadian Borrower and participate in Canadian Letters of Credit and Canadian Credit Support in an aggregate principal amount at any time outstanding not to exceed \$_____];

WHEREAS, [the U.S. Assignor has made U.S. Revolving Loans in the aggregate principal amount of U.S.\$_____ to the U.S. Borrower] or [the Canadian Assignor has made Canadian Revolving Loans in the aggregate principal amount of [\$]_____ to the Canadian Borrower];

WHEREAS, [the U.S. Assignor has acquired a participation in its pro rata share of the U.S. Lenders' liabilities under U.S. Letters of Credit and U.S. Credit Support in an aggregate principal amount of U.S.\$_____ (the “U.S. L/C Obligations”)] [no U.S. Letters of Credit are outstanding under the Credit Agreement] or [the Canadian Assignor has acquired a participation in its pro rata share of the Canadian Lenders' liabilities under Canadian Letters of Credit and Canadian Credit Support in an aggregate principal amount of \$_____ (the “Canadian L/C Obligations”)] [no Canadian Letters of Credit are outstanding under the Credit Agreement]; and

WHEREAS, [the U.S. Assignor wishes to assign to the U.S. Assignee [part of the] [all] rights and obligations of the U.S. Assignor under the Credit Agreement in respect of its U.S. Revolving Credit Commitment thereunder, together with a corresponding portion of each of its outstanding U.S. Revolving Loans and U.S. L/C Obligations, in an amount equal to U.S.\$ _____ (the “U.S. Revolver Assigned Amount”) on the terms and subject to the conditions set forth herein and the U.S. Assignee wishes to accept assignment of such rights and to assume such obligations from the U.S. Assignor on such terms and subject to such conditions] or [the Canadian Assignor wishes to assign to the Canadian Assignee [part of the] [all] rights and obligations of the Canadian Assignor under the Credit Agreement in respect of its Canadian Revolving Credit Commitment thereunder, together with a corresponding portion of each of its outstanding Canadian Revolving Loans and Canadian L/C Obligations, in an amount equal to \$ _____ (the “Canadian Revolver Assigned Amount”) on the terms and subject to the conditions set forth herein and the Canadian Assignee is required under the Credit Agreement to accept assignment of such rights and to assume such obligations from the Canadian Assignor on such terms and subject to such conditions].

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

1. Assignment and Acceptance

- (a) [Subject to the terms and conditions of this Assignment and Acceptance, (i) the U.S. Assignor hereby sells, transfers and assigns to the U.S. Assignee, and (ii) the U.S. Assignee hereby purchases, assumes and undertakes from the U.S. Assignor, without recourse and without representation or warranty (except as provided in this Assignment and Acceptance) _____% [(the “Assignment Percentage”)] of (A) the U.S. Revolving Credit Commitment, the U.S. Revolving Loans and U.S. LC Obligations of the U.S. Assignor and (B) all related rights, benefits, obligations, liabilities and indemnities of the U.S. Assignor under and in connection with the Credit Agreement and the other Loan Documents.]

or

[Subject to the terms and conditions of this Assignment and Acceptance, (i) the Canadian Assignor hereby sells, transfers and assigns to the Canadian Assignee and (ii) the Canadian Assignee hereby purchases, assumes and undertakes from the Canadian Assignor, without recourse and without representation or warranty (except as provided in this Assignment and Acceptance) _____% [the “Assignment Percentage”] of (A) the Canadian Revolving Credit Commitment, the Canadian Revolving Loans and Canadian L/C Obligations of the Canadian Assignor and (B) all related rights, benefits, obligations, liabilities and indemnities of the Canadian Assignor under and in connection with the Credit Agreement and the other Loan Documents.]

- (b) With effect on and after the Effective Date (as defined in Section 5 hereof), [the U.S. Assignee shall be a U.S. Revolving Lender party to the Credit Agreement and succeed to all of the rights and be obligated to perform all of the obligations of a U.S. Revolving Lender under the Credit Agreement, including the requirements concerning confidentiality and the payment of indemnification, with a U.S. Revolving Credit Commitment in an amount equal to the U.S. Revolver Assigned Amount and acquire the rights of the U.S. Assignor with respect to a corresponding portion of each of its outstanding U.S. Revolving Loans] or [the Canadian Assignee shall be a party to the Credit Agreement and succeed to all of the rights and be obligated to perform all of the obligations of a Canadian Revolving Lender under the Credit Agreement, including the requirements concerning confidentiality and the payment of indemnification, with a Canadian Revolving Credit Commitment in an amount equal to the Canadian Revolver Assigned Amount and acquire the rights of the Canadian Assignor with respect to a corresponding portion of each of its outstanding Canadian Revolving Loans]. [The U.S. Assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement are required to be performed by it as a U.S. Lender] or [the Canadian Assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement are required to be performed by it as a Canadian Lender]. It is the intent of the parties hereto that [the U.S. Revolving Credit Commitment of the U.S. Assignor shall, as of the Effective Date, be reduced by an amount equal to the U.S. Revolver Assigned Amount and the U.S. Assignor shall relinquish its rights and be released from its obligations under the Credit Agreement to the extent such obligations have been assumed by the U.S. Assignee] or [the Canadian Revolving Credit Commitment of the Canadian Assignor shall, as of the Effective Date, be reduced by an amount equal to the Canadian Revolver Assigned Amount and the Canadian Assignor shall relinquish its rights and be released from its obligations under the Credit Agreement to the extent such obligations have been assumed by the Canadian Assignee]; provided, however, [the U.S. Assignor] or [the Canadian Assignor] shall not relinquish its rights under Sections [3.1, 3.6] and [14.1] of the Credit Agreement to the extent such rights relate to the time prior to the Effective Date.
- (c) [After giving effect to the assignment and assumption set forth herein, on the Effective Date the U.S. Assignee's U.S. Revolving Credit Commitment will be U.S.\$ _____.]
- (d) [After giving effect to the assignment and assumption set forth herein, on the Effective Date the U.S. Assignor's U.S. Revolving Credit Commitment will be U.S.\$ _____.]

or

- (c) [After giving effect to the assignment and assumption set forth herein, on the Effective Date the Canadian Assignee's Canadian Revolving Credit Commitment will be \$_____.]
- (d) [After giving effect to the assignment and assumption set forth herein, on the Effective Date the Canadian Assignor's Canadian Revolving Credit Commitment will be \$_____].

2. Payments

- (a) As consideration for the sale, assignment and transfer contemplated in Section 1 hereof, [the U.S. Assignee shall pay to the U.S. Assignor on the Effective Date in immediately available funds an amount equal to U.S.\$_____, representing the principal amount of all U.S. Revolving Loans assigned hereunder] or [the Canadian Assignee shall pay to the Canadian Assignor on the Effective Date in immediately available funds an amount equal to C\$_____ representing the principal amount of all Canadian Revolving Loans assigned hereunder]
- (b) The [U.S.] or [Canadian] Assignee further agrees to pay to the Agent a processing fee in the amount specified in Section [11.2(a)] of the Credit Agreement.

3. Reallocation of Payments

[Any interest, fees and other payments accrued to the Effective Date with respect to the interests and obligations assigned to and assumed by the U.S. Assignee hereunder shall be for the account of the U.S. Assignor. Any interest, fees and other payments accrued on and after the Effective Date with respect to the interests and obligations assigned to and assumed by the U.S. Assignee hereunder shall be for the account of the U.S. Assignee. Each of the U.S. Assignor and the U.S. Assignee agrees that it will hold in trust for the other party any interest, fees and other amounts which it may receive to which the other party is entitled pursuant to the preceding two sentences and pay to the other party any such amounts which it may receive promptly upon receipt.]

or

[Any interest, fees and other payments accrued to the Effective Date with respect to the interests and obligations assigned to and assumed by the Canadian Assignee hereunder shall be for the account of the Canadian Assignor. Any interest, fees and other payments accrued on and after the Effective Date with respect to the interests and obligations assigned to and assumed by the Canadian Assignee hereunder shall be for the account of the Canadian Assignee. Each of the Canadian Assignor and the Canadian Assignee agrees that it will hold in trust for the other party any interest, fees and other amounts which it may receive to which the other party is entitled pursuant to the preceding two sentences and pay to the other party any such amounts which it may receive promptly upon receipt.]

4. Independent Credit Decision

The [U.S. Assignee] or [the Canadian Assignee] (a) acknowledges that it has received a copy of the Credit Agreement and the Schedules and Exhibits thereto, together with copies of the most recent financial statements of the Borrowers and Guarantors, and such other documents and information as it has deemed appropriate to make its own credit and legal analysis and decision to enter into this Assignment and Acceptance; and (b) agrees that it will, independently and without reliance upon the [U.S. Assignor] or [the Canadian Assignor], the Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit and legal decisions in taking or not taking action under the Credit Agreement.

5. Effective Date: Notices

- (a) As between the parties hereto, the effective date for this Assignment and Acceptance shall be _____, 20__ (the "Effective Date"); provided that the following conditions precedent have been satisfied on or before the Effective Date:
- (i) this Assignment and Acceptance shall be executed and delivered by the [U.S. Assignor] and the [U.S. Assignee] [the Canadian Assignor] and [the Canadian Assignee];
 - (ii) the consent of the Agent, and, if required by the Credit Agreement, the Canadian Borrower, required for an effective assignment of the [U.S. Revolver Assigned Amount] or [the Canadian Revolver Assigned Amount] as contemplated hereunder shall have been duly obtained and shall be in full force and effect as of the Effective Date;
 - (iii) [the U.S. Assignee shall pay to the U.S. Assignor all amounts due to the U.S. Assignor under this Assignment and Acceptance];
 - (iv) [the Canadian Assignee shall pay to the Canadian Assignee all amounts due to the Canadian Assignor];
 - (v) the [U.S. Assignee] or [the Canadian Assignee] shall have complied with Section 11.2 of the Credit Agreement (if applicable); and
 - (vi) the processing fee referred to in Section 2(b) hereof and in Section 11.2(a) of the Credit Agreement shall have been paid to the Agent.
- (b) Promptly following the execution of this Assignment and Acceptance, the applicable Assignor shall deliver to the Agent for acknowledgment by the Agent, a Notice of Assignment in the form attached hereto as Schedule 1.

6. Agent

- (a) [The U.S. Assignee] or [the Canadian Assignee] hereby appoints and authorizes each of the Agents to take such action as agent on its behalf and to exercise such

powers under the Credit Agreement as are delegated to the Agents by the Lenders pursuant to the terms of the Credit Agreement. Without limiting the generality of the foregoing, the parties acknowledge and agree that **[the U.S. Assignee]** or **[the Canadian Assignee]**, on the one hand and the Collateral Agent, on the other hand, are solidary creditors of each Loan Party in respect of all Obligations owed by each Loan Party to the Collateral Agent and **[the U.S. Assignee]** or **[the Canadian Assignee]**, as contemplated by Section 12.18(b) of the Credit Agreement and in accordance with Article 1541 of the *Civil Code of Quebec*.

- (b) **[The U.S. Assignee shall assume no duties or obligations held by the U.S. Assignor in its capacity as Agent under the Credit Agreement.]**

7. Withholding Tax

[The U.S. Assignee (a) represents and warrants to the U.S. Assignor, the Agent and the Borrowers that under applicable law and treaties no tax will be required to be withheld with respect to any payments to be made to the U.S. Assignee owing by a U.S. Borrower or a U.S. Guarantor hereunder, (b) agrees to furnish (if it is organized under the laws of any jurisdiction other than the United States or any State thereof) to the Agent and the Parent prior to the time that the Agent or the U.S. Borrower are required to make any payment of principal, interest or fees hereunder, duplicate executed originals of either U.S. Internal Revenue Service Form W-8ECI or U.S. Internal Revenue Service Form W-SBEN (wherein the U.S. Assignee claims entitlement to the benefits of a tax treaty that provides for a complete exemption from U.S. federal income withholding tax on all payments hereunder) and agrees to provide new Forms W-8ECI or W-8BEN upon the expiration of any previously delivered form or comparable statements in accordance with applicable U.S. law and regulations and amendments thereto, duly executed and completed by the U.S. Assignee, and (c) agrees to comply with all applicable U.S. laws and regulations with regard to such withholding tax exemption.]

8. Representations and Warranties

- (a) The **[U.S. Assignor]** or **[the Canadian Assignor]** represents and warrants that (i) it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any Lien or other adverse claim; (ii) it is duly organized and existing and it has the full power and authority to take, and has taken, all action necessary to execute and deliver this Assignment and Acceptance and any other documents required or permitted to be executed or delivered by it in connection with this Assignment and Acceptance and to fulfill its obligations hereunder, (iii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution, delivery and performance of this Assignment and Acceptance, and apart from any agreements or undertakings or filings required by the Credit Agreement, no further action by, or notice to, or filing with, any Person is required of it for such execution, delivery or performance; and (iv) this Assignment and Acceptance has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with the terms hereof, subject, as to enforcement, to bankruptcy,

insolvency, moratorium, reorganization and other laws of general application relating to or affecting creditors' rights and to general equitable principles.

- (b) The **[U.S. Assignor]** or **[the Canadian Assignor]** makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement or any other instrument or document furnished pursuant thereto. The **[U.S. Assignor]** or **[the Canadian Assignor]** makes no representation or warranty in connection with, and assumes no responsibility with respect to, the solvency, financial condition or statements of any of the Loan Parties, or the performance or observance by any of the Loan Parties, of any of their respective obligations under the Credit Agreement or other Loan Documents or any other instrument or document furnished in connection therewith.
- (c) The **[U.S. Assignee]** or **[the Canadian Assignee]** represents and warrants that (i) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Assignment and Acceptance and any other documents required or permitted to be executed or delivered by it in connection with this Assignment and Acceptance, and to fulfill its obligations hereunder; (ii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution, delivery and performance of this Assignment and Acceptance; and apart from any agreements or undertakings or filings required by the Credit Agreement, no further action by, or notice to, or filing with, any Person is required of it for such execution, delivery or performance; (iii) this Assignment and Acceptance has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with the terms hereof, subject, as to enforcement, to bankruptcy, insolvency, moratorium, reorganization and other laws of general application relating to or affecting creditors' rights and to general equitable principles; and (iv) the **[U.S. Assignee is an Eligible Assignee]** or **[the Canadian Assignee is an Eligible Assignee]**.

9. Further Assurances

Each of the parties hereto hereby agrees to execute and deliver such other instruments, and take such other action, as any party hereto may reasonably request in connection with the transactions contemplated by this Assignment and Acceptance, including the delivery of any notices or other documents or instruments to the Borrowers or the Agent, which may be required in connection with the assignment and assumption contemplated hereby.

10. Miscellaneous

- (a) Any amendment or waiver of any provision of this Assignment and Acceptance shall be in writing and signed by the parties hereto. No failure or delay by any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof and any waiver of any breach of the provisions of this

Assignment and Acceptance shall be without prejudice to any rights with respect to any other or further breach thereof.

- (b) All payments made hereunder shall be made without any set-off or counterclaim.
- (c) Each of the parties hereto shall pay its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance of this Assignment and Acceptance.
- (d) This Assignment and Acceptance may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.
- (e) THIS ASSIGNMENT AND ACCEPTANCE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE PROVINCE OF NOVA SCOTIA. Each party to this Assignment and Acceptance irrevocably submits to the non-exclusive jurisdiction of any Provincial or Federal court sitting in Nova Scotia over any suit, action or proceeding arising out of or relating to this Assignment and Acceptance and irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such Nova Scotia Provincial or Federal court. Each party to this Assignment and Acceptance hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.
- (f) EACH PARTY TO THIS ASSIGNMENT AND ACCEPTANCE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS ASSIGNMENT AND ACCEPTANCE, THE CREDIT AGREEMENT, ANY RELATED DOCUMENTS AND AGREEMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALING, OR STATEMENTS (WHETHER ORAL OR WRITTEN).

[Signature Page Follows]

IN WITNESS WHEREOF, the parties to this Assignment and Acceptance have caused this Assignment and Acceptance to be executed and delivered by its duly authorized officers or representatives as of the date first above written.

[U.S. ASSIGNOR] [CANADIAN ASSIGNOR]

By: _____
Title: _____
Address: _____

[U.S. ASSIGNEE] [CANADIAN ASSIGNEE]

By: _____
Title: _____
Address: _____

ROYAL BANK OF CANADA, as Agent

By: _____
Title: _____
Address: _____

SCHEDULE I
to
ASSIGNMENT AND ACCEPTANCE

NOTICE OF ASSIGNMENT AND ACCEPTANCE

_____, 20____

Royal Bank of Canada, as Agent
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

[High Liner Foods Incorporated]
100 Battery Point Road
Lunenburg, Nova Scotia B0J 2C0
Attention: _____]¹

Re: High Liner Foods

Ladies and Gentlemen:

WHEREAS, [the U.S. Assignor], [the Canadian Assignor] is party to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the "Credit Agreement"), made by and among High Liner Foods Incorporated, a Nova Scotia company (the "Canadian Borrower") and High Liner Foods (USA), Incorporated, a Delaware corporation (the "U.S. Borrower", and together with the Canadian Borrower, collectively the "Borrowers"), the guarantors signatories thereto, (each, a "Guarantor"), the financial institutions from time to time parties thereto as Lenders (the "Lenders"), Royal Bank of Canada ("Royal Bank"), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the "Collateral Agent") and Royal Bank, as arranger (the "Arranger"). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

1. We hereby give you notice of, and request the consent of the Agent [**and the Canadian Borrower**]² to, the assignment pursuant to the Assignment and Acceptance attached hereto (the "Assignment and Acceptance") by [_____] (the "U.S. Assignor") to _____ (the "U.S. Assignee") of ___% (the "Assignment Percentage") of the right, title and interest of the U.S. Assignor in and to the Credit Agreement (including the right, title and interest of the U.S. Assignor in and to the U.S. Revolving Credit Commitment of the U.S. Assignor and each of the

¹ Delete during the continuance of an Event of Default.

² Delete during the continuance of an Event of Default.

outstanding U.S. Revolving Loans and U.S. L/C Obligations (as defined in the Assignment and Acceptance) of the U.S. Assignor] or [_____ (the “Canadian Assignor”) to _____ (the “Canadian Assignee”) of the Commitment Percentage of the right, title and interest of the Canadian Assignor in and to the Credit Agreement (including the right, title and interest of the Canadian Assignor in and to the Canadian Revolving Credit Commitment of the Canadian Assignor and each of the outstanding Canadian Revolving Loans and Canadian L/C Obligations (as defined in the Assignment and Acceptance) of the Canadian Assignor].

2. The [U.S. Assignee] or the [Canadian Assignee] agrees that, upon receiving the consent of the Agents, and if required, the Canadian Borrower, to such assignment, the [U.S. Assignee] or the [Canadian Assignee] will be bound by the terms of the Credit and to the same extent as if the [U.S. Assignee] or the [Canadian Assignee] were the Lender[s] originally holding such interest[s] in the Credit Agreement.
3. The following administrative details apply to the Assignee:

(a) Notice Address:

[U.S. Assignee name: _____
Address: _____

Attention: _____
Telephone: () _____
Telecopier. () _____
Telex (Answerback): _____]

or

[Canadian Assignee name:
Address: _____

Attention: _____
Telephone: () _____
Telecopier. () _____
Telex (Answerback): _____]

(b) Payment Instructions:

[For U.S. Assignee

Account No.: _____
At: _____

Reference: _____
Attention: _____]

or

[For Canadian Assignee

Account No.: _____

At: _____

Reference: _____

Attention: _____]

4. You are entitled to rely upon the representations, warranties and covenants of each of the [U.S. Assignor] and [U.S. Assignee] or [Canadian Assignor] and [Canadian Assignee] contained in the Assignment and Acceptance.

[Signature Page Follows]

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this Notice of Assignment and Acceptance to be executed by their respective duly authorized officers or representatives as of the date first above mentioned.

[NAME OF U.S. ASSIGNOR]

By: _____
Name: _____
Title: _____

[NAME OF U.S. ASSIGNEE]

By: _____
Name: _____
Title: _____

[NAME OF CANADIAN ASSIGNOR]

By: _____
Name: _____
Title: _____

[NAME OF CANADIAN ASSIGNEE]

By: _____
Name: _____
Title: _____

ROYAL BANK OF CANADA, as Agent

By: _____
Name: _____
Title: _____

**ACKNOWLEDGED AND ASSIGNMENT
CONSENTED TO:**

Royal Bank of Canada, as Agent

By: _____
Name: _____
Title: _____

[High Liner Foods Incorporated]

By: _____
Name: _____
Title: _____

[High Liner Foods (USA), Incorporated]

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF BORROWING BASE CERTIFICATE

See attached

EXHIBIT B
BORROWING BASE CERTIFICATE

I, the Responsible officer of HIGH LINER FOODS (USA), INCORPORATED hereby certify as of: June 29, 2019 (the "Subject Period") that:

I am familiar with and have examined the provisions of the amended and restated credit agreement (the "Agreement") dated December 19, 2011, between HIGH LINER FOODS INCORPORATED, as Canadian Borrower, HIGH LINER FOODS (USA), INCORPORATED, as U.S. Borrower, and Royal Bank of Canada as Administrative Agent and Collateral Agent, and the financial institutions party hereto from time to time as lenders, and have made reasonable investigations of records and inquiries of other officers and senior personnel of the Borrowers. Terms defined in the Agreement have the same meanings where used in this certificate.

- (a) such officer is a Responsible Officer of HIGH LINER FOODS (USA), INCORPORATED;
- (b) there has been no Default or Event of Default under the Credit Agreement nor is a Default or Event of Default occurring;
- (c) a review of activities of Borrowers during the Subject Period has been made with a view to determining the amount of the current Borrowing Base for the U.S. Borrower as follows;
- (d) the representations and warranties contained in the Credit Agreement and the other Loan Documents are correct in all material respects on and as of the date hereof as though made on and as of such date other than such representation or warranty which relates to a specific prior date and except to the extent that the Agent and the Lenders have been notified in writing by the Borrowers that any representation or warranty is not correct and the Required Lenders have explicitly waived in writing compliance with such representation or warranty;
- (e) the following information is true and correct in all material respects as the date hereof

HIGH LINER FOODS (USA), INCORPORATED

ACCOUNTS RECEIVABLE

	HLF USA Co.50 Uninsured USD	HLF USA Co.50 Ins./LC/Inv Grade USD	Foreign Uninsured USD	Foreign Ins./LC/Inv Grade USD	TOTAL USD
Gross Accounts Receivable as of the last Certificate:					
Sales (+)	5/25/2019 45,287	55,614,136		1,368,471	
Credit Notes (-)					
Adjustments (+/-)					
Total Cash Receipts deposited to Blocked Account (-)					
Non-Receiptable deposits Included in Cash Receipts above (+)					
a Gross A/R as of the current Certificate date: (as per detailed aging)	6/29/2019 26,038	63,654,443		1,478,402	65,158,881
b Total ineligible A/R	(2,835,482)	21,860,028	0	1,478,402	
c Total Eligible Receivables (a-b)	2,881,518	41,793,515	0	0	
d Advance Rate	85.0%	90.0%	0.0%	90.0%	
e Net Receivable Collateral (cxd)	2,432,290	37,814,164	0	0	40,046,454

CASH EQUIVALENTS

f Eligible Cash Equivalents of the U.S. Borrower (100%) 0

INVENTORY

	Raw Materials USD	Finished Goods USD	Total Inventory USD
Inventory as per perpetual stock ledger	33,641,975	112,509,222	146,151,198
Eligible In-Transit Inventory (as per attached list)	0		
Gross Inventory	33,641,975	112,509,222	
g Less: Total Ineligible Inventory (per attached Report,	6,664,840	32,378,138	
Total Eligible Inventor	26,977,135	80,131,084	
h Advance Rate (Lower of 70% of cost and 85% of NOLV)	59.50%	85.45%	
i U.S. Margined Inventory Collateral (gsh)	16,051,396	52,446,796	68,497,190
Add: Canadian Margined Inventory Collateral			39,649,746
Combined Net Inventory Collateral			108,146,937
Inventory Maximum: \$150MM April-November (\$170MM December-March)			170,000,000
j Less: Amount in excess of Inventory Maximum (pro-rata)			0
k Net Inventory Collateral (i-			68,497,190

RESERVES

l Total Reserves (as per attached list) 550,119

m U.S. BORROWING BASE (e+f+g-k-l) 107,993,525

U.S. AVAILABILITY

n Maximum U.S. Revolver Amount	110,000,000
U.S. Borrowing Base (m)	107,993,525
o Deduct: Undrawn US Availability (Maximum \$25MM)	107,993,525
p Lesser of Maximum U.S. Revolver Amount (n) and adj. borrowing base (107,993,525
Less:	
U.S. Revolving Loans	0
U.S. Direct Letters of Credit	0
q Aggregate U.S. Revolver Outstanding:	0
r U.S. Online LC Accommodation	5,000,000
s U.S. Overdraft Accommodation	5,000,000
t Canadian U.S. Borrowing Base Utilization	0
u U.S. AVAILABILITY (p-q-r-s-t)	97,993,525

Annexed hereto are the following reports in respect to the Borrowers:
 (i) aged list of detailed accounts receivable and detailed ineligibles;
 (ii) list of detailed inventory;
 (iii) list of accounts payable.

Dated this 12th day of July 2019.

HIGH LINER FOODS (USA), INCORPORATED

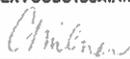

 Name: Charlene Midner
 Title: Vice President Finance

EXHIBIT B
BORROWING BASE CERTIFICATE

I, the Responsible officer of HIGH LINER FOODS INCORPORATED hereby certify as of:

June 29, 2019 (the "Subject Period") that:

I am familiar with and have examined the provisions of the amended and restated credit agreement (the "Agreement") dated December 10, 2011, between HIGH LINER FOODS INCORPORATED, as Canadian Borrower, HIGH LINER FOODS (USA), INCORPORATED, as U.S. Borrower, and Royal Bank of Canada as Administrative Agent and Collateral Agent, and the financial institutions party hereto from time to time as lenders, and have made reasonable investigations of records and inquiries of other officers and senior personnel of the Borrowers. Terms defined in the Agreement have the same meanings where used in this certificate.

- (a) such officer is a Responsible Officer of HIGH LINER FOODS INCORPORATED;
- (b) there has been no Default or Event of Default under the Credit Agreement nor is a Default or Event of Default occurring;
- (c) a review of activities of Borrowers during the Subject Period has been made with a view to determining the amount of the current Borrowing Base for the Canadian Borrower as follows;
- (d) the representations and warranties contained in the Credit Agreement and the other Loan Documents are correct in all material respects on and as of the date hereof as though made on and as of such date other than such representation or warranty which relates to a specific prior date and except to the extent that the Agent and the Lenders have been notified in writing by the Borrowers that any representation or warranty is not correct and the Required Lenders have explicitly waived in writing compliance with such representation or warranty;
- (e) the following information is true and correct in all material respects as the date hereof

HIGH LINER FOODS INCORPORATED

ACCOUNTS RECEIVABLE

Gross Accounts Receivables as of the last Certificate:

	HLF Co.01 Uninsured CAD	HLF Co.01 Ins./LC/Inv Grade CAD	HLF Co.01 Ins./LC/Inv Grade USD	HLF Co.01 Uninsured USD	HLF Co.01 TOTAL USD equiv
5/25/2019	243,063	32,323,118	897,102	35,328,516	
Sales (+)					
Credit Notes (-)					
Adjustments (+/-)					
Total Cash Receipts deposited to Blocked Account (-)					
Non-Receiveable deposits included in Cash Receipts above (+)					
a Gross A/R as of the current Certificate dated: (as per detailed aging)	6/20/2019	295,108	29,725,409	1,476,707	56,032,218
b Total ineligible A/R		(1,837,082)	11,838,052	1,476,707	55,032,218
c Total Eligible Receivables (a-b)		2,132,181	17,887,357	0	0
d Advance Rate		85.0%	90.0%	90.0%	85.0%
e Net Receivable Collateral (cxd)		1,812,354	16,098,622	0	0

CASH EQUIVALENTS

f Eligible Cash Equivalents of the Canadian Borrower (100%)

0	0	0	0	0
---	---	---	---	---

INVENTORY

Inventory as per perpetual stock ledger

Eligible In-Transit Inventory

Gross Inventory

	Raw Materials CAD	Finished Goods CAD	Other Inventory CAD	Total Inventory USD equiv
92,732,782	43,491,653		0	119,413,698
20,052,302				
112,785,054	43,491,653			
Less: Total Ineligible Inventory (per attached Report)	73,550,002	(126,973)		
g Total Eligible Inventory	39,228,963	43,618,626		
h Advance Rate (Lower of 70% of cost and 85% of NOLV)	50.50%	85.45%		
i Canadian Margined Inventory Collateral (gsh)	23,341,233	28,548,390		39,649,748

Add: US Margined Inventory Collateral

Combined Net Inventory Collateral

Inventory Maximum: \$150MM April-November (\$170MM December-March)

j Less: Amount in excess of Inventory Maximum (pro-rata)

88,497,190
108,146,937
170,000,000
0

k Net Inventory Collateral (h-j)

39,649,748

RESERVES

l Total Reserves (as per attached list)

2,908,787	1,810,000	4,032,654
-----------	-----------	-----------

m CANADIAN BORROWING BASE (e+f+h+k)

49,303,175

CANADIAN AVAILABILITY

n Maximum Canadian Revolver Amount

70,000,000

Canadian Borrowing Base (m)

49,303,175

o Add: US Availability transferred to Canadian Availability (Maximum \$25MM)

0

p Lesser of Maximum Canadian Revolver Amount (n) and adj. borrowing base (o)

49,303,175

Loss

Canadian Revolving Loans

Canadian Direct Letters of Credit

	CAD	USD
	0	0
	11,583,200	750,000
	11,583,200	750,000

q Aggregate Canadian Revolver Outstandings

9,600,921

r Canadian Online LC Accommodation

5,000,000

s Canadian Overdraft Accommodation

5,000,000

t U.S. Canadian Borrowing Base Utilization

0

u CANADIAN AVAILABILITY (p-q-r-s-t)

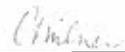
29,702,254.44

Annexed hereto are the following reports in respect to the Borrowers:

- (i) aged list of detailed accounts receivable and detailed ineligibles;
- (ii) list of detailed inventory;
- (iii) list of accounts payable.

Dated this 12th day of July 2019.

HIGH LINER FOODS INCORPORATED



Name: Charlene Milner
Title: Vice President Finance

As of date: June 29, 2019

ACCOUNTS RECEIVABLE INELIGIBLES

	HLF Co.01 Uninsured CAD	HLF Co.01 Ins./LC/Inv Grade CAD	HLF Co.01 Ins./LC/Inv Grade USD	HLF Co.01 Uninsured USD	HLF USA Co.50 Uninsured USD	HLF USA Co.50 Ins./LC/Inv Grade 9/2/2015	Foreign Uninsured USD	Foreign Ins./LC/Inv Grade USD
1 Past due	(583)	(313,884)	(107)		(1,224)	(322,988)		249,046
2 Cross age		(187,987)	(107)			74,020		
3 Credit in prior	0	125,897	0			277,178		
4 Debit mem/charge backs	1,486	3,839,026	8,316		1,967	6,109,167		
5 Non-trade A/R		27,678	1,468,499		0	594,672		
6 Foreign A/R			151,847		7,725			1,229,355.93
7 Inter-company/related	414		54,880,370					
8 Employee/cash/COD			0					
9 Bad debts		3,786,810				3,250,338		
10 Trade marketing/spending		557,254				11,055		
11 Slotting accruals								
12 Contra accounts								
13 Concentration								
14 Recall								
15 Other (debtor cap, missing debtors)	(2,024,009)	2,024,009	0	0	(2,962,267.99)	6,079,956		
16 Insurance	185,600	1,665,365	0	0	118,318	2,962,268		
17 Pre-bill FOB Destination						2,825,262		
Total A/R Ineligibles	(1,837,082)	11,838,052	1,476,707	55,032,218	(2,835,482)	21,860,928	0	1,478,402

INVENTORY INELIGIBLES

	HLF Co.01 CAD	HLF USA Co.50 USD	APS USD
Raw Materials			
1 Packaging & supplies	613,197.18	1,186,408.66	
2 Maintenance parts	818,060.22	3,080,985.45	
3 H&G Inventory in China	71,995,453.13	0.00	
4 Locations < \$50,000	0.00	63,470.32	
5 Ineligible locations (Poissonerie Cowie Copack)	22,038.34	1,291,166.45	
6 Negative GL adjustments	107,342.66	0.00	
7 Slow moving/obsolete		1,032,789.11	
8 No landlord waivers			
9 Vendor Managed			
10 Sample Inventory			
11 In transit			
12 GL Variance	0	0.00	
13 Damaged Inventory			
14 LCM Reserve			
15 Inventory in Inspection/Rejected			
Total Raw Material Ineligibles	73,556,092	6,664,840	0
Finished Goods			
1 Wip	156,164	1,918,278.20	

- 2 Locations < \$50,000
- 3 Ineligible locations - copack/no landlord waivers
- 4 Inventory in Inspection/Rejected
- 5 Sample Inventory
- 6 Negative GL Adjustments
- 7 NRV
- 8 GL Variance
- 9 Inventory Add back of Pre-bill
- 10 Other - quorn products
- 11 Slow moving/obsolete
- 12 Damaged Inventory
- 13 LCM Reserve

0	122,551.31	
0	148,414.56	
0	0.00	
954,625	2,144.77	
	5,337,799.52	
(1,237,762.00)	(2,156,794.18)	
0	27,005,743.81	
0	0.00	
0	0.00	
(126,373)	32,378,138	0

RESERVES / PRIORITY PAYABLES

476
14

- GST
- PST / QST / HST
- Deductions at sources
- WEPPA - # full-time employees
- WEPPA - # Part-time employees
- Other priority payables / Pension, etc..
- Freight and Duty Accrual
- Hedging Reserve
- Rent reserves
- In Transit - Freight/Duty/GST Reserve
- Sales Tax Reserve
- Total Reserves

	HLF Co.01 CAD	HLF Co.01 USD	HLF USA Co.50 USD	APS USD
0				
952,000				
14,000			534,119	
667,829			0	
1,274,958		1,810,000	0	
0			0	
0			0	
0			16,000	
2,908,787		1,810,000	550,119	0

As of date:

June 29, 2019

Adjusted Aggregate Availability

FX Rate
0.7641

USD

m Canadian Borrowing Base
m U.S. Borrowing Base

49,303,175
107,993,525

Less:

q Aggregate Canadian Revolver Outstandings
q Aggregate U.S. Revolver Outstanding

9,600,921
0

Less:

Canadian Online LC Accommodation Outstanding
Canadian Overdraft Accommodation Outstanding
U.S. Online LC Accommodation Outstanding
U.S. Overdraft Accommodation Outstanding

	CAD	USD	
		136,125	136,125
	0	0	0
		885,289	885,289
		0	0

Adjusted Aggregate Availability

146,674,365.90

EXHIBIT C
FINANCIAL STATEMENTS

See attached



HIGH LINER FOODS

UNAUDITED CONDENSED INTERIM CONSOLIDATED FINANCIAL STATEMENTS

**As at and for the thirteen and twenty-six weeks ended June 29, 2019
With comparative figures as at and for the thirteen and twenty-six weeks ended June 30, 2018**

HIGH LINER FOODS INCORPORATED
CONSOLIDATED STATEMENTS OF FINANCIAL POSITION
(unaudited, in thousands of United States dollars)

	Notes	June 29, 2019	December 29, 2018
ASSETS			
Current assets			
Cash		\$ 13,253	\$ 9,568
Accounts receivable		75,373	84,873
Income taxes receivable		5,584	6,411
Other financial assets	14	627	2,504
Inventories		259,633	301,411
Prepaid expenses		5,129	4,333
Total current assets		359,599	409,100
Non-current assets			
Property, plant and equipment		111,433	114,371
Right-of-use assets	4	13,902	—
Deferred finance costs	5	288	—
Deferred income taxes	10	9	7
Other receivables and assets	14	17	1,013
Intangible assets		152,495	155,594
Goodwill		157,446	157,070
Total non-current assets		435,590	428,055
Total assets	5, 6	\$ 795,189	\$ 837,155
LIABILITIES AND SHAREHOLDERS' EQUITY			
Current liabilities			
Bank loans	5	\$ —	\$ 31,152
Accounts payable and accrued liabilities		125,686	157,162
Contract liability		4,245	4,772
Provisions		413	1,460
Other current financial liabilities	14	533	78
Other current liabilities		3,443	245
Income taxes payable		228	585
Current portion of long-term debt	6	—	13,655
Current portion of lease liabilities	4	4,351	372
Total current liabilities		138,899	209,481
Non-current liabilities			
Long-term debt	6	322,926	322,674
Other long-term financial liabilities	14	479	5
Other long-term liabilities		2,198	1,493
Long-term lease liabilities	4	9,229	407
Deferred income taxes	10	32,242	28,451
Future employee benefits		13,635	10,785
Total non-current liabilities		380,709	363,815
Total liabilities		519,608	573,296
Shareholders' equity			
Common shares	8	112,887	112,887
Contributed surplus		15,772	15,357
Retained earnings		170,218	161,377
Accumulated other comprehensive loss		(23,296)	(25,762)
Total shareholders' equity		275,581	263,859
Total liabilities and shareholders' equity		\$ 795,189	\$ 837,155

See accompanying notes to the Unaudited Condensed Interim Consolidated Financial Statements

HIGH LINER FOODS INCORPORATED
CONSOLIDATED STATEMENTS OF INCOME
(unaudited, in thousands of United States dollars, except per share amounts)

		Thirteen weeks ended		Twenty-six weeks ended	
	Notes	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Sales	13	\$ 223,034	\$ 245,312	\$ 500,458	\$ 564,496
Cost of sales		180,186	202,002	401,534	460,625
Gross profit		42,848	43,310	98,924	103,871
Distribution expenses		10,591	12,524	23,678	27,832
Selling, general and administrative expenses		22,259	24,296	46,013	49,599
Impairment of property, plant and equipment		38	—	38	—
Business acquisition, integration and other expense (income)	3, 7	2,846	55	(4,401)	711
Results from operating activities		7,114	6,435	33,596	25,729
Finance costs		5,397	5,351	11,401	10,706
Income before income taxes		1,717	1,084	22,195	15,023
Income tax expense (recovery)	10	771	(1,720)	6,487	1,968
Net income		\$ 946	\$ 2,804	\$ 15,708	\$ 13,055
Earnings per common share					
Basic		\$ 0.03	\$ 0.08	\$ 0.46	\$ 0.39
Diluted		\$ 0.03	\$ 0.08	\$ 0.46	\$ 0.39
Weighted average number of shares outstanding					
Basic		33,812,622	33,632,740	33,816,125	33,562,247
Diluted		34,257,466	33,635,222	34,260,969	33,579,741

See accompanying notes to the Unaudited Condensed Interim Consolidated Financial Statements

HIGH LINER FOODS INCORPORATED
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(unaudited, in thousands of United States dollars)

	Thirteen weeks ended		Twenty-six weeks ended	
	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Net income	\$ 946	\$ 2,804	\$ 15,708	\$ 13,055
Other comprehensive income (loss), net of income tax				
Other comprehensive income (loss) to be reclassified to net income:				
Gain (loss) on hedge of net investment in foreign operations	6,537	(5,399)	13,411	(14,218)
(Loss) gain on translation of net investment in foreign operations	(8,334)	7,828	(16,458)	20,510
Translation impact on Canadian dollar denominated non-AOCI items	4,617	(4,901)	8,883	(13,198)
Translation impact on Canadian dollar denominated AOCI items	(492)	340	(933)	954
Total exchange gains (losses) on translation of foreign operations and Canadian dollar denominated items	2,328	(2,132)	4,903	(5,952)
Effective portion of changes in fair value of cash flow hedges	(1,049)	1,198	(1,637)	2,773
Net change in fair value of cash flow hedges transferred to carrying amount of hedged item	(301)	(109)	(800)	586
Net change in fair value of cash flow hedges transferred to income	(169)	(68)	(384)	16
Translation impact on Canadian dollar denominated AOCI items	176	(172)	384	(400)
Total exchange (losses) gains on cash flow hedges	(1,343)	849	(2,437)	2,975
Net other comprehensive gain (loss) to be reclassified to net income	985	(1,283)	2,466	(2,977)
Other comprehensive (loss) income not to be reclassified to net income				
Defined benefit plan actuarial (losses) gains	(2,331)	(297)	(1,975)	139
Other comprehensive (loss) income, net of income tax	(1,346)	(1,580)	491	(2,838)
Total comprehensive (loss) income	\$ (400)	\$ 1,224	\$ 16,199	\$ 10,217

CONSOLIDATED STATEMENTS OF ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS) ("AOCI")
(unaudited, in thousands of United States dollars)

	Foreign currency translation differences	Net exchange differences on cash flow hedges	Total AOCI
Balance at December 29, 2018	\$ (27,977)	\$ 2,215	\$ (25,762)
Total exchange gains on translation of foreign operations and Canadian dollar denominated items	4,903	—	4,903
Total exchange losses on cash flow hedges	—	(2,437)	(2,437)
Balance at June 29, 2019	\$ (23,074)	\$ (222)	\$ (23,296)
Balance at December 30, 2017	\$ (17,699)	\$ 220	\$ (17,479)
Total exchange losses on translation of foreign operations and Canadian dollar denominated items	(5,952)	—	(5,952)
Total exchange gains on cash flow hedges	—	2,975	2,975
Balance at June 30, 2018	\$ (23,651)	\$ 3,195	\$ (20,456)

See accompanying notes to the Unaudited Condensed Interim Consolidated Financial Statements

HIGH LINER FOODS INCORPORATED
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
(unaudited, in thousands of United States dollars)

	Common shares	Contributed surplus	Retained earnings	AOCI	Total
Balance at December 29, 2018	\$ 112,887	\$ 15,357	\$ 161,377	\$ (25,762)	\$ 263,859
Other comprehensive income	—	—	(1,975)	2,466	491
Net income	—	—	15,708	—	15,708
Common share dividends	—	—	(4,892)	—	(4,892)
Share-based compensation	—	415	—	—	415
Balance at June 29, 2019	\$ 112,887	\$ 15,772	\$ 170,218	\$ (23,296)	\$ 275,581
Balance at December 30, 2017	\$ 112,835	\$ 14,354	\$ 159,157	\$ (17,479)	\$ 268,867
Other comprehensive loss	—	—	139	(2,977)	(2,838)
Net income	—	—	13,055	—	13,055
Common share dividends	—	—	(7,341)	—	(7,341)
Share-based compensation	52	596	—	—	648
Balance at June 30, 2018	\$ 112,887	\$ 14,950	\$ 165,010	\$ (20,456)	\$ 272,391

See accompanying notes to the Unaudited Condensed Interim Consolidated Financial Statements

HIGH LINER FOODS INCORPORATED
CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited, in thousands of United States dollars)

	Notes	Thirteen weeks ended		Twenty-six weeks ended	
		June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Cash flows provided by (used in):					
Operating activities					
Net income		\$ 946	\$ 2,804	\$ 15,708	\$ 13,055
Adjustments to net income not involving cash from operations:					
Depreciation and amortization	4	5,559	4,473	11,060	8,785
Share-based compensation expense	9	2,302	1,121	4,258	1,018
Loss on asset disposals and impairment		127	16	148	114
Future employee benefits contribution, net of expense		(29)	(59)	(33)	(93)
Finance costs	4	5,397	5,351	11,401	10,706
Income tax expense (recovery)	10	771	(1,720)	6,487	1,968
Unrealized foreign exchange loss		430	312	743	300
Cash flows provided by operations before changes in non-cash working capital, interest and income taxes (paid) refunded		15,503	12,298	49,772	35,853
Changes in non-cash working capital balances:					
Accounts receivable		31,030	20,606	10,132	3,244
Inventories		(8,856)	15,826	45,060	71,797
Prepaid expenses		(341)	(1,151)	(713)	(1,098)
Accounts payable and accrued liabilities		1,709	(20,299)	(31,858)	(68,917)
Provisions		(571)	221	(1,077)	347
Net change in non-cash working capital balances		22,971	15,203	21,544	5,373
Interest paid		(5,240)	(4,834)	(10,696)	(9,669)
Income taxes (paid) refunded		(15)	(16)	(400)	61
Net cash flows provided by operating activities		33,219	22,651	60,220	31,618
Financing activities					
Decrease in bank loans	5	(35,007)	(15,480)	(31,443)	(16,357)
Repayment of lease liabilities		(1,614)	(120)	(2,966)	(358)
Repayment of long-term debt	6	—	—	(13,695)	—
Deferred finance costs		—	(212)	—	(309)
Common share dividends paid		(1,262)	(3,634)	(4,892)	(7,341)
Options exercised for shares		—	24	—	24
Net cash flows used in financing activities		(37,883)	(19,422)	(52,996)	(24,341)
Investing activities					
Purchase of property, plant and equipment, net of investment tax credits, and intangible assets		(1,727)	(3,741)	(2,568)	(7,820)
Net proceeds on disposal of assets		—	3	—	119
Net cash flows used in investing activities		(1,727)	(3,738)	(2,568)	(7,701)
Foreign exchange decrease on cash		(600)	(889)	(971)	(568)
Net change in cash during the period		(6,991)	(1,398)	3,685	(992)
Cash, beginning of period		20,244	5,144	9,568	4,738
Cash, end of period		\$ 13,253	\$ 3,746	\$ 13,253	\$ 3,746

See accompanying notes to the Unaudited Condensed Interim Consolidated Financial Statements

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements In United States dollars, unless otherwise noted

1. Corporate information

High Liner Foods Incorporated (the "Company" or "High Liner Foods") is a company incorporated and domiciled in Canada. The address of the Company's registered office is 100 Battery Point, P.O. Box 910, Lunenburg, Nova Scotia, B0J 2C0. The Unaudited Condensed Interim Consolidated Financial Statements ("Consolidated Financial Statements") of the Company as at and for the thirteen and twenty-six weeks ended June 29, 2019, comprise High Liner Foods' Canadian company (the "Parent") and its subsidiaries (herein together referred to as the "Company" or "High Liner Foods"). The Company is primarily involved in the processing and marketing of prepared and packaged frozen seafood products.

These Consolidated Financial Statements were authorized for issue in accordance with a resolution of the Company's Board of Directors on August 7, 2019.

2. Basis of preparation

(a) Statement of compliance

These Consolidated Financial Statements are in compliance with International Accounting Standard ("IAS") 34, *Interim Financial Reporting*. Accordingly, certain information and footnote disclosures normally included in annual financial statements prepared in accordance with International Financial Reporting Standards ("IFRS"), as issued by the International Accounting Standards Board ("IASB"), have been omitted or condensed. These Consolidated Financial Statements should be read in conjunction with the Company's audited consolidated financial statements for the year ended December 29, 2018, as set out in the 2018 Annual Report, available at www.highlinerfoods.com.

(b) Functional and presentation currency

The Company determines its functional currency based on the currency of the primary economic environment in which it operates. The Parent's functional currency is the Canadian dollar ("CAD"), while the functional currencies of its subsidiaries is the CAD and the United States dollar ("U.S. dollar" or "USD"). The Company has chosen a USD presentation currency for its financial statements because the USD better reflects the Company's overall business activities and improves investors' ability to compare the Company's consolidated financial results with other publicly traded businesses in the packaged foods industry (most of which are based in the United States ["U.S."] and report in USD) and should result in less volatility in reported sales and income on the conversion to the presentation currency.

(c) Seasonality of operations

The Company's operating results are affected by the timing of holidays. Inventory levels fluctuate throughout the year, and are at their highest in the first quarter to support strong sales during the Lenten period. In addition, the timing of ordering raw materials is earlier than typically required in order to have adequate quantities available during the seasonal closure of plants in Asia during the Lunar New Year period. These events typically result in significantly higher inventories in December, January, February and March than during the rest of the year.

(d) New standards, interpretations and amendments thereof, adopted by the Company

The accounting policies used in the preparation of the Consolidated Financial Statements are consistent with those followed in the preparation of the Company's audited consolidated financial statements for the year ended December 29, 2018, except for the adoption of the following new standard and amendments that were effective for annual periods beginning on January 1, 2019 and that the Company has adopted on December 30, 2018:

IFRS 16, Leases

In January 2016, the IASB issued IFRS 16, *Leases*, which replaces IAS 17, *Leases*, and its associated interpretive guidance. The new standard eliminates the distinction between operating and finance leases, bringing most leases on-balance sheet for lessees under a single model, unless an election is made to exclude a lease with a lease term of 12 months or less or the lease is for a low-value asset. A lessee recognizes a right-of-use ("ROU") asset representing the Company's right to use the underlying asset and a lease liability representing the obligation to make lease payments. Lessor accounting, however, remains largely unchanged and the distinction between operating and finance leases is retained.

The Company has elected to adopt the standard using the modified retrospective method and therefore the comparative information for fiscal 2018 has not been restated. The Company has recognized new assets and liabilities for all leases that were previously classified as operating leases, other than those that were excluded due to the elected practical expedients. The Company applied the following practical expedients upon transition:

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements In United States dollars, unless otherwise noted

- The previous determination pursuant to IAS 17 and IFRIC 4, *Determining Whether an Arrangement Contains a Lease*, of whether a contract is a lease has been maintained for existing contracts;
- The Company has exercised the option not to apply the new recognition requirements to short-term leases with a term of 12 months or less (and no purchase option) and leases of low-value assets;
- For the purpose of initial measurement of the right-of-use assets as at December 30, 2018, initial direct costs were not taken into account; and
- The Company has elected not to separate non-lease components from lease components and will account for identified components as a single lease component.

As at December 30, 2018, the Company recognized additional assets and liabilities on the consolidated statements of financial position of \$14.6 million (see Note 4). In addition, the nature of the expense related to these leases has changed as IFRS 16 replaces the straight-line operating lease expense with depreciation expense for right-of-use assets and interest expense on the lease liabilities using the effective interest method.

The following table reconciles the operating lease payments as at December 29, 2018 to the lease liabilities recognized as at December 30, 2018:

<i>(Amounts in \$000s)</i>	Lease liabilities
Minimum lease payments under operating leases as at December 29, 2018	\$ 20,186
Recognition exemption for	
Short-term leases	(24)
Leases of low-value assets	(15)
Reasonably certain extension options	423
Variable non-lease components ⁽¹⁾	(2,653)
Lease obligation as at December 30, 2018 (gross, without discounting)	17,917
Effect from discounting at the incremental borrowing rate as at December 30, 2018 ⁽²⁾	(3,347)
Liabilities recognized based on the initial application of IFRS 16 as at December 30, 2018	14,570
Current portion of lease liabilities as at December 29, 2018	372
Long-term lease liabilities as of December 29, 2018	407
Total lease liabilities as of December 30, 2018	\$ 15,349

⁽¹⁾ Total payments related to variable non-lease components were \$0.1 million and \$0.3 million during the thirteen and twenty-six weeks ended June 29, 2019, respectively.

⁽²⁾ The weighted-average incremental borrowing rate ("IBR") for lease liabilities initially recognized as of December 30, 2018 was 10%. If the Company's IBR changed by 1%, the lease liabilities initially recognized would change by approximately \$0.4 million.

Accounting Policy

At inception, the Company assesses whether a contract is or contains a lease which involves the exercise of judgement. The Company has elected not to separate lease and non-lease components for its right-of-use assets. The Company has elected not to recognize ROU assets and lease liabilities for leases where the total lease term is less than 12 months, or for a lease of low value. The payments for these leases will be recognized on a straight-line basis over the lease term as operating expenses.

Lease assets are capitalized at the commencement date of the lease and ROU assets are initially measured based on the present value of the lease payments, plus initial direct costs incurred when entering into the lease and lease payments made at or before the commencement date, less any lease incentives received. The ROU assets are depreciated over the shorter of the lease term or the estimated useful life of the underlying asset. An impairment review is undertaken for any ROU asset that shows indicators of impairment and an impairment loss is recognized against the ROU asset that is impaired.

The lease liability is measured at the present value of the fixed and eligible variable lease payments that depend on an index or rate, net of any lease incentives at the initial measurement date. When the lease contains an extension or purchase option that the Company considers reasonably certain to be exercised, the cost of the option is included in the lease payments. The present value of the lease payments is determined using the discount rate representing the Company's incremental borrowing rate on the lease

HIGH LINER FOODS INCORPORATED
Notes to the Consolidated Financial Statements
In United States dollars, unless otherwise noted

commencement date, adjusted for the applicable currency of the lease contract, similar tenor and nature of the asset being leased. The variable lease payments that do not depend on an index or a rate are recognized as expense in the period in which the event or condition that triggers the payment occurs.

IAS 19, *Employee Benefits*

In February 2018, the IASB issued amendments to IAS 19, *Employee Benefits* ("IAS 19"), which addresses the accounting when a plan amendment, curtailment or settlement occurs during the reporting period. The current service cost and net interest for the remainder of the period after the plan amendment, curtailment or settlement should reflect the updated actuarial assumptions after such an event. The amendments apply to plan amendments, curtailments, or settlements that occur on or after January 1, 2019, with early adoption permitted. The Company has adopted the amendments to IAS 19 on a prospective basis, which had no impact on the Consolidated Financial Statements.

IFRIC Interpretation 23, *Uncertainty over Income Tax Treatment*

In June 2017, the International Accounting Standards Board (IASB) issued IFRIC Interpretation 23 - *Uncertainty over Income Tax Treatments* (the "Interpretation") to address the accounting for income taxes when treatments involve uncertainty that affects the application of IAS 12, *Income Taxes* ("IAS 12"). The Interpretation does not apply to taxes or levies outside the scope of IAS 12, nor does it specifically include requirements relating to interest and penalties associated with uncertain tax treatments. The Interpretation specifically addresses the following:

- Whether an entity considers uncertain tax treatments separately;
- The assumptions an entity makes about the examination of tax treatments by taxation authorities;
- How an entity determines taxable profit (tax loss), tax bases, unused tax losses, unused tax credits and tax rates; and
- How an entity considers changes in facts and circumstances.

The Interpretation is effective for annual reporting periods beginning on or after January 1, 2019. The Interpretation had no impact on the Consolidated Financial Statements, therefore the Company was able to implement the Interpretation retrospectively without the use of hindsight.

3. Product recall

In April 2017, the Company announced a voluntary recall of certain brands of breaded fish and seafood products sold in Canada that may contain a milk allergen that was not declared on the ingredient label and allergen statement. The Company identified that the allergen had originated from ingredients supplied by one of the Company's U.S.-based ingredient suppliers. Subsequently, the Company was notified by the ingredient supplier that several additional ingredients were being recalled due to the potential presence of undeclared milk allergens, which necessitated the expansion of the Company's initial recall to include additional value-added seafood products sold in the U.S. and Canada.

As a result, during the fifty-two weeks ended December 30, 2017, the Company recognized \$13.5 million in net losses associated with the product recall related to consumer refunds, customer fines, the return of product to be re-worked or destroyed, and incremental costs. These losses did not include any reduction in earnings as a result of lost sales opportunities due to limited product availability and customer shortages, or increased production costs related to the interruption of production at the Company's facilities. During the fifty-two weeks ended December 29, 2018, the Company recognized an \$8.5 million recovery associated with the product recall losses from the ingredient supplier, which was recognized as business acquisition, integration and other expense (income) in the consolidated statements of income.

During the first quarter of 2019, the Company recognized an additional \$8.5 million recovery associated with the product recall losses from the ingredient supplier. As a result, the Company has recovered the full \$13.5 million in losses recognized during the fifty-two weeks ended December 30, 2017 related to consumer refunds, customer fines, the return of product to be re-worked or destroyed, and direct incremental costs, and an additional \$3.5 million related to lost sales opportunities and increased production costs. No further expenses or recoveries are expected.

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements In United States dollars, unless otherwise noted

4. Right-of-use assets and lease liabilities

Right-of-use assets

<i>(Amounts in \$000s)</i>		Land and buildings		Plant and machinery		Computer equipment and vehicles		Total
Cost								
At December 30, 2018	\$	13,686	\$	250	\$	634	\$	14,570
Additions		—		219		282		501
Transfers ⁽¹⁾		69		—		1,908		1,977
Disposals		—		(73)		(479)		(552)
Effect of exchange rates		91		—		76		167
At June 29, 2019	\$	13,846	\$	396	\$	2,421	\$	16,663

Accumulated depreciation

At December 30, 2018	\$	—	\$	—	\$	—	\$	—
Depreciation		(1,985)		(57)		(266)		(2,308)
Transfers ⁽¹⁾		(8)		—		(746)		(754)
Disposals		—		10		333		343
Effect of exchange rates		(13)		—		(29)		(42)
At June 29, 2019	\$	(2,006)	\$	(47)	\$	(708)	\$	(2,761)

Net carrying value

At December 30, 2018	\$	13,686	\$	250	\$	634	\$	14,570
At June 29, 2019	\$	11,840	\$	349	\$	1,713	\$	13,902

⁽¹⁾ The Company has transferred the carrying value of vehicles and equipment of \$1.2 million held under a finance lease and previously classified as property, plant and equipment as at December 29, 2018 to right-of-use assets.

Depreciation expense for the right-of-use assets is included as follows in the consolidated statements of income:

<i>(Amounts in \$000s)</i>		Thirteen weeks ended June 29, 2019		Twenty-six weeks ended June 29, 2019
Cost of sales	\$	34	\$	55
Distribution expenses		663		1,332
Selling, general and administrative expenses		493		921
	\$	1,190	\$	2,308

Lease liabilities

For the thirteen and twenty-six weeks ended June 29, 2019 the Company recognized \$0.4 million and \$0.8 million, respectively, of interest expense on the lease liabilities as finance costs in the consolidated statements of income.

HIGH LINER FOODS INCORPORATED
Notes to the Consolidated Financial Statements
In United States dollars, unless otherwise noted

5. Bank loans

<i>(Amounts in \$000s)</i>	June 29, 2019	December 29, 2018
Bank loans, denominated in CAD (average variable rate of 3.95%; December 29, 2018: 3.95%)	\$ —	\$ 165
Bank loans, denominated in USD (average variable rate of 5.75%; December 29, 2018: 4.80%)	—	31,340
	—	31,505
Less: deferred finance costs netted against bank loans ⁽¹⁾	—	(353)
	\$ —	\$ 31,152

⁽¹⁾ Total deferred finance costs as at June 29, 2019 are \$0.3 million and are classified as non-current assets on the consolidated statements of financial position.

The Company has a \$180.0 million working capital facility (the "Facility"), with the Royal Bank of Canada as Administrative and Collateral Agent, which expires in April 2021. The Facility is asset-based and collateralized by the Company's inventories, accounts receivable and other personal property in Canada and the U.S., subject to a first charge on brands, trade names and related intangibles under the Company's term loan facility (see Note 6), and excluding the assets acquired as part of the Rubicon Resources, LLC ("Rubicon") acquisition which was closed on May 30, 2017. A second charge over the Company's property, plant and equipment is also in place. As at June 29, 2019, the Company had \$146.7 million of undrawn borrowing facility (December 29, 2018: \$118.2 million).

As at June 29, 2019 and December 29, 2018, the Facility allowed the Company to borrow:

Canadian Prime Rate revolving loans, Canadian Base Rate revolving and U.S. Prime Rate revolving loans, at their respective rates	plus 0.00% to 0.25%
Bankers' Acceptances ("BA") revolving loans, at BA rates	plus 1.25% to 1.75%
LIBOR revolving loans at LIBOR, at their respective rates	plus 1.25% to 1.75%
Letters of credit, with fees of	1.25% to 1.75%
Standby fees, required to be paid on the unutilized facility, of	0.25%

6. Long-term debt

<i>(Amounts in \$000s)</i>	June 29, 2019	December 29, 2018
Term loan	\$ 324,231	\$ 337,926
Less: current portion	—	(13,655)
	324,231	324,271
Less: deferred finance costs	(1,305)	(1,597)
	\$ 322,926	\$ 322,674

As at June 29, 2019, the Company had a \$370.0 million term loan facility with an interest rate of 3.25% plus LIBOR (LIBOR floor of 1.00%), maturing on April 24, 2021. Quarterly principal repayments of \$0.9 million are required on the term loan as regularly scheduled repayments. During the twenty-six weeks ended June 29, 2019, a mandatory prepayment of \$13.7 million was made due to excess cash flows in 2018. Any mandatory and voluntary repayments are applied to future regularly scheduled principal repayments, and as such, no additional regularly scheduled principal repayments are required for 2019.

Substantially all tangible and intangible assets (excluding working capital) of the Company are pledged as collateral for the term loan facility.

HIGH LINER FOODS INCORPORATED
Notes to the Consolidated Financial Statements
In United States dollars, unless otherwise noted

7. Employee benefits

Employee benefits relating to the termination of employees ("termination benefits") are expensed during the period and are recorded as of the date a committed plan is in place and communication to employees has occurred. Termination benefits relate to severance which is not based on a future service requirement. Severance and retention benefits that are dependent upon the continuing provision of services through to certain predefined dates, are recognized as short-term employee benefits. Termination and short-term employee benefits are included on the following line items in the consolidated statements of income:

<i>(Amounts in \$000s)</i>	Thirteen weeks ended		Twenty-six weeks ended	
	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Termination benefits				
Cost of sales	\$ —	\$ 4	\$ —	\$ 18
Business acquisition, integration and other expense (income) ⁽¹⁾	110	76	110	732
Selling, general and administrative expenses	97	55	116	78
	\$ 207	\$ 135	\$ 226	\$ 828
Short-term benefits				
Business acquisition, integration and other expense (income) ⁽¹⁾	\$ 329	\$ —	\$ 1,378	\$ —
Selling, general and administrative expenses	—	—	—	21
	\$ 329	\$ —	\$ 1,378	\$ 21

⁽¹⁾For the thirteen and twenty-six weeks ended June 29, 2019, business acquisition, integration and other expense (income) included termination benefits of \$0.3 million and \$1.3 million, respectively, related to the Company's organizational realignment announced on November 7, 2018. The Company has recognized total termination benefits of approximately \$4.8 million related to the restructuring and no additional termination benefits are expected in the second half of Fiscal 2019.

8. Share capital

Purchase of shares for cancellation

In January 2018, the Company announced that the Toronto Stock Exchange approved the renewal of the Company's Normal Course Issuer Bid ("NCIB") to repurchase for cancellation up to 150,000 common shares. The price the Company will pay for any common shares acquired will be the market price at the time of acquisition. Purchases could commence on February 2, 2018 and terminated no later than February 1, 2019. During the twenty-six weeks ended June 29, 2019 there were no purchases under this plan.

A summary of the Company's common share transactions is as follows:

	Twenty-six weeks ended		Twenty-six weeks ended	
	June 29, 2019		June 30, 2018	
	Shares	(\$000s)	Shares	(\$000s)
Balance, beginning of period	33,383,481	\$ 112,887	33,379,815	\$ 112,835
Options exercised for shares	—	—	3,666	24
Fair value of share-based compensation on options exercised	—	—	—	28
Balance, end of period	33,383,481	\$ 112,887	33,383,481	\$ 112,887

During the thirteen and twenty-six weeks ended June 29, 2019, the Company distributed dividends per share of CAD\$0.050 and CAD\$0.195, respectively (thirteen and twenty-six weeks ended June 30, 2018: CAD\$0.145 and CAD\$0.290, respectively).

On August 7, 2019, the Company's Board of Directors declared a quarterly dividend of CAD\$0.050 per share, payable on September 15, 2019 to shareholders of record as of September 1, 2019.

HIGH LINER FOODS INCORPORATED
Notes to the Consolidated Financial Statements
In United States dollars, unless otherwise noted

9. Share-based compensation

The Company has a Share Option Plan (the "Option Plan") for designated directors, officers and certain managers of the Company, a Performance Share Unit ("PSU") Plan for eligible employees which includes the potential issuances of restricted share units ("RSU"), and a Deferred Share Unit ("DSU") Plan for directors of the Company.

Issuances of options, RSUs and PSUs may not result in the following limitations being exceeded: (a) the aggregate number of shares issuable to insiders pursuant to the PSU Plan, the Option Plan or any other share-based compensation arrangement of the Company exceeding 10% of the aggregate of the issued and outstanding shares at any time; and (b) the issuance from treasury to insiders, within a twelve-month period, of an aggregate number of shares under the PSU Plan, the Option Plan and any other share-based compensation arrangement of the Company exceeding 10% of the aggregate of the issued and outstanding shares.

The carrying amount of cash-settled share-based compensation arrangements recognized in other current liabilities and other long-term liabilities on the consolidated statements of financial position was \$3.4 million and \$2.2 million, respectively, as at June 29, 2019 (December 29, 2018: \$0.2 million and \$1.5 million, respectively).

Share-based compensation expense is recognized in the consolidated statements of income as follows:

<i>(Amounts in \$000s)</i>	Thirteen weeks ended		Twenty-six weeks ended	
	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Cost of sales resulting from:				
Equity-settled awards ⁽¹⁾	\$ 10	\$ 12	\$ 19	\$ 25
Selling, general and administrative expenses resulting from:				
Cash-settled awards ⁽¹⁾	2,112	648	3,845	390
Equity-settled awards ⁽¹⁾	180	461	394	603
Share-based compensation expense	\$ 2,302	\$ 1,121	\$ 4,258	\$ 1,018

⁽¹⁾ Cash-settled awards may include options with share appreciation rights ("SARs"), PSUs, RSUs and DSUs. Equity-settled awards include options.

The following table illustrates the number ("No.") and weighted average exercise prices ("WAEP") of, and movements in, options during the period:

	Thirteen weeks ended				Twenty-six weeks ended			
	June 29, 2019		June 30, 2018		June 29, 2019		June 30, 2018	
	No.	WAEP (CAD)	No.	WAEP (CAD)	No.	WAEP (CAD)	No.	WAEP (CAD)
Outstanding, beginning of period	2,069,525	\$ 13.41	1,309,189	\$ 17.58	1,624,681	\$ 15.03	1,340,449	\$ 18.21
Granted	—	—	633,909	10.92	444,844	7.46	804,312	11.27
Exercised for shares ⁽¹⁾	—	—	(3,666)	8.25	—	—	(3,666)	8.25
Exercised for cash ⁽¹⁾	—	—	—	—	—	—	(2,000)	8.25
Cancelled or forfeited	(10,000)	13.82	—	—	(10,000)	13.82	—	—
Expired	(180,510)	21.50	(148,574)	18.25	(180,510)	21.50	(348,237)	20.87
Outstanding, end of period	1,879,015	\$ 12.63	1,790,858	\$ 15.19	1,879,015	\$ 12.63	1,790,858	\$ 15.19
Exercisable, end of period	1,022,245	\$ 15.16	830,229	\$ 18.12	1,022,245	\$ 15.16	830,229	\$ 18.12

⁽¹⁾ The weighted average share price at the date of exercise for these options was CAD\$nil and CAD\$nil, respectively, for the thirteen and twenty-six weeks ended June 29, 2019 (thirteen and twenty-six weeks ended June 30, 2018: CAD\$10.57 and CAD\$10.79).

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements In United States dollars, unless otherwise noted

Set forth below is a summary of the outstanding options to purchase common shares as at June 29, 2019:

Option price (CAD)	Options outstanding			Options exercisable	
	Number outstanding	Weighted average exercise price	Average life (years)	Number exercisable	Weighted average exercise price
\$ 7.25-10.00	444,844	\$ 7.46	4.76	—	\$ —
\$ 10.01-15.00	831,991	11.42	3.71	437,315	11.25
\$ 15.01-20.00	373,641	15.30	1.61	368,218	15.30
\$ 20.01-25.00	228,539	22.71	1.15	216,712	22.82
	1,879,015			1,022,245	

The fair value of options granted during the twenty-six weeks ended June 29, 2019 and June 30, 2018 was estimated on the date of grant using the Black-Scholes pricing model with the following weighted average inputs and assumptions:

	June 29, 2019	June 30, 2018
Dividend yield (%)	7.77	5.16
Expected volatility (%)	40.44	35.45
Risk-free interest rate (%)	1.86	2.10
Expected life (years)	5.00	5.00
Weighted average share price (CAD)	\$ 7.46	\$ 11.34
Weighted average fair value (CAD)	\$ 1.34	\$ 2.32

The expected life of the options is based on historical data and current expectations and is not necessarily indicative of exercise patterns that may occur. The expected volatility reflects the assumption that the historical volatility over a period similar to the life of the options is indicative of future trends, which may also not necessarily be the actual outcome.

The following table illustrates the movements in the number of PSUs during the period:

	Thirteen weeks ended		Twenty-six weeks ended	
	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Outstanding, beginning of period	1,049,746	308,615	879,757	263,556
Granted	—	36,451	240,855	156,590
Reinvested dividends	5,587	4,680	25,771	8,656
Released and paid in cash	—	—	—	(14,096)
Forfeited and expired	(70,891)	(6,117)	(161,941)	(71,077)
Outstanding, end of period	984,442	343,629	984,442	343,629

The expected performance multiplier used in determining the fair value of the liability and related share-based compensation expense for PSUs for the thirteen and twenty-six weeks ended June 29, 2019 was 106% (June 30, 2018: 40%).

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The following table illustrates the movements in the number of RSUs during the period:

	Thirteen weeks ended		Twenty-six weeks ended	
	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Outstanding, beginning of period	445,775	157,975	280,562	72,529
Granted	—	129,189	160,951	213,133
Reinvested dividends	2,451	3,893	10,979	5,929
Released and paid in cash	(2,343)	—	(2,651)	—
Forfeited	(16,388)	(650)	(20,346)	(1,184)
Outstanding, end of period	429,495	290,407	429,495	290,407

The share price at the reporting date was CAD\$8.89 (June 30, 2018: CAD\$10.17). PSUs will vest at the end of a one to three-year period, if agreed-upon performance measures are met (if applicable) and the RSUs will vest in accordance with the terms of the agreement.

The following table illustrates the movements in the number of DSUs during the period:

	Thirteen weeks ended		Twenty-six weeks ended	
	June 29, 2019	June 30, 2018	June 29, 2019	June 30, 2018
Outstanding, beginning of period	160,254	83,582	153,425	77,934
Granted	57,330	58,841	61,059	63,444
Reinvested dividends	1,188	1,901	4,288	2,946
Redeemed	(7,929)	—	(7,929)	—
Outstanding, end of period	210,843	144,324	210,843	144,324

10. Income tax expense

The Company's statutory tax rate for the thirteen and twenty-six weeks ended June 29, 2019 was 29.3% (thirteen and twenty-six weeks ended June 30, 2018: 29.3%). The Company's effective income tax rate for the thirteen and twenty-six weeks ended June 29, 2019 was an expense of 44.9% and 29.2%, respectively (thirteen and twenty-six weeks ended June 30, 2018: a recovery of 158.7% and an expense of 13.1%, respectively). The higher effective tax rate for the thirteen weeks ended June 29, 2019 compared to the prior year was attributable to reduced interest expense deductibility associated with the Company's tax efficient financing structure.

11. Commitments

Guarantee of supplier financing arrangement

As part of the Rubicon acquisition, the Company assumed financing arrangement guarantees for certain suppliers that finance their exports of seafood products to Rubicon. As part of this financing arrangement, the Company has granted a security interest in substantially all of the inventory and proceeds thereon arising from purchases from these suppliers and has guaranteed the suppliers' borrowings, to the extent that such borrowings were used in connection with the exportation of seafood products to Rubicon. The Company has deemed the amount of the guarantee to be the open accounts payable to these suppliers. As of June 29, 2019, the Company's open accounts payable to these suppliers was \$10.6 million.

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements

In United States dollars, unless otherwise noted

12. Related party transactions

The Company had related party transactions with a company controlled by a strategic advisor of Rubicon. Effective the beginning of the second quarter of 2019, this company ceased to be a related party in accordance with IFRS. Total sales to related parties for the thirteen and twenty-six weeks ended June 29, 2019 were \$nil and \$0.3 million, respectively (thirteen and twenty-six weeks ended June 30, 2018: \$0.1 million and \$0.2 million, respectively) and as at June 30, 2018, there was \$0.2 million due from related parties. The Company leased an office building from a related party at an amount which approximated the fair market value that would have been incurred if leased from a third party. Effective beginning of the second quarter of 2019, the lessor ceased to be a related party of the Company in accordance with IFRS. The aggregate payments under the lease, which were measured at the exchange amount, for the thirteen and twenty-six weeks ended June 29, 2019 were \$nil and \$0.2 million respectively (thirteen and twenty-six weeks ended June 30, 2018: \$0.2 million and \$0.3 million, respectively).

13. Geographic information

During the fourth quarter of Fiscal 2018, the Company announced an organizational realignment to optimize the Company's structure in order to take better advantage of the Company's North American scale. As a result, the Company undertook significant reorganization of the internal leadership and reporting structure. The reorganization is now complete and the Company is arranged as a single frozen seafood company that is focused on North America, rather than focusing on separate geographical segments (U.S. and Canada). As such, the Company has transitioned to a single operating and reporting segment.

Information About Geographic Areas

Sales earned outside of Canada for the thirteen and twenty-six weeks ended June 29, 2019 were \$160.5 million and \$382.4 million, respectively (June 30, 2018: \$179.3 million and \$432.1 million, respectively). Sales by geographic area are determined based on the shipping location.

The non-current assets outside of Canada are as follows:

(Amounts in \$000s)	June 29, 2019	December 29, 2018
Property, plant and equipment	\$ 87,171	\$ 89,313
Right-of-use assets	10,572	—
Intangible assets	137,454	140,742
Goodwill	151,517	151,517
	\$ 386,714	\$ 381,572

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements In United States dollars, unless otherwise noted

14. Fair value measurement

Fair value of financial instruments

The Company uses a fair value hierarchy, based on the relative objectivity of the inputs used to measure the fair value of financial instruments, with Level 1 representing inputs with the highest level of objectivity and Level 3 representing inputs with the lowest level of objectivity. The following table sets out the Company's financial assets and liabilities by level within the fair value hierarchy:

<i>(Amounts in \$000s)</i>	June 29, 2019		December 29, 2018	
	Level 2	Level 3	Level 2	Level 3
Fair value of financial assets				
Interest rate swaps	\$ 347	\$ —	\$ 1,424	\$ —
Foreign exchange contracts	297	—	—	—
Fair value of financial liabilities				
Interest rate swaps	527	—	—	—
Foreign exchange contracts	485	—	83	—
Long-term debt	—	304,046	—	310,647
Lease liabilities	—	13,516	—	749

The Company's Level 2 derivatives are valued using valuation techniques such as forward pricing and swap models. These models incorporate various market-observable inputs including foreign exchange spot and forward rates, and interest rate curves.

The fair values of long-term debt instruments, classified as Level 3 in the fair value hierarchy, are estimated based on unobservable inputs, including discounted cash flows using current rates for similar financial instruments subject to similar risks and maturities, adjusted to reflect the Company's credit risk.

The Company uses the date of the event or change in circumstances to recognize transfers between Level 1, Level 2 and Level 3 fair value measurements. During the twenty-six weeks ended June 29, 2019, no such transfers occurred.

The financial liabilities that are not measured at fair value on the consolidated statements of financial position consist of long-term debt (including current portion) and lease liabilities. The carrying amounts for these instruments are \$322.9 million and \$13.6 million, respectively, as at June 29, 2019 (December 29, 2018: \$336.3 million and \$0.8 million, respectively).

Hedging activities

Interest rate swaps

During the twenty-six weeks ended June 29, 2019, the Company had the following interest rate swaps outstanding to hedge interest rate risk resulting from the term loan facility (see Note 6):

Effective date	Maturity date	Receive floating rate	Pay fixed rate	Notional amount (millions)
Designated in a formal hedging relationship:				
December 31, 2014	December 31, 2019	3-month LIBOR (floor 1.0%)	2.1700% \$	20.0
March 4, 2015	March 4, 2020	3-month LIBOR (floor 1.0%)	1.9150% \$	25.0
April 4, 2016	April 24, 2021	3-month LIBOR (floor 1.0%)	1.6700% \$	40.0
January 4, 2018	April 24, 2021	3-month LIBOR (floor 1.0%)	2.2200% \$	80.0

The cash flow hedge of interest expense variability was assessed to be highly effective for the thirteen and twenty-six weeks ended June 29, 2019 and June 30, 2018, and therefore, the change in fair value for those interest rate swaps designated in a hedging relationship was included in OCI as after-tax net losses of \$0.8 million and \$1.3 million, respectively and after-tax net gains of \$0.5 million and \$1.8 million, respectively.

HIGH LINER FOODS INCORPORATED

Notes to the Consolidated Financial Statements

In United States dollars, unless otherwise noted

The Company did not hold any interest rate swaps that were not designated in a formal hedging relationship during the thirteen and twenty-six weeks ended June 29, 2019 and June 30, 2018.

Foreign currency contracts

Foreign currency forward contracts are used to hedge foreign currency risk resulting from expected future purchases denominated in USD, which the Company has qualified as highly probable forecasted transactions, and to hedge foreign currency risk resulting from USD monetary assets and liabilities, which are not covered by natural hedges.

As at June 29, 2019, the Company had outstanding notional amounts of \$27.3 million (June 30, 2018: \$32.6 million) in foreign currency average-rate forward contracts and \$0.8 million (June 30, 2018: \$2.0 million) in foreign currency single-rate forward contracts that were formally designated as a hedge. With the exception of \$0.8 million (June 30, 2018: \$0.8 million) average-rate forward contracts with maturities ranging from July 2020 to December 2020, all foreign currency forward contracts have maturities that are less than one year.

The cash flow hedges of the expected future purchases were assessed to be highly effective for the thirteen and twenty-six weeks ended June 29, 2019 and June 30, 2018, and therefore, the change in fair value was recorded in OCI as after-tax net losses of \$0.2 million and \$0.4 million, respectively and after-tax net gains of \$0.7 million and \$1.0 million, respectively. There were no amounts recognized in the consolidated statements of income resulting from hedge ineffectiveness during the thirteen and twenty-six weeks ended June 29, 2019 (thirteen and twenty-six weeks ended June 30, 2018: a nominal net gain and a nominal net loss, respectively).

As at June 29, 2019, the Company had outstanding notional amounts of \$10.0 million (June 30, 2018: \$nil) of foreign currency single-rate forward contracts to hedge foreign currency exchange risk on USD monetary assets and liabilities that were not formally designated as a hedge. The change in fair value for the thirteen and twenty-six weeks ended June 29, 2019 was a net gain of \$0.1 million (thirteen and twenty-six weeks ended June 30, 2018: net gain of \$0.2 million) which was recorded in the consolidated statements of income.

Hedge of net investment in foreign operations

As at June 29, 2019, a total borrowing of \$324.2 million (\$324.2 million included in long-term debt) (December 29, 2018: a total borrowing of \$338.0 million (\$13.7 million included in the current portion of long-term debt and \$324.3 million included in long-term debt)) has been designated as a hedge of the net investment in the U.S. subsidiary and is being used to hedge the Company's exposure to foreign exchange risk on this net investment. Gains or losses on the re-translation of this borrowing are transferred to OCI to offset any gains or losses on translation of the net investment in the U.S. subsidiary. There was no hedge ineffectiveness recognized during the twenty-six weeks ended June 29, 2019 and June 30, 2018.

EXHIBIT D-1

FORM OF CANADIAN NOTICE OF BORROWING

Date: _____, 20__

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the “Credit Agreement”), made by and among High Liner Foods Incorporated, a Nova Scotia company (the “Canadian Borrower”) and High Liner Foods (USA), Incorporated, a Delaware corporation (the “U.S. Borrower”, and together with the Canadian Borrower, collectively the “Borrowers”), the guarantors signatories thereto, (each, a “Guarantor”), the financial institutions from time to time parties thereto as Lenders (the “Lenders”), Royal Bank of Canada (“Royal Bank”), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the “Collateral Agent”) and Royal Bank, as arranger (the “Arranger”). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

The Canadian Borrower hereby gives you notice (which notice shall be irrevocable) pursuant to Section 1.2 of the Credit Agreement that it requests a Borrowing as specified below:

- (1) Aggregate Amount of proposed Borrowing³: _____
- (2) Requested Funding Date: _____ (which is a Business Day)
- (3) Amount of [**Canadian Prime Rate**] [**BA Equivalent**] [**LIBOR**] [**Canadian Base Rate**] Revolving Loans⁴:
- (4) Duration of [**BA Equivalent**] [**LIBOR**] Interest Period for proposed LIBOR Revolving Loans⁵: _____

³ (a) In the case of a BA Equivalent Revolving Loan not less than CDN\$1,000,000 and in increments of CDN\$500,000, and (b) in the case of a LIBOR Revolving Loan not less than CDN\$1,000,000 (and increments of CDN\$500,000), but in any event not exceeding the Canadian Availability or the Canadian Borrowing Base.

⁴ If not specified, it shall be deemed a request for a Canadian Prime Rate Revolving Loan.

⁵ If not specified, it shall be deemed a request for a LIBOR Interest Period or BA Equivalent Interest Period of one month.

The Canadian Borrower hereby certifies that the following statements are true on and as of the date of the proposed Borrowing:

- (b) The representations and warranties contained in the Credit Agreement and the other Loan Documents are correct in all material respects as though made on and as of such date, other than any such representation or warranty which relates to a specified prior date (which shall be correct as of such specified prior date) and except to the extent the Agent and the Lenders have been notified in writing by the Borrowers (or the Canadian Borrower on behalf of the Borrowers) that any representation or warranty is not correct and the Required Lenders have explicitly waived in writing compliance with such representation or warranty;
- (c) No Default or Event of Default has occurred and is continuing, or would result from such proposed Borrowing;
- (d) No event has occurred and is continuing, or would result from such proposed Borrowing, which has had or would have a Material Adverse Effect; and
- (e) The proposed Borrowing set forth above will not exceed the Canadian Availability or the Canadian Borrowing Base.

HIGH LINER FOODS INCORPORATED

By: _____
Name: _____
Title: _____

EXHIBIT D-2

FORM OF U.S. NOTICE OF BORROWING

Date: _____, 20__

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the "Credit Agreement"), made by and among High Liner Foods Incorporated, a Nova Scotia company (the "Canadian Borrower") and High Liner Foods (USA), Incorporated, a Delaware corporation (the "U.S. Borrower", and together with the Canadian Borrower, collectively the "Borrowers"), the guarantors signatories thereto, (each, a "Guarantor"), the financial institutions from time to time parties thereto as Lenders (the "Lenders"), Royal Bank of Canada ("Royal Bank"), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the "Collateral Agent") and Royal Bank, as arranger (the "Arranger"). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

Applicable U.S. Borrower hereby gives you notice (which notice shall be irrevocable) pursuant to Section 1.3 of the Credit Agreement that it requests a Borrowing as specified below:

- (1) Aggregate Amount of proposed Borrowing⁶: _____
- (2) Requested Funding Date: _____ (which is a Business Day)
- (3) Amount of [U.S. Prime Rate] [LIBOR] Revolving Loans⁷:
- (4) Duration of initial LIBOR Interest Period for proposed LIBOR Revolving Loans⁸: _____

⁶ Not less than \$1,000,000 and in integral multiples of \$500,000, but in any event not exceeding the U.S. Availability or the U.S. Borrowing Base.

⁷ If not specified, it shall be deemed a request for a U.S. Prime Rate Revolving Loan.

⁸ If not specified, it shall be deemed a request for a LIBOR Interest Period of one month.

The undersigned hereby certifies that the following statements are true on and as of the date of the proposed Borrowing:

- (a) The representations and warranties contained in the Credit Agreement and the other Loan Documents are correct in all material respects as though made on and as of such date, other than any such representation or warranty which relates to a specified prior date (which shall be correct as of such specified prior date) and except to the extent the Agent and the Lenders have been notified in writing by the Borrowers (or the Canadian Borrower on behalf of the Borrowers) that any representation or warranty is not correct and the Required Lenders have explicitly waived in writing compliance with such representation or warranty;
- (b) No Default or Event of Default has occurred and is continuing, or would result from such proposed Borrowing;
- (c) No event has occurred and is continuing, or would result from such proposed Borrowing, which has had or would have a Material Adverse Effect; and
- (d) The proposed Borrowing set forth above will not exceed the U.S. Availability or the U.S. Borrowing Base.

**[HIGH LINER FOODS (USA),
INCORPORATED]**

By: _____
Name: _____
Title: _____

EXHIBIT E-1

FORM OF CANADIAN NOTICE OF CONTINUATION/CONVERSION

Date: _____, 20__

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the "Credit Agreement"), made by and among High Liner Foods Incorporated, a Nova Scotia company (the "Canadian Borrower") and High Liner Foods (USA), Incorporated, a Delaware corporation (the "U.S. Borrower", and together with the Canadian Borrower, collectively the "Borrowers"), the guarantors signatories thereto, (each, a "Guarantor"), the financial institutions from time to time parties thereto as Lenders (the "Lenders"), Royal Bank of Canada ("Royal Bank"), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the "Collateral Agent") and Royal Bank, as arranger (the "Arranger"). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

Canadian Borrower hereby gives you notice pursuant to Section [2.2] of the Credit Agreement that it requests a continuation or conversion of the Canadian Revolving Loans as specified below:

- (1) Proposed Canadian Continuance/Conversion Date: _____
- (2) Aggregate amount and type of Canadian Revolving Loans to be converted or renewed: _____
- (3) Type of Canadian Revolving Loans resulting from the proposed conversion or continuation: _____
- (4) Duration of requested [BA Equivalent] [LIBOR] Interest Period⁹:

HIGH LINER FOODS INCORPORATED

By: _____
Name: _____
Title: _____

⁹ Canadian Borrower may not select a BA Equivalent or LIBOR Interest Period that ends after the Stated Termination Date.

EXHIBIT E-2

FORM OF U.S. NOTICE OF CONTINUATION/CONVERSION

Date: _____, 20__

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the "Credit Agreement"), made by and among High Liner Foods Incorporated, a Nova Scotia company (the "Canadian Borrower") and High Liner Foods (USA), Incorporated, a Delaware corporation (the "U.S. Borrower", and together with the Canadian Borrower, collectively the "Borrowers"), the guarantors signatories thereto, (each, a "Guarantor"), the financial institutions from time to time parties thereto as Lenders (the "Lenders"), Royal Bank of Canada ("Royal Bank"), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the "Collateral Agent") and Royal Bank, as arranger (the "Arranger"). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

Applicable U.S. Borrower hereby gives you notice pursuant to Section [2.2] of the Credit Agreement that it requests a continuation or conversion of the U.S. Revolving Loans as specified below:

- (1) Proposed U.S. Continuance/Conversion Date: _____
- (2) Aggregate amount of U.S. Revolving Loans of U.S. Borrower to be converted or renewed: _____
- (3) Type of U.S. Revolving Loans resulting from the proposed conversion or continuation: _____
- (4) Duration of requested [LIBOR] Interest Period¹⁰: _____

**[HIGH LINER FOODS (USA),
INCORPORATED]**

By: _____
Name: _____
Title: _____

¹⁰ U.S. Borrower may not select a LIBOR Interest Period that ends after the Stated Termination Date.

EXHIBIT F-1

FORM OF DESIGNATION OF CANADIAN DESIGNATED ACCOUNT

Date: _____, 20__

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the "Credit Agreement"), made by and among High Liner Foods Incorporated, a Nova Scotia company (the "Canadian Borrower") and High Liner Foods (USA), Incorporated, a Delaware corporation (the "U.S. Borrower", and together with the Canadian Borrower, collectively the "Borrowers"), the guarantors signatories thereto, (each, a "Guarantor"), the financial institutions from time to time parties thereto as Lenders (the "Lenders"), Royal Bank of Canada ("Royal Bank"), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the "Collateral Agent") and Royal Bank, as arranger (the "Arranger"). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

Canadian Borrower hereby gives you notice pursuant to Section 1.2(c) of the Credit Agreement that it designates a replacement Canadian Designated Account as specified below:

Bank Name: _____
Bank Address: _____
ABA#: _____
Account #: _____
Reference: _____

HIGH LINER FOODS INCORPORATED

By: _____
Name: _____
Title: _____

EXHIBIT F-2

FORM OF DESIGNATION OF U.S. DESIGNATED ACCOUNT

Date: _____, 20__

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the "Credit Agreement"), made by and among High Liner Foods Incorporated, a Nova Scotia company (the "Canadian Borrower") and High Liner Foods (USA), Incorporated, a Delaware corporation (the "U.S. Borrower", and together with the Canadian Borrower, collectively the "Borrowers"), the guarantors signatories thereto, (each, a "Guarantor"), the financial institutions from time to time parties thereto as Lenders (the "Lenders"), Royal Bank of Canada ("Royal Bank"), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the "Collateral Agent") and Royal Bank, as arranger (the "Arranger"). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

Applicable U.S. Borrower hereby gives you notice pursuant to Section 1.3(c) of the Credit Agreement that it designates a replacement U.S. Designated Account as specified below:

Bank Name: _____
Bank Address: _____
ABA#: _____
Account #: _____
Reference: _____

**[HIGH LINER FOODS (USA),
INCORPORATED]**

By: _____
Name: _____
Title: _____

EXHIBIT G

FORM OF RESPONSIBLE OFFICERS' CERTIFICATE

TO: Royal Bank of Canada, as Agent

The undersigned, _____ [TITLE of AUTHORIZED SIGNING OFFICERS], of High Liner Foods Incorporated and High Liner Foods (U.S.A.), Incorporated (the "Borrowers"), pursuant to Section 5.2 of the Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 by and among, amongst others, Royal Bank of Canada, as Administrative Agent, and the Borrowers (as amended, restated, supplemented, replaced or otherwise modified from time to time the "Credit Agreement"), **DO HEREBY CERTIFY** in their capacities as authorized signing officers of the Borrowers and not in their personal capacities that:

1. The financial statements attached hereto fairly and accurately represent the Borrowers' financial condition at the end of the particular accounting period set out in such financial statements, as well as the Borrowers' and their Subsidiaries' operating results during such accounting period, subject to year-end audit adjustments;
2. A review of such financial statements and of the activities of the Borrowers and their Subsidiaries during the period covered by such financial statements has been made under my supervision with a view to determining whether the Borrowers and the Subsidiaries have fulfilled all of their obligations;
3. During the accounting period set out in such financial statements:
 - (a) each of the Borrowers and their Subsidiaries have fulfilled each of its respective obligations under each of the Loan Documents to which it is a party;
 - (b) there has been no Default or Event of Default under the Credit Agreement,
 - (c) each of the Borrowers is not aware of any event or circumstance which could reasonably have or could reasonably have had a Material Adverse Effect (as such term is defined in the Credit Agreement);
 - (d) the representation and warranties contained in the Credit Agreement and the other Loan Documents are correct in all material respects on and as of the date hereof as though made on and as of such date (unless otherwise updated pursuant hereto in the attached Annex 1), other than any such representation or warranty which relates to a specified prior date and except to the extent that the Agent has been notified in writing by the Borrowers that any representation or warranty is not correct and the Lenders have explicitly waived in writing compliance with such representation or warranty;
 - (e) the Borrowers have been in compliance with all covenants set out in the Credit Agreement and, specifically, set out in Section 7.25 of the Credit Agreement as evidenced by the statements and calculations attached hereto as Annex A (including any Fixed Charge Coverage Ratio calculation as required);

- (f) Annex B hereto sets out all Subsidiaries and indicates whether the formation or acquisition of each Subsidiary was formed or acquired since the end of the previous calendar month;
- (g) no change in GAAP or in the application thereof has occurred since the date of the most recent audited annual financial statements of the Borrowers delivered to the Agent [**Note to Draft: - If a change has occurred, specify the details of the change and its effect on the accompanying financial statements**]; and
- (h) the [**quarterly/annual**] management discussion and analysis prepared on a consolidated basis by the Canadian Borrower is attached hereto as Annex D.

[Note to Draft: if any of the foregoing is incorrect, revise wording accordingly to include particulars of any variation.]

- 4. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Credit Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Responsible Officers' certificate on behalf of the Borrowers as of the _____ day of _____, 20_____.

Per: _____

Name:

Title:

Per: _____

Name:

Title:

Exhibit H

FORM OF GUARANTOR ADHESION AGREEMENT

GUARANTOR ADHESION AGREEMENT

(Guarantors)

(“[Corporation name]”)

To: Royal Bank of Canada, as Agent for the Lenders referred to below
200 Bay Street, 12th Floor
Royal Bank Plaza, South Tower
Toronto, Ontario M5J 2W7
Attention: Agency Services Group

Ladies and Gentlemen:

Reference is made to the Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as extended, renewed, amended or restated from time to time, the “Credit Agreement”), made by and among High Liner Foods Incorporated, a Nova Scotia company (the “Canadian Borrower”) and High Liner Foods (USA), Incorporated, a Delaware corporation (the “U.S. Borrower”, and together with the Canadian Borrower, collectively the “Borrowers”), the guarantors signatories thereto, (each, a “Guarantor”), the financial institutions from time to time parties thereto as Lenders (the “Lenders”), Royal Bank of Canada (“Royal Bank”), as administrative agent and as collateral agent for the Lenders (in its capacity as administrative agent and collateral agent, together with any successor administrative agent and collateral agent, the “Collateral Agent”) and Royal Bank, as arranger (the “Arranger”). Terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

WHEREAS, the Credit Agreement requires that the Canadian Borrower cause each of its direct and indirect wholly-owned Subsidiaries (individually, a "**Guarantor**", and collectively, the "**Guarantors**") to execute the Credit Agreement whereby the Guarantors guarantee the performance of the Borrowers’ Obligations, as defined in the Credit Agreement, to the Lenders;

AND WHEREAS, the undersigned is a direct and indirect wholly-owned Subsidiary of the Canadian Borrower acquired or formed by the Canadian Borrower subsequent to the effective date of the Credit Agreement and, pursuant to the terms and conditions of the Credit Agreement, is required to execute a counterpart to the Credit Agreement.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees as follows:

1. The undersigned hereby acknowledges that it has recently become a direct or indirect wholly-owned Subsidiary of the Canadian Borrower.
2. In such capacity, the undersigned hereby (i) acknowledges and agrees to be bound by all the terms of the Credit Agreement applicable to Guarantors, (ii) acknowledges having

read the Credit Agreement, and (iii) affirms the Obligations, as defined in the Credit Agreement, (including the Guaranteed Obligations, as defined in the Credit Agreement) imposed on it under the Credit Agreement and in addition, without limitation, the terms of Section 13 thereof.

EXECUTED as of this ____ day of _____, 20__.

●

By:

Authorized Signing Officer

I have the authority to bind the Corporation

Exhibit I

FORM OF MORTGAGE

See Attached.

FORM OF U.S. MORTGAGE

[NOTE: SUBJECT TO LOCAL COUNSEL REVIEW]

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Paul Hastings LLP
75 East 55th Street
New York, NY 10022

Attention: [_____]

**SECOND LIEN MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY
AGREEMENT AND FIXTURE FILING**

by and between

[_____], "Mortgagor"

to

**ROYAL BANK OF CANADA,
in its capacity as collateral agent, "Mortgagee"**

Dated as of _____, 201[]

Location: _____
City: _____
County: _____
State: _____

SECOND LIEN MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

THIS SECOND LIEN MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “**Mortgage**”) is dated as of _____, 201[], by and between _____, a _____ (“**Mortgagor**”), whose address is _____ to **ROYAL BANK OF CANADA**, in its capacity as collateral agent (“**Agent**”) pursuant to the Credit Agreement (as defined below), whose address is 4th Floor, 20 King Street West, Toronto, Ontario M54 1C4 (Agent, together with its successors and permitted assigns, is referred to herein as “**Mortgagee**”).

RECITALS:

WHEREAS, High Liner Foods Incorporated, a body incorporated under the laws of the Province of Nova Scotia, as a borrower (the “**Borrower**”), each of the Borrower’s subsidiaries from time to time party thereto, Royal Bank of Canada, in its capacity as administrative agent thereunder, and the lenders from time to time party thereto have entered into that certain Fourth Amended and Restated Credit Agreement dated as of October 16, 2019 (as amended, restated, supplemented or otherwise modified heretofore or hereinafter from time to time, the “**Credit Agreement**”), which Credit Agreement provides for a revolving loan pursuant to the terms of said Credit Agreement.

WHEREAS, the Mortgagor is a member of an affiliated group of companies that includes the Borrower and the other Loan Parties (as defined in the Credit Agreement).

WHEREAS, the Mortgagor shall be engaged in related businesses and will derive substantial direct and indirect benefits from the extensions of credit to the Borrower under the Credit Agreement.

WHEREAS, Mortgagor is the fee owner of the real property and improvements described in Exhibit A attached hereto.

WHEREAS, it is a requirement of the Credit Agreement that the Mortgagor, among other things, secure the Obligations under the Credit Agreement and the other Loan Documents (as defined in the Credit Agreement) by delivering and executing this Mortgage in favor of Agent, for the benefit of the Secured Parties (as defined in the Credit Agreement).

NOW, THEREFORE, in consideration of the premises and the agreements hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, the Mortgagor hereby agrees with the Collateral Agent, for the ratable benefit of the Secured Parties as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. All initially capitalized terms used herein (including in the preamble and recitals hereof) without definition shall have the meanings ascribed thereto in the Credit Agreement. In addition to those terms defined elsewhere in this Mortgage, as used in this Mortgage, the following terms shall have the following meanings:

(a) **“Event of Default”**: Shall have the meaning ascribed to such term in the Credit Agreement.

(b) **“Insolvency Proceeding”**: Shall mean any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

(c) **“Mortgaged Property”**: Shall mean all of Mortgagor’s right, title and interest in and to (1) the fee interest in the real property described in Exhibit A attached hereto and incorporated herein by this reference, together with any greater estate therein as hereafter may be acquired by Mortgagor (the **“Land”**), (2) all improvements now owned or hereafter acquired by Mortgagor, now or at any time situated, placed or constructed upon the Land (the **“Improvements”**); the Land and Improvements are collectively referred to herein as the **“Premises”**), (3) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Mortgagor and now or hereafter attached to or installed in any of the Improvements or the Land, and water, gas, electrical, telephone, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the **“Fixtures”**), (4) all reserves, escrows or impounds required under the Credit Agreement and all deposit accounts maintained by Mortgagor with respect to the Mortgaged Property (the **“Deposit Accounts”**), (5) all existing and future leases, subleases, licenses, concessions, occupancy agreements or other agreements (written or oral, now or at any time in effect) which grant to any Person a possessory interest in, or the right to use or occupy, all or any part of the Mortgaged Property, whether made before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code, together with any extension, renewal or replacement of the same and together with all related security and other deposits (the **“Leases”**), (6) all of the rents, additional rents, revenues, royalties, income, proceeds, profits, early termination fees or payments, security and other types of deposits, and other benefits paid or payable by parties to the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property or any part thereof, whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (the **“Rents”**), (7) to the extent transferable, all other agreements, such as construction contracts, architects’ agreements, engineers’ contracts, utility contracts, maintenance agreements, management agreements, service contracts, listing agreements, guaranties, warranties, permits, licenses, certificates and entitlements in any way relating to the construction, use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property (the **“Property Agreements”**), (8) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, (9) all property tax refunds, utility refunds and rebates, earned or received by Mortgagor at any time with respect to the Premises (the **“Tax Refunds”**), (10) all accessions, replacements and substitutions for any of the foregoing and all

proceeds thereof (the “**Proceeds**”), (11) all insurance policies, unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Mortgagor (the “**Insurance**”), (12) any awards, damages, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements or Fixtures (the “**Condemnation Awards**”), (13) subject to the terms of the Loan Documents, all of Mortgagor’s rights to appear and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Mortgagor in the Mortgaged Property, (14) all rights, powers, privileges, options and other benefits of Mortgagor as lessor under the Leases, including, without limitation, the immediate and continuing right to claim for, receive, collect and receive all Rents payable or receivable under the Leases or pursuant thereto in accordance with the terms of the Loan Documents (and to apply the same to the payment of the Secured Obligations in accordance with the terms of the Loan Documents), and to do all other things which Mortgagor or any lessor is or may become entitled to do under the Leases and (15) any and all after-acquired right, title or interest of Mortgagor in and to any property of the types described in the preceding clauses. As used in this Mortgage, the term “Mortgaged Property” shall mean all or, where the context permits or requires, any portion of the above or any interest therein. THE TERM “MORTGAGED PROPERTY” IS NOT INTENDED TO INCLUDE, AND SHALL BE DEEMED TO EXCLUDE, ALL ITEMS OF PERSONAL PROPERTY IN WHICH MORTGAGEE HAS OBTAINED AND/OR PERFECTED A SECURITY INTEREST UNDER SEPARATE INSTRUMENTS.

(d) “**Mortgaged Property Permitted Liens**”: Shall mean the liens and encumbrances (i) set forth in Section II of Schedule B to the lender’s title policy obtained by Agent in connection with the Premises, as required pursuant to the Credit Agreement, and (ii) Permitted Liens.

(e) “**Secured Obligations**”: Shall mean all of (i) the agreements, covenants, conditions, warranties, representations and obligations of Borrower and the Guarantors under the Credit Agreement and/or the other Loan Documents, including, but not limited to, the “Obligations”, as such term is defined in the Credit Agreement and the Security Agreement, as applicable, now or hereafter existing, and specifically including, without limitation, (1) the repayment of all amounts outstanding from time to time under the Credit Agreement and/or the other Loan Documents, including principal, interest (including, to the extent permitted under applicable law, any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), and all other amounts which may now or hereafter be advanced in connection with the Revolving Loans (collectively, the “**Loans**”) or other future advances, as other additional loan amounts or as additional principal amounts of the Loans under the Credit Agreement, as the same may be amended from time to time, with such indebtedness maturing at such time or upon occurrence of such an event as specified in the Credit Agreement, unless sooner accelerated pursuant to the terms of the Credit Agreement, (2) the payment of all fees and expenses (including, to the extent permitted under applicable law, any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), or otherwise, and any and all expenses (including reasonable counsel fees and out-of-pocket expenses) incurred by

Agent, the Lenders or any of the other Secured Parties in enforcing any rights under any of the Loan Documents pursuant to the terms thereof, (3) the repayment of all future advances made under or pursuant to the terms of the Credit Agreement, and (4) all other payment and performance obligations of Mortgagor or Borrower arising under the Credit Agreement and/or any other Security Document, and (ii) the agreements, covenants, conditions, warranties, representations and obligations of Mortgagor or Borrower under this Mortgage or the other Credit Document, and all other payment obligations of Mortgagor arising under any other Security Document. Without limiting the generality of the foregoing, Secured Obligations shall include all amounts that constitute part of the Obligations and would be owed by Borrower or the Guarantors to Agent or the Secured Parties but for the fact that they are unenforceable or not allowable, including due to the existence of a bankruptcy, reorganization, other Insolvency Proceeding or similar proceeding involving Borrower.

(f) “UCC”: Shall mean the Uniform Commercial Code of the state in which the Land is located or, if the creation, perfection and/or enforcement of any security interest herein granted is governed by the laws of a state other than the state in which the Land is located, then, as to the matter in question, the Uniform Commercial Code in effect in that state.

ARTICLE 2 **GRANT**

Section 2.1 Grant. For and in consideration of all of the foregoing and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of Mortgagor herein set forth, and in order to secure the full and timely payment and performance of the Secured Obligations, Mortgagor hereby MORTGAGES, GRANTS, BARGAINS, ASSIGNS, SELLS, WARRANTS and CONVEYS, to Mortgagee for the benefit of each Secured Party, Mortgagor’s right, title and interest in the Mortgaged Property, TO HAVE AND TO HOLD the Mortgaged Property together with all and singular the parts, rights, privileges, hereditaments, and appurtenances thereto in any ways belonging or appertaining, to the use, benefit, and behoof of Mortgagor, its successors and assigns, WITH POWER OF SALE and right of entry and possession, to Mortgagee for the benefit of each Secured Party, and Mortgagor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Mortgagee and each Secured Party against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject only to the Mortgaged Property Permitted Liens. Notwithstanding anything to the contrary contained in the immediately preceding sentence or elsewhere in this Mortgage, Mortgagor hereby agrees and acknowledges that the Secured Obligations secured by this Mortgage include the Loans, the amount of which may be increased, and this Mortgage is intended to secure all future advances of any other loan amounts under the Credit Agreement; accordingly, this Mortgage shall not be canceled by the full and complete repayment of the Loans, so long as the Credit Agreement remains in force and effect

ARTICLE 3 **WARRANTIES, REPRESENTATIONS AND COVENANTS**

Mortgagor warrants, represents and covenants to Mortgagee as follows:

Section 3.1 Title to Mortgaged Property and Lien of this Instrument.

Mortgagor (a) has good and insurable title to the Mortgaged Property, in fee simple (to the extent that the Mortgaged Property constitutes real property), free and clear of any liens, claims or interests, except the Mortgaged Property Permitted Liens and (b) has full power and lawful authority to encumber the Mortgaged Property in the manner and form set forth in this Mortgage. Subject to the Mortgaged Property Permitted Liens, this Mortgage creates valid, enforceable second priority liens and security interests against the Mortgaged Property.

Section 3.2 Lien Status.

Subject to the other provisions of the Credit Document, Mortgagor shall preserve and protect the lien and security interest status of this Mortgage and the other Loan Documents. If any lien or security interest, other than the Mortgaged Property Permitted Liens, is asserted against the Mortgaged Property, Mortgagor shall promptly, and at its expense, (a) give Mortgagee a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or contest the same in compliance with the requirements of the Credit Agreement (including the requirement of providing a bond or other security satisfactory to Mortgagee).

Section 3.3 Payment and Performance.

Mortgagor shall cause Borrowers to pay and perform the Secured Obligations as and when due under the Loan Documents.

Section 3.4 Replacement of Fixtures.

Except as provided in the Credit Agreement, Mortgagor shall not (or shall not permit Borrower to), without the prior written consent of Mortgagee, permit any of the Fixtures to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is replaced by an article of equal or better suitability and value, owned by Mortgagor subject to the liens and security interests of this Mortgage and the other Loan Documents, and free and clear of any other lien or security interest except the Mortgaged Property Permitted Liens and such as may be permitted under this Mortgage, the Credit Agreement or first approved in writing by Mortgagee.

Section 3.5 Inspection.

Mortgagor shall permit Mortgagee and its agents, representatives and employees to inspect the Mortgaged Property and all books and records of Mortgagor related thereto, regardless of the physical location of same, and to conduct such environmental and engineering studies as Mortgagee may require. Provided that no Event of Default exists, all such testing and investigation shall be conducted at reasonable times and upon reasonable prior notice to Mortgagor.

Section 3.6 Other Covenants.

All of the covenants in the Credit Agreement are incorporated herein by reference and, together with covenants in this Article 3, shall, to the extent applicable, be covenants running with the land.

Section 3.7 Condemnation Awards and Insurance Proceeds.

(a) **Condemnation Awards.** Mortgagor, upon obtaining knowledge of the institution of any proceedings for the condemnation of the Mortgaged Property or any portion thereof, will notify Mortgagee of the pendency of such proceedings. Subject to the terms of the Credit Agreement and the Loan Documents, Mortgagee may participate in any such proceedings and Mortgagor from time to time will deliver to Mortgagee all instruments requested by it to permit such participation. Mortgagor collaterally assigns all awards and compensation to which it is entitled for any condemnation or other taking, or any purchase in lieu thereof, to Mortgagee and authorizes Mortgagee to collect and receive such awards and compensation and to give proper receipts and acquittances therefor. Mortgagor hereby waives all rights to such awards and compensation described in the foregoing sentence, subject in all cases to the terms of the Credit Agreement and the other Loan Documents. Mortgagor, upon request by Mortgagee, shall make, execute and deliver any and all instruments requested for the purpose of confirming the assignment of the aforesaid awards and compensation to Mortgagee free and clear of any liens, charges or encumbrances of any kind or nature whatsoever, subject in all cases to the terms of the Credit Agreement and the other Loan Documents.

(b) **Insurance Proceeds.** Mortgagor collaterally assigns to Mortgagee all proceeds of any insurance policies insuring against loss or damage to the Mortgaged Property. Except as set forth in the Credit Agreement, Mortgagor authorizes Mortgagee to collect and receive such proceeds and authorizes and directs the issuer of each of such insurance policies to make payment for all such losses directly to Mortgagee, instead of to Mortgagor and Mortgagee jointly. In the event that the issuer of such insurance policy fails to disburse directly or solely to Mortgagee but disburses instead either solely to Mortgagor or to Mortgagor and Mortgagee, jointly, Mortgagor shall immediately endorse and transfer such proceeds to Mortgagee. Upon Mortgagor's failure to do so, Mortgagee may execute such endorsements or transfers from and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor's agent and attorney-in-fact so to do.

Section 3.8 Costs of Defending and Upholding the Lien. If any action or proceeding is commenced to which action or proceeding Mortgagee is made a party or in which it becomes necessary for Mortgagee to defend or uphold the lien of this Mortgage, including any extensions, renewals, amendments or modifications thereof, Mortgagor shall, on demand, reimburse Mortgagee for all expenses (including, without limitation, reasonable attorneys' fees and reasonable appellate attorneys' fees) incurred by Mortgagee in any such action or proceeding and all such expenses shall be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage or to recover or collect the Secured Obligations, the provisions of law relating to the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

Section 3.9 TRANSFER OF THE SECURED PROPERTY. MORTGAGOR SHALL NOT SELL, TRANSFER, PLEDGE, ENCUMBER, CREATE A SECURITY INTEREST IN, GROUND LEASE, OR OTHERWISE HYPOTHECATE, ALL OR ANY PORTION OF THE MORTGAGED PROPERTY, EXCEPT AS PERMITTED BY THE CREDIT AGREEMENT, WITHOUT THE PRIOR WRITTEN CONSENT OF MORTGAGEE. THE CONSENT BY MORTGAGEE TO ANY SALE, TRANSFER, PLEDGE, ENCUMBRANCE, CREATION OF A SECURITY INTEREST IN, GROUND LEASE, OR OTHER HYPOTHECATION OF, ANY PORTION OF THE MORTGAGED PROPERTY

SHALL NOT BE DEEMED TO CONSTITUTE A NOVATION OR A CONSENT TO ANY FURTHER SALE, TRANSFER, PLEDGE, ENCUMBRANCE, CREATION OF A SECURITY INTEREST IN, GROUND LEASE OR OTHER HYPOTHECATION, OR TO WAIVE THE RIGHT OF MORTGAGEE, AT ITS OPTION, TO DECLARE THE INDEBTEDNESS SECURED HEREBY IMMEDIATELY DUE AND PAYABLE, WITHOUT NOTICE TO MORTGAGOR OR ANY OTHER PERSON OR ENTITY, UPON ANY SUCH SALE, TRANSFER, PLEDGE, ENCUMBRANCE, CREATION OF A SECURITY INTEREST, GROUND LEASE, OR OTHER HYPOTHECATION WHICH IS PROHIBITED BY THE CREDIT AGREEMENT AND AS TO WHICH MORTGAGEE SHALL NOT HAVE CONSENTED.

Section 3.10 Security Deposits. To the extent required by law, or after an Event of Default has occurred and during its continuance, if required by Mortgagee, all security deposits of tenants of the Mortgaged Property shall be treated as trust funds not to be commingled with any other funds of Mortgagor. Within twenty (20) days after request by Mortgagee, Mortgagor shall furnish satisfactory evidence of compliance with this Section 3.10, as necessary, together with a statement of all security deposits deposited by the tenants and copies of all Leases not theretofore delivered to Mortgagee, as requested thereby, certified by Mortgagor.

ARTICLE 4 **DEFAULT**

Section 4.1 Events of Default. The occurrence of any of the following events shall constitute an event of default under this Mortgage (each, an “**Event of Default**”):

- (a) an “Event of Default” (as such term is defined in the Credit Agreement) shall have occurred;
- (b) Mortgagor’s breach of any of the covenants set forth in this Mortgage; or
- (c) if any misstatement or misrepresentation exists now or hereafter in any warranty or representation set forth in Article 3 hereof.

ARTICLE 5 **REMEDIES AND FORECLOSURE**

Section 5.1 Remedies. Upon the occurrence and during the continuance of an Event of Default, Mortgagee may, at Mortgagee’s election, exercise any or all of the following rights, remedies and recourses:

- (a) To the extent permitted under and subject to the terms of the Credit Agreement and the Intercreditor Agreement, declare the Secured Obligations to be immediately due and payable, without further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever (each of which

hereby is expressly waived by Mortgagor), whereupon the same shall become immediately due and payable.

(b) Notify all tenants of the Premises and all others obligated on leases of any part of the Premises that all rents and other sums owing on leases have been assigned to Mortgagee and are to be paid directly to Mortgagee, and to enforce payment of all obligations owing on leases, by suit, ejectment, cancellation, releasing, reletting or otherwise, whether or not Mortgagee has taken possession of the Premises, and to exercise whatever rights and remedies Mortgagee may have under any assignment of rents and leases.

(c) As and to the extent permitted by law, enter the Mortgaged Property, either personally or by its agents, nominees or attorneys, and take exclusive possession thereof and thereupon, Mortgagee may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Premises and conduct business thereat; (ii) complete any construction on the Premises in such manner and form as Mortgagee deems advisable in the reasonable exercise of its judgment; (iii) exercise all rights and power of Mortgagor with respect to the Premises, whether in the name of Mortgagor, or otherwise, including, without limitation, the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Premises and every part thereof, which rights shall not be in limitation of Mortgagee's rights under any assignment of rents and leases securing the Secured Obligations; and (iv) pursuant to the provisions of the Credit Agreement, apply the receipts from the Premises to the payment of the Secured Obligations, after deducting therefrom all expenses (including attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, assessments, insurance and other charges in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees.

(d) Hold, lease, develop, manage, operate or otherwise use the Mortgaged Property upon such terms and conditions as Mortgagee may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Mortgagee deems necessary or desirable), and apply all Rents and other amounts collected by Mortgagee in connection therewith in accordance with the provisions of Section 5.7 hereof.

(e) Require Mortgagor to assemble any collateral under the UCC and make it available to Mortgagee, at Mortgagor's sole risk and expense, at a place or places to be designated by Mortgagee, in its sole discretion.

(f) Institute proceedings for the complete foreclosure of this Mortgage, either by judicial action or by power of sale, in which case the Mortgaged Property may be sold for cash or credit in accordance with applicable law in one or more parcels as Mortgagee may determine. Except as otherwise required by applicable law, with respect to any notices required or permitted under the UCC, Mortgagor agrees that ten (10) days' prior written notice shall be deemed commercially reasonable. At any such sale by virtue of any judicial proceedings, power of sale, or any other legal right, remedy or recourse, the title to and right of

possession of any such property shall pass to the purchaser thereof, and to the fullest extent permitted by law, Mortgagor shall be completely and irrevocably divested of all of its right, title, interest, claim, equity, equity of redemption, and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Mortgagor, and against all other Persons claiming or to claim the property sold or any part thereof, by, through or under Mortgagor. Mortgagee or any of the Lenders (or any of the Secured Parties) may be a purchaser at such sale. If Mortgagee is the highest bidder, Mortgagee may credit the portion of the purchase price that would be distributed to Mortgagee (on behalf of the Secured Parties) against the Secured Obligations in lieu of paying cash. In the event this Mortgage is foreclosed by judicial action, appraisal and valuation of the Mortgaged Property is waived. In the event of any sale made under or by virtue of this Article 5 (whether made by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale) all of the Secured Obligations, if not previously due and payable, immediately thereupon shall become due and payable. The failure to make any such tenants of the Premises party to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Mortgagor, a defense to any proceedings instituted by Mortgagee to collect the sums secured hereby.

(g) With or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Secured Obligations then due and payable (if Mortgagee shall have elected not to declare all of the Secured Obligations to be immediately due and owing), subject to the continuing lien of this Mortgage for the balance of the Secured Obligations not then due; or (1) as and to the extent permitted by law, sell for cash or upon credit the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein, pursuant to power of sale or otherwise, at one or more sales, as an entity or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien on the remaining portion of the Mortgaged Property; or (2) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in any Loan Document; or (3) to the extent permitted by applicable law, recover judgment on the Credit Agreement either before, during or after any proceedings for the enforcement of this Mortgage.

(h) Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Mortgagor or regard to the adequacy of the Mortgaged Property for the repayment of the Secured Obligations, the appointment of a receiver of the Mortgaged Property, and Mortgagor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Section 4.7 hereof.

(i) Exercise all other rights, remedies and recourses granted under the Credit Document or otherwise available at law or in equity.

Section 5.2 Separate Sales. The Mortgaged Property may be sold in one or more parcels and in such manner and order as Mortgagee in its sole discretion may elect; the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

Section 5.3 Remedies Cumulative, Concurrent and Nonexclusive. Mortgagee shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including the UCC), which rights (a) shall be cumulated and concurrent, (b) may be pursued separately, successively or concurrently against Mortgagor or others obligated under the Loan Documents, or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Mortgagee, (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by Mortgagee in the enforcement of any rights, remedies or recourses under the Loan Documents or otherwise at law or equity shall be deemed to cure any Event of Default.

Section 5.4 Release of and Resort to Collateral. Mortgagee may release, regardless of consideration and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Property, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interest created in or evidenced by the Loan Documents or their status as a second priority lien and security interest in and to the Mortgaged Property. For payment of or performance of the Secured Obligations, Mortgagee may resort to any other security in such order and manner as Mortgagee may elect.

Section 5.5 Waiver of Redemption, Notice and Marshalling of Assets. To the fullest extent permitted by law, Mortgagor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Mortgagor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any stay of execution, exemption from civil process, redemption or extension of time for payment, (b) except as required by the Loan Documents, all notices of any Event of Default or of any election by Mortgagee to exercise or the actual exercise of any right, remedy or recourse provided for under the Credit Document, and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

Section 5.6 Discontinuance of Proceedings. If Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted under the Credit Document and shall thereafter elect to discontinue or abandon it for any reason, Mortgagee shall have the unqualified right to do so and, in such an event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the Secured Obligations, the Obligations, the Credit Document, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Mortgagee, shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Mortgagee, thereafter to exercise any right, remedy or recourse under the Credit Document for such Event of Default.

Section 5.7 Application of Proceeds. The proceeds of any sale made under or by virtue of this Article 5, together with any Rents and other amounts generated by the holding, leasing, management, operation or other use of the Mortgaged Property, shall be applied by Mortgagee (or the receiver, if one is appointed) in the following order unless otherwise required by applicable law:

(a) to the payment of the costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (1) trustee's and receiver's fees and expenses, including the repayment of the amounts evidenced by any receiver's certificates, (2) court costs, (3) attorneys' and accountants' fees and expenses, and (4) costs of advertisement;

(b) to the payment and performance of the Secured Obligations in such manner and order of preference as set forth in the Credit Agreement; and

(c) the balance, if any, to the payment of the Persons legally entitled thereto.

Section 5.8 Occupancy After Foreclosure. Except as otherwise required by applicable law, any sale of the Mortgaged Property or any part thereof in accordance with Section 4.1(f) or Section 4.1(g) hereof will divest all right, title and interest of Mortgagor in and to the property sold. Subject to applicable law, any purchaser at a foreclosure sale will receive immediate possession of the property purchased. If Mortgagor retains possession of such property or any part thereof subsequent to such sale, Mortgagor will be considered a tenant at sufferance of the purchaser, and will, if Mortgagor remains in possession after demand to remove, be subject to eviction and removal, forcible or otherwise, with or without process of law.

Section 5.9 Additional Advances and Disbursements; Costs of Enforcement. Upon the occurrence and during the continuance of an Event of Default, Mortgagee shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Mortgagor. All sums advanced and expenses incurred at any time by Mortgagee under this Section 5.9, or otherwise under this Mortgage or any of the other Loan Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the rate or rates at which interest is then computed on the Secured Obligations, and all such sums, together with interest thereon, shall be secured by this Mortgage.

Section 5.10 Costs of Enforcement. Mortgagor shall pay all expenses (including reasonable attorneys' fees and expenses and all costs and expenses related to legal work, research and litigation) of or incidental to the perfection and enforcement of this Mortgage, or the enforcement, compromise or settlement of the Secured Obligations or any claim under this Mortgage, and for the curing thereof, or for defending or asserting the rights and claims of Mortgagee in respect thereof, by litigation or otherwise.

Section 5.11 No Mortgagee in Possession. Neither the enforcement of any of the remedies under this Article 5, the assignment of the Rents and Leases under Article 6, the security interests under Article 7, nor any other remedies afforded to Mortgagee under the Loan

Documents, at law or in equity shall cause Mortgagee to be deemed or construed to be a mortgagee in possession of the Mortgaged Property, to obligate Mortgagee to lease the Mortgaged Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

Section 5.12 WAIVER OF MORTGAGOR'S RIGHTS. BY EXECUTION OF THIS MORTGAGE, MORTGAGOR EXPRESSLY: (A) ACKNOWLEDGES THE RIGHT OF MORTGAGEE TO ACCELERATE THE INDEBTEDNESS EVIDENCED BY THE CREDIT AGREEMENT OR OTHER CREDIT DOCUMENT UPON THE OCCURRENCE AND DURING THE CONTINUANCE OF AN EVENT OF DEFAULT; (B) TO THE EXTENT ALLOWED BY APPLICABLE LAW, WAIVES ANY AND ALL RIGHTS WHICH MORTGAGOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES, THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES, OR BY REASON OF ANY OTHER APPLICABLE LAW, TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY MORTGAGEE OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO MORTGAGEE; (C) ACKNOWLEDGES THAT MORTGAGOR HAS READ THIS MORTGAGE AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO MORTGAGOR AND MORTGAGOR HAS CONSULTED WITH LEGAL COUNSEL OF MORTGAGOR'S CHOICE PRIOR TO EXECUTING THIS MORTGAGE; AND (D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF MORTGAGOR HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY MORTGAGOR AS PART OF A BARGAINED FOR LOAN TRANSACTION.

ARTICLE 6
ASSIGNMENT OF RENTS AND LEASES

Section 6.1 Assignment. In furtherance of and in addition to the assignment made by Mortgagor in Section 2.1 of this Mortgage, Mortgagor hereby absolutely and unconditionally assigns, sells, transfers and conveys to Mortgagee all of its right, title and interest in and to all Leases, whether now existing or hereafter entered into, and all of its right, title and interest in and to all Rents, as collateral security for the obligations. This assignment is an absolute assignment and not an assignment for additional security only. So long as no Event of Default shall have occurred and be continuing and to the extent not prohibited by the Credit Agreement or the Intercreditor Agreement, Mortgagor shall have a revocable license from Mortgagee to exercise all rights extended to the landlord under the Leases, including the right to receive and collect all Rents and to hold the Rents in trust for use in the payment and performance of the Secured Obligations and to otherwise use the same. The foregoing license is granted subject to the conditional limitation that no Event of Default shall have occurred and be continuing. Upon the occurrence and during the continuance of an Event of Default, whether or not legal proceedings have commenced, and without regard to waste, adequacy of security for the Secured Obligations or solvency of Mortgagor, the license herein granted shall automatically expire and terminate, without notice by Mortgagee (any such notice being hereby expressly waived by Mortgagor).

Section 6.2 Perfection Upon Recordation. Mortgagor acknowledges that Mortgagee has taken all actions necessary to obtain, and that upon proper recordation of this Mortgage, Mortgagee shall have, to the extent permitted under applicable law, a valid and fully perfected, second priority, present assignment of the Rents arising out of the Leases and all security for such Leases, subject only to the Mortgaged Property Permitted Liens. Mortgagor acknowledges and agrees that upon proper recordation of this Mortgage, Mortgagee's interest in the Rents shall be deemed to be fully perfected, "choate" [and enforced] as to Mortgagor and all third parties, including, without limitation, any subsequently appointed trustee in any case under the Bankruptcy Code, without the necessity of commencing a foreclosure action with respect to this Mortgage, making formal demand for the Rents, obtaining the appointment of a receiver or taking any other affirmative action.

Section 6.3 Bankruptcy Provisions. Without limitation of the absolute nature of the assignment of the Rents hereunder, Mortgagor and Mortgagee agree that (a) this Mortgage shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (b) the security interest created by this Mortgage extends to property of Mortgagor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any case in bankruptcy.

Section 6.4 No Merger of Estates. So long as part of the Secured Obligations secured hereby remains unpaid and undischarged, the fee and leasehold estates to the Mortgaged Property shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Mortgagor, Mortgagee, any tenant or any third party by purchase or otherwise.

ARTICLE 7 **SECURITY AGREEMENT**

Section 7.1 Security Interest. This Mortgage constitutes a "security agreement" on personal property within the meaning of the UCC and other applicable law and with respect to the Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards. To this end, Mortgagor grants to Mortgagee a second priority security interest in the Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards and all other Mortgaged Property which is personal property to secure the payment and performance of the Secured Obligations, and agrees that Mortgagee shall have all the rights and remedies of a secured party under the UCC with respect to such property. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards sent to Mortgagor at least five (5) days prior to any action under the UCC shall constitute reasonable notice to Mortgagor. NOTWITHSTANDING THE FOREGOING, THE TERM "MORTGAGED PROPERTY" IS NOT INTENDED TO INCLUDE, AND SHALL BE DEEMED TO EXCLUDE, ALL ITEMS OF PERSONAL PROPERTY IN WHICH MORTGAGEE HAS OBTAINED AND/OR PERFECTED A SECURITY INTEREST UNDER SEPARATE INSTRUMENTS.

Section 7.2 Financing Statements. Mortgagee may file or record such financing statements or other documents as Mortgagee may, from time to time, reasonably consider necessary to create, perfect and preserve Mortgagee's security interest hereunder and Mortgagee may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Mortgagor's state of organization is the State of **[INSERT STATE OF FORMATION]**.

Section 7.3 Fixture Filing. This Mortgage shall also constitute a "fixture filing" for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the address of Debtor (Mortgagor) and Secured Party (Mortgagee) as set forth in the first paragraph of this Mortgage.

ARTICLE 8 MISCELLANEOUS

Section 8.1 Notices. Any notice required or permitted to be given under this Mortgage shall be given in accordance with Section 14.8 of the Credit Agreement.

Section 8.2 Covenants Running with the Land. All of the Secured Obligations contained in this Mortgage are intended by Mortgagor and Mortgagee to be, and shall be construed as, covenants running with the Mortgaged Property. As used herein, "Mortgagor" shall refer to the party named in the first paragraph of this Mortgage and to any subsequent owner of all or any portion of the Mortgaged Property. All Persons who may have or acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Credit Agreement and the other Credit Document; however, no such party shall be entitled to any rights thereunder without the prior written consent of Mortgagee.

Section 8.3 Attorney-in-Fact. Mortgagor hereby irrevocably appoints Mortgagee and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest and with full power of substitution, (a) to execute and/or record any notices of completion, cessation of labor or any other notices that Mortgagee deems appropriate to protect Mortgagee's interest, if Mortgagor shall fail to do so within ten (10) days after written request by Mortgagee, (b) upon the issuance of a deed pursuant to the foreclosure of this Mortgage or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Mortgagee's security interests and rights in or to any of the Mortgaged Property, and (d) while any Event of Default exists, to perform any obligation of Mortgagor hereunder, however: (1) Mortgagee shall not under any circumstances be obligated to perform any obligation of Mortgagor; (2) any sums advanced by Mortgagee in such performance shall be added to and included in the Secured Obligations and shall bear interest at the rate or rates at which interest is then computed on the Secured Obligations; (3) Mortgagee as such

attorney-in-fact shall only be accountable for such funds as are actually received by Mortgagee; and (4) Mortgagee shall not be liable to Mortgagor or any other person or entity for any failure to take any action which it is empowered to take under this Section 8.3.

Section 8.4 Successors and Assigns. This Mortgage shall be binding upon and inure to the benefit of Mortgagee, the Lenders, the other Secured Parties and Mortgagor and their respective successors and assigns. Except as otherwise permitted under the Credit Agreement, Mortgagor shall not, without the prior written consent of Mortgagee, assign any rights, duties or obligations hereunder.

Section 8.5 No Waiver. Any failure by Mortgagee, the Lenders or any other Secured Party to insist upon strict performance of any of the terms, provisions or conditions of the Credit Document shall not be deemed to be a waiver of same, and Mortgagee, the Lenders or the other Secured Parties shall have the right at any time to insist upon strict performance of all such terms, provisions and conditions.

Section 8.6 Credit Agreement. If any conflict or inconsistency exists between this Mortgage and the Credit Agreement, the Credit Agreement shall govern.

Section 8.7 Release or Reconveyance. Upon (a) the payment and performance in full of all Secured Obligations and the other Obligations and the expiration or termination of the Commitments, or (b) a sale or other disposition of the Mortgaged Property permitted by the Credit Agreement, then Mortgagee, at Mortgagor's expense, shall release the liens and security interests created by this Mortgage or reconvey the Mortgaged Property to Mortgagor. Any reference in this Mortgage to the payment, repayment, or satisfaction in full of the Secured Obligations and the other Obligations shall mean the repayment in full in cash or immediately available funds.

Section 8.8 Waiver of Stay, Moratorium and Similar Rights. Mortgagor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this Mortgage or the Secured Obligations secured hereby, or any agreement between Mortgagor and Mortgagee or any rights or remedies of Mortgagee.

Section 8.9 Applicable Law. The provisions of this Mortgage regarding the creation, perfection and enforcement of the liens and security interests herein granted shall be governed by and construed under the laws of the state in which the Mortgaged Property is located. All other provisions of this Mortgage shall be governed by the laws of the State of New York, without regard to conflicts of law principles. THIS MORTGAGE SHALL BE SUBJECT TO THE PROVISIONS REGARDING VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTIONS 14.3 AND 14.4 OF THE CREDIT AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS*.

Section 8.10 Headings. The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

Section 8.11 Entire Agreement. **THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT AND UNDERSTANDING BETWEEN MORTGAGOR AND MORTGAGEE AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS BETWEEN SUCH PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF. ACCORDINGLY, THE LOAN DOCUMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

Section 8.12 Mortgagee as Agent; Successor Agents.

(a) Agent has been appointed to act as Agent hereunder by the Lenders and the other Secured Parties. Agent shall have the right hereunder to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of the Mortgaged Property) in accordance with the terms of the Credit Agreement, any related agency agreement among Agent, the Lenders and the other Secured Parties (collectively, as amended, supplemented or otherwise modified or replaced from time to time, the “**Agency Documents**”) and this Mortgage. Mortgagor and all other persons shall be entitled to rely on releases, waivers, consents, approvals, notifications and other acts of Agent, without inquiry into the existence of required consents or approvals of the Lenders or the other Secured Parties therefor.

(b) Mortgagee shall at all times be the same Person that is Agent under the Agency Documents. Written notice of resignation by Agent pursuant to the Agency Documents shall also constitute notice of resignation as Agent under this Mortgage. Removal of Agent pursuant to any provision of the Agency Documents shall also constitute removal as Agent under this Mortgage. Appointment of a successor Agent pursuant to the Agency Documents shall also constitute appointment of a successor Agent under this Mortgage. Upon the acceptance of any appointment as Agent by a successor Agent under the Agency Documents, that successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Agent as the Mortgagee under this Mortgage, and the retiring or removed Agent shall promptly (i) assign and transfer to such successor Agent all of its right, title and interest in and to this Mortgage and the Mortgaged Property, and (ii) execute and deliver to such successor Agent such assignments and amendments and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Agent of the liens and security interests created hereunder, whereupon such retiring or removed Agent shall be discharged from its duties and obligations under this Mortgage. After any retiring or removed Agent’s resignation or removal hereunder as Agent, the provisions of this Mortgage and the Agency Documents shall inure to its benefit as to any actions taken or omitted to be taken by it under this Mortgage while it was the Agent hereunder.

(c) Each reference herein to any right granted to, benefit conferred upon or power exercisable, exercised or action taken by the “Mortgagee” shall be deemed to be a reference to or be deemed to have been so taken, as the case may be, by Mortgagee in its capacity as Agent pursuant to the Credit Agreement for the benefit of the Lenders and the other Secured Parties, all as more fully set forth in the Credit Agreement.

Section 8.13 Modifications to Credit Agreement. This Mortgage will continue to secure the Secured Obligations under the Credit Agreement, as the Credit Agreement may in the future be amended, amended and restated, modified, assigned or otherwise supplemented and in effect from time to time. In the event the Credit Agreement is amended, modified or otherwise supplemented, there shall be no need to amend, modify or otherwise supplement this Mortgage, unless required by the laws of any State or Commonwealth in which portions of the Mortgaged Property are situated.

ARTICLE 9

GUARANTY WAIVERS

Section 9.1 Mortgagor acknowledges that the security interests granted pursuant to this Mortgage are being given to secure, among other things, Borrower’s obligations under the Credit Agreement and the other Loan Documents and that, as a result, Mortgagor may have rights as a surety or a guarantor under applicable law. Grantor is willing to waive such rights. Mortgagor acknowledges that it has executed and delivered this Mortgage as an accommodation instrument with the intent of subjecting its interests in the Mortgaged Property to the lien of this Mortgage as security for the Secured Obligations in order to induce Mortgagee to provide the Loans, and Mortgagor hereby agrees, to the fullest extent permitted by law, not to assert or take advantage of:

(a) Any right to require Mortgagee to proceed against Mortgagor or any other person, or to proceed against or exhaust any other security held by Mortgagee (and not secured by this Mortgage) at any time, or to pursue any other remedy in Mortgagee’s power before exercising any right or remedy under this Mortgage.

(b) Any defense that may arise by reason of:

(i) The release, suspension, discharge or impairment of any of Mortgagee’s rights against Mortgagor or any other party against whom Mortgagee might assert a claim, whether such release, suspension, discharge or impairment is explicit, tacit or inadvertent; or

(ii) Mortgagee’s failure to pursue any other remedies available to Mortgagee that would reduce the burden of the indebtedness secured hereby on Mortgagor’s interests in the Mortgaged Property; or

(iii) Any extension of the time for the payment or performance of any of Mortgagor’s Secured Obligations under the Credit Agreement or any of the other Loan Documents; or

(iv) The incapacity or lack of authority of Mortgagor or any person or persons; or

(v) The failure of Mortgagee to file or enforce a claim against the estate (in either administration, bankruptcy or any other proceedings) of Mortgagor or any other person or persons.

(c) Demand, protest and notice of any kind, including, without limitation, the following notices:

(i) Notice of the evidence, creation or incurring of any new or additional indebtedness or obligation (provided that such indebtedness or obligation is not secured by this Mortgage); or

(ii) Notice of any action or non-action on the part of any Mortgagor or Mortgagee in connection with any obligation or evidence of the Indebtedness; or

(iii) Notice of payment or non-payment by Mortgagor of the Indebtedness.

(d) Any right to assert against Mortgagee any defense arising by reason of any claim or defense based upon an election of remedies by Mortgagee to foreclose, either by judicial foreclosure or by exercise of the power of sale, this Mortgage, which in any manner impairs, reduces, releases, destroys or extinguishes Mortgagor's subrogation rights, rights to proceed against Mortgagor for reimbursement, or any other rights of Mortgagor to proceed against any other person or security. Mortgagor waives all rights and defenses to enforcement of all or any part of the Indebtedness which defenses are based on an election of remedies by Mortgagee, even though the election of remedies, such as non-judicial foreclosure with respect to this Mortgage, may destroy Mortgagor's rights of subrogation and reimbursement against the others by operation of any applicable law. Mortgagor makes this waiver with full knowledge that if Mortgagee (i) waives a deficiency judgment in a judicial foreclosure, or (ii) exercises the power of sale under this Mortgage, any action by Mortgagor to obtain reimbursement of any amount paid by Mortgagor hereunder may be barred by reason of (x) Mortgagee's waiver of such deficiency in a judicial foreclosure or (y) Mortgagee's exercise of such power of sale under the provisions of applicable law which provides that no judgment shall be rendered for any deficiency upon a note secured by a Mortgage upon real property. Mortgagor understands that absent the waiver set forth herein, Mortgagor may have a defense to its obligations hereunder with respect to a deficiency following a non-judicial foreclosure or a judicial foreclosure in which the Mortgagee waived its right to a deficiency judgment against Mortgagor and that by granting this waiver, Mortgagor is waiving this defense which Mortgagor would have against Mortgagee. Mortgagor further waives any and all rights and defenses that Mortgagor may have because Mortgagor's debt is secured by real property; this means, among other things, that: (1) Mortgagee may collect from Mortgagor without first foreclosing on any real or personal property collateral pledged by Borrower; (2) if Mortgagee forecloses on any real property collateral pledged by Mortgagor, then (A) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more

than the sale price, and (B) Mortgagee may collect from Mortgagor even if Mortgagee, by foreclosing on the real property collateral, has destroyed any right Mortgagor may have to collect from another party. The foregoing sentence is an unconditional and irrevocable waiver of any rights and defenses Mortgagor may have because Mortgagor's Indebtedness is secured by real property.

(e) Any rights arising because of Mortgagor's payment or satisfaction of the Indebtedness secured hereby (i) against any other obligor, by way of subrogation to the rights of Mortgagee or otherwise, or (ii) against any other guarantor or any other party obligated to pay any of the Indebtedness secured hereby, by way of contribution or reimbursement or otherwise.

(f) Any duty on the part of Mortgagee to disclose to Mortgagor any default by any Borrower under the Credit Agreement and the other Loan Documents.

(g) Any duty on the part of Mortgagee to disclose to Mortgagor facts Mortgagee may now know or may hereafter know about Borrower or Mortgagor, as applicable, or their respective successors in interest (if any) regardless of whether Mortgagee (i) has reason to believe that any such facts materially increase the risk beyond the risk which Mortgagor intends to assume by executing this Mortgage, (ii) has reason to believe that these facts are unknown to Mortgagor, or (iii) has a reasonable opportunity to communicate such facts to Mortgagor, it being understood and agreed that Mortgagor is fully responsible for being and keeping informed of the financial condition of Borrower and of all circumstances bearing on the risk of non-payment of any Indebtedness that is secured hereby.

(h) Any right to object to the release of any portions of the Mortgaged Property from the lien of this Mortgage notwithstanding the fact that such releases may be made without Mortgagee having received any or adequate consideration therefor.

(i) Mortgagor further agrees that with respect to any obligation secured hereby Mortgagee may, in such manner and upon such terms and at such times as Mortgagee deems best and without demand or notice to or consent of Mortgagor (i) release any party now or hereafter liable for the performance of any such obligation, (ii) extend the time for the performance of any such obligation, (iii) accept additional security therefor, and (iv) alter, substitute or release any property securing such performance.

ARTICLE 10
LOCAL LAW PROVISIONS

[INSERT STATE SPECIFIC PROVISIONS]

[The remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, Mortgagor has on the date set forth in the acknowledgement hereto, effective as of the date first above written, caused this instrument to be duly EXECUTED AND DELIVERED by authority duly given.

MORTGAGOR:

By: _____

Name: _____

Its: _____

[INSERT APPLICABLE ACKNOWLEDGEMENT]

EXHIBIT A

LEGAL DESCRIPTION

[TO BE ADDED]

SCHEDULE 1.2 LENDERS' COMMITMENTS

[Schedule Redacted]

SCHEDULE 6.3 ORGANIZATION AND QUALIFICATIONS

High Liner Foods Incorporated

Amalgamated under the laws of the Province of Nova Scotia (*Companies Act*)

Qualified to do business in: Nova Scotia
Newfoundland & Labrador
Prince Edward Island (*)
Quebec
Ontario
Manitoba (*)
Saskatchewan (*)
British Columbia
Alberta

(*) High Liner Foods Incorporated is qualified to do business and is in good standing in such jurisdictions for historical reasons. It is not necessary for High Liner Foods Incorporated to be registered in such jurisdictions in order for it to own or lease its property and conduct its business.

High Liner Foods (USA), Incorporated

Amalgamated under the laws of Delaware

Qualified to do business in:

Arkansas	California	Colorado	Connecticut
Delaware	Florida	Georgia	Illinois
Iowa	Maine	Maryland	Massachusetts
Michigan	Minnesota	Missouri	New Hampshire
New Jersey	New York	Ohio	Rhode Island
Tennessee	Utah	Washington	

[Names and Qualifications of Subsidiary Guarantors Redacted]

Rubicon Resources, LLC
Formed under the laws of Delaware
Qualified to do business in:
California
Illinois

SCHEDULE 6.4 CORPORATE NAMES; PRIOR TRANSACTIONS

High Liner Foods Incorporated, Fishery Product International Limited and FPI Limited entered into an Agreement of Purchase and Sale with Fishery Products International on December 20, 2007 pursuant to which High Liner Foods Inc. and High Liner Foods (USA) Inc. purchased assets and shares owned by FPI Limited.

High Liner Foods (USA), Incorporated merged with Fishery Products International Limited to form High Liner Foods (USA), Incorporated on December 20, 2007.

[Transactional details in relation to a Subsidiary Guarantor Redacted]

High Liner Foods Incorporated entered into a Share Purchase Agreement with Icelandic Group HF on November 17, 2011 pursuant to which High Liner Foods Inc. together with its subsidiary High Liner Foods (USA) Incorporated purchased the shares of Icelandic USA, Inc., Icelandic Northwest, Inc. and Sjovik ehf.

High Liner Foods Incorporated entered into an Agreement of Purchase and Sale with American Seafoods Group LLC on October 1, 2013 pursuant to which High Liner Foods (USA), Incorporated purchased principal assets and operations owned by American Pride Seafoods LLC. [Transaction details in relation to a Subsidiary Guarantor Redacted]

High Liner Foods (USA), Incorporated entered into an Agreement of Purchase and Sale with NDNE Industrial Properties LLC on June 10, 2013 pursuant to which they purchased the property located at 801 Jubilee Drive, Peabody, Massachusetts. [Transaction details in relation to a Subsidiary Guarantor redacted]

High Liner Foods (USA), Incorporated entered into a Share Purchase Agreement with Atlantic Trading Company, LLC and Atlantic Trading Company (Norway) AS on October 7, 2014 pursuant to which High Liner Foods (USA) Incorporated [Transaction details in relation to a Subsidiary Guarantor redacted]

On August 16, 2015 High Liner Foods Incorporated entered into an Agreement of Purchase and Sale with Blue Harvest Fisheries whereby Blue Harvest Fisheries would acquire the assets of High Liner Foods Incorporated's scallop business along with the New Bedford, MA facility.

High Liner Foods Incorporated entered into an Agreement of Purchase and Sale to acquire 100% of the outstanding equity of Rubicon Resources, LLC on May 30, 2017.

SCHEDULE 6.5 SUBSIDIARIES

HIGH LINER FOODS INCORPORATED

CORPORATE CHART

[Organizational Chart Redacted]

SCHEDULE 6.7 CAPITALIZATION

[Capitalization of Subsidiaries Redacted]

SCHEDULE 6.9

REAL ESTATE; LEASES

OWNED LOCATIONS

High Liner Foods Incorporated

100 Battery Point
Lunenburg NS

High Liner Foods (USA), Incorporated

1 High Liner Avenue
Portsmouth, NH

[Locations owned by Subsidiary Guarantors Redacted]

LEASED LOCATIONS

Location	Tenant	Landlord
85 Prologis Blvd, Unit 3 Mississauga, ON L5W 0G4	High Liner Foods Incorporated	HOOPP Realty Inc.
Suite 501, 503A and 508, 1959 Upper Water Street, Halifax, Nova Scotia B3J 3N2	High Liner Foods Incorporated	The Great West Life Realty Advisors Inc.
5730 Uplander Way. Ste 200 Culver City, CA 90230	Rubicon Resources LLC	Cadence Properties LLC
121 Hardwood Dr., Newport News, Virginia 23603	High Liner Foods (USA) Incorporated	Interstate Warehousing of Virginia LLC
183 International Drive Portsmouth, NH 03801	High Liner Foods (USA) Incorporated	Tower Hill Development, LLC

PERSONAL PROPERTY LEASES

1. Master Lease Agreement dated January 1, 2007 between Element Fleet Management Corp., previously GE Vehicle and Equipment Leasing, GE Fleet Services business division and High Liner Foods Incorporated with respect to the lease of passenger motor vehicles for employees.

Various operating leases as noted in the below table:

LOCATION	DESCRIPTION	LESSOR
Portsmouth	(698) Cryolator	Wilevco Inc
Portsmouth	(531) Cryolator	Wilevco Inc
Portsmouth	(384) Mixer	Wilevco Inc
Portsmouth	(740) Mixer	Wilevco Inc
Portsmouth	(607) Cryolator	Wilevco Inc
Portsmouth	(606) Cryolator	Wilevco Inc
Portsmouth	(699) Cryolator	Wilevco Inc
Portsmouth	(760) Cryolator C8L0445	Wilevco Inc
Portsmouth	(762) Mixer 91917-220R	Wilevco Inc
Portsmouth	(763) Mixer 91918-220R	Wilevco Inc
Portsmouth	(764) Mixer 91919-220R	Wilevco Inc
Portsmouth	(765) Mixer 91920-220R	Wilevco Inc
Portsmouth	(767) Mixer 91920-220R	Wilevco Inc
Peabody	2017 Freightliner Cascadia 125 # 165500	Penske Truck Leasing
Newport News	Printers	RICOH USA
Portsmouth	RICOH Printers (5)	RICOH USA, INC
California	Canon-Image Press C650	Canon Financial Services
California	Xerox WC7830	XEROX
Peabody	2015 Freightliner Cascadia 125 # 114066/67/68/69/70	Penske Truck Leasing
Peabody	SAG Light Reefer #257857	Penske Truck Leasing
Portsmouth	Vehicle - Truck	Ford
Newport News	Airgas National Welders	Airgas National Welders
California	Canon IR Adv 4035	Cannon Financial
Newport News	Mailing Machine	Pitney Bowes
Portsmouth	Mailing Machine	Pitney Bowes
USHQ	Mailing Machine	Pitney Bowes
Portsmouth Plant	Mailing Machine-Lease 1428002-007	Pitney Bowes
Halifax	Cisco Lease Equipment No. H00019T	Cisco Capital
Halifax	Cisco Contract #CA-3127-0001	Cisco Capital
Newport News	Water Treatment maintenance	Bond Water Technologies

SCHEDULE 6.10 BROKER'S FEES

NIL

SCHEDULE 6.11 GOVERNMENTAL AUTHORIZATION

NIL

SCHEDULE 6.12 PROPRIETARY RIGHTS

High Liner Foods Incorporated (STNDG INSTRS)

Trademark Report By Title

Printed On: 09 May 2019 10:39:57AM

Search Criteria

Client ID 42808
Status ACTIVE

Display Options

Goods All
Owner All

3 WAVES Design

CANADA	42808-3159	High Liner Foods Incorporated	05 Jul 2018 1907856	PENDING
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Goods: 29 - Fish and seafood

35 - Dissemination of information via the internet, pamphlets, posters, in the field of food, namely fish and seafood; operation of a business in the field of food, namely, sourcing, processing, distribution of fish and seafood for retail sale for human consumption

UNITED STATES	42808-3160	High Liner Foods Incorporated	04 Jan 2019 88/250,321	PENDING
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Goods: 29 - Fish and seafood

35 - Dissemination of information via the internet, pamphlets, posters, in the field of food, namely fish and seafood; operation of a business in the field of food, namely, sourcing, processing, distribution of fish and seafood for retail sale for human consumption

40 FATHOMS & Design

CANADA	42808-3173	High Liner Foods Incorporated/Les Aliments High	26 May 1982 0487423	12 Aug 1983 TMA282404	REGISTERED
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Goods: 01 - (1) Fish in batter.

CANADA	42808-3181	High Liner Foods Incorporated/Les Aliments High	20 Jan 1970 0329419	04 Feb 1972 TMA181032	REGISTERED
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Goods: 01 - (1) Fresh, salted, smoked, breaded, cooked, frozen and canned fish, shell fish, fish sticks; frozen fish and chips; frozen fish cakes; frozen fish chowder and frozen fish dinners.

40-FATHOM

CANADA	42808-3221	High Liner Foods Incorporated/Les Aliments High	05 Mar 1954 0223746	05 Mar 1954 UCA49332	REGISTERED
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Goods: 01 - (1) Seafood.

AILES DE POISSON

CANADA	42808-3332	High Liner Foods Incorporated	01 May 2019 1960339		PENDING
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Goods: 29 - Frozen processed fish products

ALASKA WILD WINGS

CANADA	42808-3319	High Liner Foods Incorporated	14 Feb 2019 1946272		PENDING
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Goods: 29 - Frozen processed fish products

UNITED STATES	42808-3320	High Liner Foods Incorporated			PROPOSED
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ALASKAN WILD WINGS

UNITED STATES	42808-3315	High Liner Foods Incorporated	25 Jan 2019 88/276,487		PENDING
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Goods: 29 - Frozen processed fish products

ALWAYS A WISE CATCH

CANADA	42808-3207	High Liner Foods Incorporated	04 Feb 1997 0835461	10 Mar 1998 TMA491127	REGISTERED
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ARCTIC FRESH

CANADA	42808-3287	High Liner Foods Incorporated	19 Aug 1987 590014	07 Oct 1988 TMA346034	REGISTERED
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Goods: 29 - (1) Fish and seafood.

AU GOUT DU CAPITAINE

CANADA	42808-3282	High Liner Foods Incorporated/Les Aliments High	20 Jun 1991 0684163	19 Jun 1992 TMA399470	REGISTERED
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Goods: 29 - Fish and seafoods.

BAM BAM EVERCRISP

CANADA	42808-3208	High Liner Foods Incorporated	15 Dec 2010 1507994	02 Apr 2012 TMA821197	REGISTERED
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Goods: 29 - (1) Frozen pre-packaged prepared shrimp.

BAM BAM EVERCRISP DESIGN

CANADA	42808-3190	High Liner Foods Incorporated	16 Dec 2010 1508191	02 Apr 2012 TMA821204	REGISTERED
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Goods: 29 - (1) Frozen pre-packaged prepared shrimp; seafood.

BATTERCRISP

CANADA	42808-3183	High Liner Foods Incorporated/Les Aliments High	06 Jul 1966 0298243	07 Apr 1967 TMA150142	REGISTERED
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CAN_DMS: \129965308\4

Goods: 01 - (1) Cooked fish.

BIG BOB'S BELLY BUSTER Design

CANADA	42808-3260	High Liner Foods Incorporated	26 Feb 2013 1615668	12 May 2014 TMA877714	REGISTERED
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Goods: 29 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood

BLAZIN' BUFFALO

CANADA	42808-3257	High Liner Foods Incorporated	23 Feb 1995 0776139	22 Dec 1995 TMA452262	REGISTERED
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Goods: 29 - Popcorn shrimp.

BURGER DU CAPITAINE

CANADA	42808-3274	High Liner Foods Incorporated/Les Aliments High	05 Dec 1991 0694938	19 Feb 1993 TMA408501	REGISTERED
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Goods: 29 - Fish and seafoods, namely, breaded fish portions.

C.WIRTHY & CO. & Design

UNITED STATES	42808-3152	High Liner Foods (USA) Incorporated	08 May 2018 87/911,646		PUBLISHED
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Goods: 29 - Fish and seafood, not live

C.WIRTHY & CO. PREMIUM SEAFOOD & Design

CANADA	42808-3302	High Liner Foods (USA) Incorporated	29 Oct 2018 1927651		PENDING
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Goods: 29 - Fish and seafood, not live

CAN'T MESS IT UP

CANADA	42808-3075	High Liner Foods Incorporated	11 Aug 2016 1795533		ALLOWED
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Goods: 29 - Fish, not live; seafood, not live

UNITED STATES	42808-3104	High Liner Foods Incorporated	02 Feb 2017 87/322,650		PENDING
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Goods: 29 - Fish, not live; seafood, not live

CAN'T MESS IT UP & Design

CANADA	42808-3127	High Liner Foods Incorporated	19 Jul 2017 1848167	29 Oct 2018 TMA1007736	REGISTERED
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Goods: 29 - Fish, not live; seafood, not live

UNITED STATES	42808-3130	High Liner Foods Incorporated	03 Oct 2017 87/632,281	19 Mar 2019 5,700,409	REGISTERED
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Goods: 29 - Fish, not live; seafood, not live

CAN'T MESS IT UP SALMON COMPANY

CANADA	42808-3076	High Liner Foods Incorporated	11 Aug 2016 1795536	ALLOWED
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Goods: 29 - Fish, not live; seafood, not live

CAPTAIN BURGER

CANADA	42808-3176	High Liner Foods Incorporated/Les Aliments High	14 Feb 1980 0450093	23 Jul 1982 TMA271281	REGISTERED
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Goods: 01 - (1) Breaded fish sandwich portions.

CAPTAIN HIGH LINER

CANADA	42808-3175	High Liner Foods Incorporated/Les Aliments High	29 Feb 1980 0450672	10 Oct 1980 TMA251581	REGISTERED
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Goods: 01 - (1) Fish, fish products, fish and chips, french fried potatoes, frozen vegetables and fruit fish portions.

CAPTAIN'S CATCH

CANADA	42808-3198	High Liner Foods Incorporated	08 Jan 1999 1001574	10 May 2000 TMA527534	REGISTERED
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CAPTAIN'S CREW

CANADA	42808-3253	High Liner Foods Incorporated	24 Jul 2013 1636548	05 Nov 2014 TMA889496	REGISTERED
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Goods: 29 - (1) Fish for food; seafood; frozen entrees consisting primarily of seafood.

CAPTAIN'S CREW Design

CANADA	42808-3251	High Liner Foods Incorporated	23 Aug 2013 1640683	01 Mar 2016 TMA930262	REGISTERED
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Goods: 29 - (1) Fish for food; seafood; frozen entrees consisting primarily of seafood.

CAPTAIN'S CREW FRENCH Design

CANADA	42808-3252	High Liner Foods Incorporated	23 Aug 2013 1640768	04 Sep 2015 TMA913149	REGISTERED
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Goods: 29 - (1) Fish for food; seafood; frozen entrees consisting primarily of seafood.

CAPTAIN'S FISH'N FRIES

CANADA	42808-3285	High Liner Foods Incorporated/Les Aliments High	25 Jun 1990 0660771	28 Feb 1992 TMA394754	REGISTERED
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Goods: 29 - Processed fish and potato products, namely, fish portions and french fries.

CAPTAIN'S FRIES 'N FISH

CANADA	42808-3248	High Liner Foods Incorporated	28 Feb 2014 1665980	10 Apr 2015 TMA900795	REGISTERED
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Goods: 29 - (1) Processed fish and potato products, namely, fish portions and french fries.

CAPTAIN'S GRILL

CANADA	42808-3231	High Liner Foods Incorporated	23 Mar 2005 1251685	06 Jan 2006 TMA656184	REGISTERED
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Goods: 29 - Fish and seafood entrees.

CAPTAIN'S HEAD Design

CANADA	42808-3259	High Liner Foods Incorporated/Les Aliments High	03 Nov 1994 0767733	23 Aug 1996 TMA461568	REGISTERED
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Goods: 01 - Fish and seafoods.

02 - Operation of promotion programs (for the consumption of fish and seafood and by means of exhibiting at trade shows, fairs, special events, and by live presentations) for the benefit of fish wholesalers and retailers; the operation of marketing programs and other incentive programs (to the wholesalers and retailers and by means of exhibiting at trade shows, fairs, special events, and by live presentations) of fish and seafood.

CARIBOU

CANADA	42808-3220	High Liner Foods Incorporated	24 Mar 1959 0250073	25 Sep 1959 TMA115435	REGISTERED
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Goods: 01 - (1) Fresh frozen, smoked frozen, salted and canned whole fish and parts thereof including fish steaks and fish fillets, fresh, frozen and canned lobsters and lobster meat.

CANADA	42808-3246	High Liner Foods Incorporated	0992491	15 Jul 1943 NFLD2491	REGISTERED
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Goods: 01 - (1) FRESH OR FROZEN COD FILLETS, FRESH OR FROZEN HADDOCK FILLETS, CANNED LOBSTER, CANNED SALMON.

CARIBOU & Design

CANADA	42808-3218	High Liner Foods Incorporated	06 May 1964 0282120	27 Nov 1964 TMA138274	REGISTERED
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Goods: 01 - (1) Fresh frozen, smoked frozen, salted and canned whole fish and parts thereof including fish steaks, fish fillets, fresh, frozen and canned lobsters and lobster meat, and packaged fresh frozen and smoked frozen fillets of ocean perch, haddock, cod, sole, flounder and gray sole.

CATCH O' THE DAY

CANADA	42808-3293	High Liner Foods Incorporated	20 Nov 1986 573181	08 Apr 1988 TMA338855	REGISTERED
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Goods: 29 - (1) Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

CATCH O' THE DAY & DESIGN

CANADA	42808-3166	High Liner Foods Incorporated	20 Nov 1986 0573190	08 Apr 1988 TMA338856	REGISTERED
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Goods: 01 - Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

CATCH OF THE DAY

CANADA	42808-3174	High Liner Foods Incorporated	03 Apr 1980 0452141	25 May 1984 TMA291173	REGISTERED
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Goods: 01 - (1) Packaged seafood products for retail sale namely frozen and tinned fish and shell fish.

CATCH OF THE DAY DESIGN

CANADA	42808-3205	High Liner Foods Incorporated	15 Dec 2010 1507891	06 Nov 2012 TMA835853	REGISTERED
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Goods: 29 - (1) Fish and seafood.

CATCH THE WAVE

CANADA	42808-3210	High Liner Foods Incorporated	13 Sep 1996 0823202	30 Sep 1997 TMA483352	REGISTERED
CANADA	42808-3255	High Liner Foods Incorporated/Les Aliments High	02 Feb 1996 0803407	12 Dec 1996 TMA467597	REGISTERED

Goods: 35 - Promotion of seafood.

CAUGHT HERE. MADE HERE. ENJOYED HERE.

UNITED STATES	42808-3013	High Liner Foods Incorporated	07 Oct 2015 86/780,755	15 Nov 2016 5,083,519	REGISTERED
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Goods: 29 - United States sourced processed fish

CE SOIR, ON MANGE DES FRUITS DE MER!

CANADA	42808-3222	High Liner Foods Incorporated	13 Nov 2007 1371848	18 Nov 2008 TMA728605	REGISTERED
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Goods: 01 - Fish for food and seafood.

02 - Operation of promotional programs (for the consumption of fish and seafood and by means of exhibiting at trade shows, fairs, special events and by live presentations) for the benefit of fish wholesalers, retailers and consumers; operation of marketing programs and other incentive programs (for wholesalers, retailers and consumers and by means of exhibiting at trade shows, fairs, special events and by live presentations) in respect of fish and seafood.

CELEBRATE SEAFOOD

CANADA	42808-3064	High Liner Foods Incorporated	13 Jul 2016 1791200		ALLOWED
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Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood

UNITED STATES	42808-3092	High Liner Foods Incorporated	12 Jan 2017 87/299,231		PENDING
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Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood (not live)

CHEF IT UP

CANADA	42808-3070	High Liner Foods (USA) Inc.	27 Jul 2016 1793403	ALLOWED
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Goods: 28 - Prepared and partially prepared fish and seafood
35 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood

COUPES DU MARCHÉ

CANADA	42808-3188	High Liner Foods Incorporated	09 Feb 2011 1514588	14 Aug 2012 TMA829861	REGISTERED
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Goods: 29 - (1) Fish and seafood.

CRAFTED WITH LOVE

CANADA	42808-3141	High Liner Foods Incorporated	04 Oct 2017 1861036	ALLOWED
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Goods: 29 - Prepared fish and seafood

UNITED STATES	42808-3142	High Liner Foods Incorporated	03 Nov 2017 87/671,224	PENDING
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Goods: 29 - Prepared fish and seafood

CRAVEABLE COATERS

CANADA	42808-3161	High Liner Foods Incorporated	30 Jul 2018 1912337	PENDING
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3316	High Liner Foods Incorporated	28 Jan 2019 88/278,724	PENDING
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Goods: 29 - Fish and seafood, not live

CREVETTES DES GLACIERS

CANADA	42808-3192	High Liner Foods Incorporated	16 Feb 1999 1005503	15 Aug 2000 TMA531160	REGISTERED
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CROQUE CAPITAINE

CANADA	42808-3249	High Liner Foods Incorporated	28 Feb 2014 1665981	10 Apr 2015 TMA900794	REGISTERED
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Goods: 29 - (1) Processed fish and potato products, namely, fish portions and french fries.

CROQUE-CAPITAINE

CANADA	42808-3265	High Liner Foods Incorporated	25 Jun 1990 660773	14 Oct 1994 TMA434368	REGISTERED
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Goods: 29 - (1) Processed fish and potato products.

CUISSON SANTÉ

CANADA	42808-3273	High Liner Foods Incorporated/Les Aliments High	07 Jul 1992 0708468	24 Dec 1993 TMA421524	REGISTERED
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Goods: 29 - Seafood and seafood products, namely, breaded fish portions.

Design

MEXICO	42808-3297	High Liner Foods Incorporated	26 Oct 1998 0351953	25 Jun 1999 616030	REGISTERED
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Goods: 30

DIP'T & DUSTED

CANADA	42808-3209	High Liner Foods Incorporated	26 Aug 2010 1493774	21 Sep 2011 TMA807103	REGISTERED
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Goods: 29 - (1) Fish and seafood.

DIP'T & DUSTED DESIGN

CANADA	42808-3211	High Liner Foods Incorporated	26 Aug 2010 1493780	21 Sep 2011 TMA807104	REGISTERED
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Goods: 29 - (1) Fish and seafood.

DONE RIGHT

CANADA	42808-3016	High Liner Foods Incorporated	05 Feb 2016 1766612		ALLOWED
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Goods: 29 - Frozen seafood and fish; prepared seafood and fish; ready to serve seafood and fish;cooked, breaded, battered and/or flavoured seafood and fish; frozen meals consisting primarily of fish or seafood.

DRAGON SKINS

UNITED STATES	42808-3041	High Liner Foods Incorporated	14 Jun 2016 87/070,418		PENDING
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Goods: 29 - Salmon skin appetizers

EATING HEALTHY NEVER TASTED SO GOOD!

CANADA	42808-3227	High Liner Foods Incorporated	08 Dec 2006 1327524	13 Jan 2009 TMA732275	REGISTERED
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Goods: 29 - Fish for food and seafood.

ÉTUVÉERAPIDE

CANADA	42808-3228	High Liner Foods Incorporated/Les Aliments High	30 Oct 2006 1321927	30 Aug 2007 TMA695264	REGISTERED
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Goods: 29 - Fish and seafood.

FASTBREAK

CANADA	42808-3267	High Liner Foods Incorporated	08 Mar 1989 627065	05 Oct 1990 TMA374005	REGISTERED
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Goods: 29 - (1) Fish and poultry products, namely breaded fish burgers and breaded chicken burgers.

FILET-AU-FEU

CANADA	42808-3264	High Liner Foods Incorporated	17 Feb 2012 1564628	12 Dec 2012 TMA838327	REGISTERED
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Goods: 29 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood

FILET-AU-FEU DESIGN

CANADA	42808-3185	High Liner Foods Incorporated	17 Feb 2012 1564684	12 Dec 2012 TMA838322	REGISTERED
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Goods: 29 - (1) Fish for food; seafood; frozen entrees consisting primarily of seafood.

FIRE ROASTERS

CANADA	42808-3261	High Liner Foods Incorporated	03 Dec 2012 1604657	12 Aug 2013 TMA857505	REGISTERED
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Goods: 29 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood

FIREROASTERS ENGLISH Design

CANADA	42808-3262	High Liner Foods Incorporated	20 Feb 2012 1564786	12 Aug 2013 TMA857513	REGISTERED
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Goods: 29 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood

FIREROASTERS FRENCH Design

CANADA	42808-3263	High Liner Foods Incorporated	20 Feb 2012 1564788	12 Aug 2013 TMA857504	REGISTERED
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Goods: 29 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood

FISH FINATICS

CANADA	42808-3043	High Liner Foods (USA) Inc.	10 Jun 2016 1786520		ALLOWED
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Goods: 29 - Fish, not live; seafood, not live

UNITED STATES	42808-3026	High Liner Foods (USA) Inc.	29 Feb 2016 86/923,045		ALLOWED
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Goods: 29 - Fish and seafood

FISH SLAP

CANADA	42808-3090	High Liner Foods Incorporated	08 Dec 2016		ALLOWED
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1813255

Goods: 00 - Dissemination of information via an internet website, pamphlets, posters, displays and social and digital media all in respect of the consumption of frozen fish and seafood
29 - Fish and seafood

UNITED STATES	42808-3126	High Liner Foods Incorporated	06 Jun 2017 87/477,179	PENDING
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Goods: 00 - Dissemination of information via the internet, pamphlets, posters, displays and social and digital media all in respect of the promotion of the consumption of frozen fish and seafood
29 - Fish and seafood

FISH TANK SALMON COMPANY

CANADA	42808-3058	High Liner Foods Incorporated	12 Jul 2016 1791013	ALLOWED
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Goods: 29 - Fish and seafood

FISH WINGS

CANADA	42808-3321	High Liner Foods Incorporated	14 Feb 2019 1946270		PENDING
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Goods: 29 - Frozen processed fish products

FISHER BOY

CANADA	42808-3206	High Liner Foods Incorporated	03 Mar 1997 0838150	13 Mar 2001 TMA542277	REGISTERED
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FISHERY PRODUCTS INTERNATIONAL

CANADA	42808-3191	High Liner Foods Incorporated	12 Oct 2000 1078532	06 Oct 2006 TMA674457	REGISTERED
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FISH'N'CHIP CUT

CANADA	42808-3258	High Liner Foods Incorporated	14 Feb 1995 0775383	11 Feb 1997 TMA470717	REGISTERED
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Goods: 29 - Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination, either prepared or unprepared.

FLAME SAVOURS

CANADA	42808-3187	High Liner Foods Incorporated	29 Aug 2011 1541547	28 Nov 2012 TMA837201	REGISTERED
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Goods: 29 - (1) Fish for food; seafood; frozen entrees consisting primarily of seafood.

FLAME SAVOURS DESIGN

CANADA	42808-3184	High Liner Foods Incorporated	17 Feb 2012 1564683	12 Dec 2012 TMA838323	REGISTERED
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Goods: 29 - (1) Fish for food; seafood; frozen entrees consisting primarily of seafood.

FP

CANADA	42808-3290	High Liner Foods Incorporated	29 Jan 1987	04 Mar 1988	REGISTERED
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577148

TMA337678

Goods: 29 - (1) Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

FP & Design

CANADA	42808-3177	High Liner Foods Incorporated	10 Mar 1978 0422121	03 Apr 1980 TMA242383	REGISTERED
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Goods: 01 - (1) Fish products and other products derived from the ocean, namely fish, parts of fish, fish sticks, breaded fish fillets and portions, fishcakes and batterfried fish.

FPI

CANADA	42808-3289	High Liner Foods Incorporated	29 Jan 1987 577147	04 Mar 1988 TMA337677	REGISTERED
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Goods: 29 - (1) Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

FPI & Design

CANADA	42808-3291	High Liner Foods Incorporated	29 Jan 1987 577149	04 Mar 1988 TMA337679	REGISTERED
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Goods: 29 - (1) Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

FPI ICE SHRIMP & DESIGN

CANADA	42808-3203	High Liner Foods Incorporated	11 Mar 1998 0871847	21 Oct 1999 TMA518442	REGISTERED
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FPI PETITE SOLE

CANADA	42808-3199	High Liner Foods Incorporated	04 Sep 1998 0889401	08 Jan 2001 TMA539224	REGISTERED
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FPI SEAFOOD STARTERS

CANADA	42808-3256	High Liner Foods Incorporated	08 May 1995 0782263	13 Sep 1996 TMA463451	REGISTERED
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Goods: 29 - Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

FRUITS DE MER SANS FAUSSE NOTE

CANADA	42808-3102	High Liner Foods Incorporated	31 Jan 2017 1820692		ALLOWED
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Goods: 29 - Fish, not live; seafood, not live

GAMME D'OR

CANADA	42808-3171	High Liner Foods Incorporated/Les Aliments High	15 Feb 1983 0498851	07 Sep 1984 TMA294867	REGISTERED
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Goods: 01 - (1) Seafood, namely soups and chowders.

GOLD LINE

CANADA	42808-3172	High Liner Foods Incorporated/Les Aliments High	15 Feb 1983 0498852	22 Jun 1984 TMA292339	REGISTERED
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Goods: 01 - (1) Seafood, namely soup and chowders.
(2) Fish and seafood, namely processed fish and crustaceans.

GOURMET HACKS

CANADA	42808-3119	High Liner Foods Incorporated	27 Apr 2017 1834746	ALLOWED
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Goods: 29 - Fish and seafood

GREAT TASTING SEAFOOD FOR A BETTER LIFE

CANADA	42808-3088	High Liner Foods Incorporated	23 Nov 2016 1810951	ALLOWED
Goods:	00 - Dissemination of information via the internet, pamphlets, posters, in the field of food, namely fish and seafood; operation of a business in the field of food, namely, sourcing, processing, distribution of fish and seafood for retail sale for human consumption			

UNITED STATES	42808-3124	High Liner Foods Incorporated	05 Oct 2017 87/635,463	PENDING
Goods:	35 - Providing consumer product information relating to food products, namely, providing information via the Internet in the field of fish and seafood			

GRILLADES CAPITAIN

CANADA	42808-3232	High Liner Foods Incorporated	23 Mar 2005 1251686	17 Jul 2006 TMA668033	REGISTERED
Goods:	29 - Fish and seafood entrees.				

HADDIE BITES

CANADA	42808-3154	High Liner Foods Incorporated	31 May 2018 1901955	PENDING
Goods:	29 - Fish and seafood			

UNITED STATES	42808-3308	High Liner Foods Incorporated	19 Nov 2018 88/199,346	PENDING
Goods:	29 - Fish and seafood, not live			

HEALTHIEST CATCH

CANADA	42808-3303	High Liner Foods (USA) Incorporated	29 Oct 2018 1927654	PENDING
Goods:	29 - Fish, not live; breaded fish products			

UNITED STATES	42808-3155	High Liner Foods (USA) Inc.	07 Jun 2018 87/952,861	PUBLISHED
Goods:	29 - Fish, not live; Breaded fish products			

HEALTHIEST CATCH & Design

CANADA	42808-3305	High Liner Foods (USA) Incorporated	29 Oct 2018 1927659		PENDING
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Goods: 29 - Fish, not live; breaded fish products

UNITED STATES	42808-3157	High Liner Foods (USA) Inc.	21 Jun 2018 88/009,437		PUBLISHED
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Goods: 30 - Fish, not live; breaded fish products

HEALTHY BAKE

CANADA	42808-3272	High Liner Foods Incorporated/Les Aliments High	22 Jul 1992 0708646	03 Dec 1993 TMA420343	REGISTERED
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Goods: 29 - Seafood and seafood products, namely, breaded fish portions.

HEALTHY CATCH

CANADA	42808-3284	High Liner Foods Incorporated/Les Aliments High	19 Sep 1990 0666704	19 Jun 1992 TMA399370	REGISTERED
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Goods: 29 - Fish products, namely, breaded seafood portions and fish sticks.

HIGH LINER

CANADA	42808-3247	High Liner Foods Incorporated/Les Aliments High	0131954	27 Jan 1927 TMDA41147	REGISTERED
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Goods: 01 - (1) Fresh, salted and smoked fish,
(2) frozen fish, fish sticks, cooked scallops, fish and chips, french fried potatoes, frozen fish chowder and frozen fish cakes
(3) breaded cooked and canned fish, shell fish, frozen fish dinners, frozen vegetables and frozen fruit

HIGH LINER & Design

CANADA	42808-3180	High Liner Foods Incorporated/Les Aliments High	24 Oct 1973 0369163	26 Jul 1974 TMA200760	REGISTERED
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Goods: 01 - 1) Fresh, smoked, breaded, cooked, frozen and canned fish and shellfish.
(2) Soups and chowders.

CANADA	42808-3195	High Liner Foods Incorporated	13 Jan 1999 1001977	15 Aug 2018 TMA531178	REGISTERED
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HIGH LINER CULINARY

CANADA	42808-3061	High Liner Foods Incorporated	13 Jul 2016 1791196	ALLOWED
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Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood

UNITED STATES	42808-3093	High Liner Foods Incorporated	12 Jan 2017 87/299,340	PENDING
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Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood (not live)

HIGH LINER DEPUIS 1899 & Design

CANADA	42808-3326	High Liner Foods Incorporated	29 Mar 2019 1954464	PENDING
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Goods: 29 - Fish and seafood
35 - Providing consumer product information relating to food products, namely, providing information via the Internet, pamphlets, posters, and displays in the field of fish and seafood

HIGH LINER FOODS

CANADA	42808-3196	High Liner Foods Incorporated	09 Jan 1999 1001572	15 Aug 2000 TMA531179	REGISTERED
UNITED STATES	42808-3007	High Liner Foods Incorporated	11 Apr 2014 86/250,399	25 Oct 2016 5,066,673	REGISTERED

HIGH LINER FOODS CULINARY

CANADA	42808-3062	High Liner Foods Incorporated	13 Jul 2016 1791197		ALLOWED
	Goods:	00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood 29 - Fish and seafood			
UNITED STATES	42808-3094	High Liner Foods Incorporated	12 Jan 2017 87/299,405		PENDING
	Goods:	00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood 29 - Fish and seafood (not live)			

HIGH LINER FOODSERVICE & Design

CANADA	42808-3314	High Liner Foods Incorporated	15 Nov 2018 1930716		PENDING
	Goods:	29 - Fish and seafood 35 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood 41 - Educational services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood			
UNITED STATES	42808-3324	High Liner Foods Incorporated	02 May 2019 88/412,362		PENDING
	Goods:	29 - Fish and seafood, not live 35 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood			

HIGH LINER SIGNATURE CUTS Design

CANADA 42808-3072 High Liner Foods Incorporated PROPOSED

HIGH LINER SIMPLY FISH

CANADA 42808-3238 High Liner Foods Incorporated 28 Apr 2014 05 Feb 2016 REGISTERED
1674411 TMA928208

Goods: 29 - (1) Frozen fish.

HIGH LINER SIMPLY FISH SIMPLEMENT POISSON

CANADA 42808-3224 High Liner Foods Incorporated 27 May 2015 17 May 2016 REGISTERED
1730031 TMA938173

Goods: 29 - (1) Frozen fish.

HIGH LINER SINCE 1899 & Design

CANADA 42808-3325 High Liner Foods Incorporated 29 Mar 2019 1954458 PENDING

Goods: 29 - Fish and seafood
35 - Providing consumer product information relating to food products, namely, providing information via the Internet, pamphlets, posters, and displays in the field of fish and seafood

CANADA 42808-3327 High Liner Foods Incorporated 29 Mar 2019 1954470 PENDING

Goods: 29 - Fish and seafood
35 - Providing consumer product information relating to food products, namely, providing information via the Internet, pamphlets, posters, and displays in the field of fish and seafood

UNITED STATES 42808-3328 High Liner Foods Incorporated PROPOSED

Goods: 29 - Fish and seafood, not live
35 - Providing consumer product information relating to food products, namely, providing information via the Internet, pamphlets, posters, and displays in the field of fish and seafood

HIGHLINER

CANADA 42808-3269 High Liner Foods Incorporated 25 Oct 1993 0739796 19 Sep 2000 TMA532893 REGISTERED

Goods: 28 - Fishing tackle, namely: flashers.

HOMESTYLE BATTERDIPT

CANADA 42808-3281 High Liner Foods Incorporated 21 Oct 1991 0692196 04 Feb 1994 TMA422910 REGISTERED

Goods: 29 - Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish, either alone or in combination with other foods, either prepared or unprepared.

HOWLING FISH COMPANY

CANADA	42808-3079	High Liner Foods Incorporated	19 Sep 2016 1800971	ALLOWED
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Goods: 29 - fish and seafood

UNITED STATES	42808-3108	High Liner Foods Incorporated	01 Mar 2017 87/354,748	PENDING
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Goods: 29 - Fish and seafood (not live)

HOWLING SALMON COMPANY

CANADA	42808-3057	High Liner Foods Incorporated	12 Jul 2016 1791010	ALLOWED
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3101	High Liner Foods Incorporated	12 Jan 2017 87/298,529	PENDING
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Goods: 29 - Fish and seafood (not live)

HOWLING SEAFOOD

CANADA	42808-3089	High Liner Foods Incorporated	23 Nov 2016 1810942	ALLOWED
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Goods: 29 - Fish and seafood

HOWLING SEAFOOD COMPANY

CANADA	42808-3080	High Liner Foods Incorporated	19 Sep 2016 1800967	ALLOWED
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Goods: 29 - fish and seafood

UNITED STATES	42808-3109	High Liner Foods Incorporated	01 Mar 2017 87/354,790	PENDING
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Goods: 29 - Fish and seafood (not live)

HUMBLE BITES

CANADA	42808-3330	High Liner Foods Incorporated	04 Apr 2019 1955568	PENDING
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IT'S A GOOD NIGHT FOR SEAFOOD!

CANADA	42808-3216	High Liner Foods Incorporated	13 Nov 2007 1371846	18 Nov 2008 TMA728603	REGISTERED
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Goods: 29 - (1) Fish for food and seafood.

35 - (1) Operation of promotional programs (for the consumption of fish and seafood and by means of exhibiting at trade shows, fairs, special events and by live presentations) for the benefit of fish wholesalers, retailers and consumers; operation of marketing programs and other incentive programs (for wholesalers, retailers and consumers and by means of exhibiting at trade shows, fairs, special events and by live presentations) in respect of fish and seafood.

KEEPFRESH

CANADA	42808-3033	High Liner Foods Incorporated	29 Mar 2016 1774515		ALLOWED
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3034	High Liner Foods Incorporated	13 Apr 2016 86/973,833		PENDING
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Goods: 29 - Fish and seafood

Knife Design

CANADA	42808-3135	High Liner Foods Incorporated	25 Sep 2017 1859125	29 Oct 2018 TMA1007694	REGISTERED
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Goods: 29 - Fish, not live; seafood, not live

UNITED STATES	42808-3136	High Liner Foods Incorporated	02 Nov 2017 87/669,441	19 Mar 2019 5,700,515	REGISTERED
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Goods: 29 - Fish, not live; seafood, not live

KRUNCHIE

CANADA	42808-3153	High Liner Foods Incorporated	31 May 2018 1901953		PENDING
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3307	High Liner Foods Incorporated	19 Nov 2018 88/199,475		PENDING
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Goods: 29 - Fish and seafood, not live

KRUNCHIES

CANADA	42808-3182	High Liner Foods Incorporated/Les Aliments High	02 Aug 1967 0306825	28 Feb 1969 TMA161435	REGISTERED
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Goods: 01 - (1) Seafoods namely, frozen fish, molluscs and crustaceans and foods of all kinds prepared therefrom

LA PRISE DU CAPITAINE

CANADA	42808-3197	High Liner Foods Incorporated	08 Jan 1999 1001573	25 Apr 2000 TMA526932	REGISTERED
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LES MOUSSAILLONS DU CAPITAINE

CANADA	42808-3254	High Liner Foods Incorporated	24 Jul 2013 1636626	05 Nov 2014 TMA889516	REGISTERED
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Goods: 29 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood

LIGHT TONIGHT

CANADA	42808-3170	High Liner Foods Incorporated/Les Aliments High	22 Nov 1984 0532038	12 Jun 1998 TMA495915	REGISTERED
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Goods: 01 - (1) Fish and seafood, namely, frozen and breaded fillets of fish.

CANADA	42808-3279	High Liner Foods Incorporated	30 Dec 1987 598112	22 Dec 1998 TMA505846	REGISTERED
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Goods: 29 - (1) Fish and seafood entrées.

MANGER SAINEMENT N'A JAMAIS EU AUSSI BON GOUT!

CANADA	42808-3230	High Liner Foods Incorporated	16 Feb 2006 1290178	20 Aug 2007 TMA694311	REGISTERED
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Goods: 29 - Fish and seafood.

MARIPAC

CANADA	42808-3244	High Liner Foods Incorporated	13 Sep 1946 0192391	13 Sep 1946 UCA24898	REGISTERED
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Goods: 01 - (1) Fresh, frozen, cured, processed and canned fish, shell fish, fish meal, fish oils, fish fats, fertilizers, glue, caviar and sea foods of all kinds.

MARITIMER

CANADA	42808-3283	High Liner Foods Incorporated	28 Feb 1991 0676839	24 Jan 1992 TMA393358	REGISTERED
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Goods: 29 - Frozen fish fillets, fish sticks and fish portions.

MARKET CUTS

CANADA	42808-3189	High Liner Foods Incorporated	17 Jan 2011 1511435	26 Jul 2012 TMA828660	REGISTERED
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Goods: 29 - (1) Fish for food and seafood.

MEILLEUR AVEC DES FRUITS DE MER

CANADA	42808-3087	High Liner Foods Incorporated	04 Nov 2016 1808026	ALLOWED
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Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood

MEILLEUR FRUITS DE MER

CANADA	42808-3301	High Liner Foods Incorporated	16 Oct 2018 1925463	PENDING
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Goods: 29 - Fish and seafood
35 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood

MERMAID MUNCHIES

CANADA	42808-3304	High Liner Foods (USA) Incorporated	29 Oct 2018 1927656	PENDING
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Goods: 29 - Fish, not live; breaded fish products

UNITED STATES	42808-3156	High Liner Foods (USA) Inc.	07 Jun 2018 87/952,797	PENDING
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Goods: 29 - Fish, not live; Breaded fish products

MERMAID MUNCHIES & Design

CANADA	42808-3306	High Liner Foods (USA) Incorporated	29 Oct 2018 1927660	PENDING
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Goods: 29 - Fish, not live; breaded fish products

MIRABEL

CANADA	42808-3114	High Liner Foods Incorporated	04 Apr 2017 1830910	PENDING
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Goods: 29 - fish and seafood

CANADA	42808-3186	High Liner Foods Incorporated	31 Oct 2011 1550013	21 May 2013 TMA851289	REGISTERED
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Goods: 29 - (1) Frozen shrimp.

UNITED STATES	42808-3133	High Liner Foods Incorporated	19 Sep 2017 87/614,182	PENDING
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Goods: 29 - Fish, not live; seafood, not live

MIRABEL BRAND

CANADA	42808-3179	High Liner Foods Incorporated	09 Jan 1974 0371382	25 Oct 1974 TMA202723	REGISTERED
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Goods: 01 - (1) Fresh, frozen, smoked, canned, dried, salted crustaceans, shellfish and fish.

MIRABEL SHRIMP CRISPS

CANADA	42808-3242	High Liner Foods Incorporated	14 May 2001 1103233	17 Feb 2003 TMA575742	REGISTERED
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Goods: 29 - Packaged frozen prepared seafood.

MIRABEL SIGNATURE

CANADA 42808-3112 High Liner Foods Incorporated 30 Mar 2017 1830295 ALLOWED

Goods: 29 - Fish and seafood

MIRABEL SIGNATURE & Design

CANADA 42808-3113 High Liner Foods Incorporated 30 Mar 2017 1830303 ALLOWED

Goods: 29 - Fish and seafood

NATIONAL SEA PRODUCTS & Design

CANADA 42808-3217 High Liner Foods 17 Jun 1966 12 May 1967 REGISTERED
Incorporated/Les Aliments High 0297836 TMA150681

Goods: 01 - 1) Fresh, frozen and smoked fish.
2) Fresh, salted, smoked, breaded, cooked, frozen and canned fish; shell fish, fish sticks; frozen fish and chips; frozen fish cakes and frozen fish chowder.

ONLINER

CANADA 42808-3241 High Liner Foods Incorporated 24 Oct 2001 20 May 2003 REGISTERED
1119303 TMA581901

Goods: 09 - Electronic publications in digital form, namely, a newsletter distributed via a global computer network featuring subject matter pertaining directly or indirectly to the applicant's products and services.

OVEN CRUNCH

CANADA 42808-3277 High Liner Foods Incorporated 15 Jul 1988 23 Feb 1990 REGISTERED
611262 TMA365787

Goods: 29 - (1) Seafood.

PAN-SEAR SELECTS

CANADA 42808-3223 High Liner Foods Incorporated 01 Mar 2007 05 Jun 2008 REGISTERED
1337579 TMA715994

Goods: 29 - Frozen seafood.

Power Bowl

CANADA 42808-3146 High Liner Foods Incorporated PROPOSED

PRISE DU JOUR

CANADA 42808-3292 High Liner Foods Incorporated 13 Jan 1987 08 Apr 1988 REGISTERED
576148 TMA338863

Goods: 29 - (1) Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

PRISE DU JOUR & Design

CANADA 42808-3234 High Liner Foods Incorporated 26 May 2004 20 Apr 2005 REGISTERED
1218166 TMA637888

Goods: 29 - Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish either alone or in combination with other foods, either prepared or unprepared.

PROCHEF

CANADA	42808-3038	High Liner Foods Incorporated	31 Mar 2016 1774957	ALLOWED
	Goods:	29 - Fish and seafood.		

PROFRESH

CANADA	42808-3037	High Liner Foods Incorporated	29 Mar 2016 1774522	ALLOWED
	Goods:	29 - Fish and seafood		
UNITED STATES	42808-3071	High Liner Foods Incorporated	31 Jul 2016 87/122,189	ALLOWED
	Goods:	29 - Fish and seafood (not live)		

PROGRILL

CANADA	42808-3148	High Liner Foods Incorporated	01 Mar 2018 1885605	PENDING
	Goods:	29 - Fish and seafood		
UNITED STATES	42808-3149	High Liner Foods Incorporated	11 May 2018 87/917,356	PENDING
	Goods:	29 - Fish and seafood, not live		

PROSEAR

CANADA	42808-3047	High Liner Foods (USA) Inc.	10 Jun 2016 1786526	ALLOWED
	Goods:	29 - Fish, not live; seafood, not live		
UNITED STATES	42808-3028	High Liner Foods (USA) Inc.	29 Feb 2016 86/923,109	ALLOWED
	Goods:	29 - Fish, not live; seafood, not live		

PROTECT 'R PAK

CANADA	42808-3266	High Liner Foods Incorporated	05 Jun 1990 659280	03 Jul 1992 TMA399805	REGISTERED
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Goods: 16 - (1) Cardboard packaging materials and plastic packaging materials for seafood products.

PUB CLASSICS

CANADA	42808-3003	High Liner Foods Incorporated	10 Jan 2013 1609273	15 Aug 2013 TMA857784	REGISTERED
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Goods: 29 - Frozen and processed seafood

UNITED STATES	42808-3004	High Liner Foods Incorporated	17 Jan 2013 85/826,138	26 Nov 2013 4,438,944	REGISTERED
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Goods: 29 - Frozen and processed seafood

QUICKSTEAM

CANADA	42808-3229	High Liner Foods Incorporated/Les Aliments High	31 Jul 2006 1311086	03 Apr 2008 TMA710920	REGISTERED
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Goods: 29 - Fish for food and seafood.

R.E.S.P.E.C.T. NOTRE PLANÈTE, NOTRE PROMESSE

CANADA	42808-3214	High Liner Foods Incorporated	10 May 2010 1480413	29 Aug 2011 TMA805495	REGISTERED
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Goods: 35 - (1) Providing information to fish wholesalers, retailers and consumers in the field of fish and seafood products relating to the protection of the environment and sustainable and socially responsible business practice; operation of a business supplying private label fish and seafood to food retailers and food service distributors.

R.E.S.P.E.C.T. NOTRE PLANÈTE, NOTRE PROMESSE DESIGN

CANADA	42808-3215	High Liner Foods Incorporated	10 May 2010 1480414	29 Aug 2011 TMA805494	REGISTERED
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Goods: 35 - (1) Providing information to fish wholesalers, retailers and consumers in the field of fish and seafood products relating to the protection of the environment and sustainable and socially responsible business practice; operation of a business supplying private label fish and seafood to food retailers and food service distributors.

R.E.S.P.E.C.T. OUR PLANET, OUR PROMISE

CANADA	42808-3212	High Liner Foods Incorporated	10 May 2010 1480408	29 Aug 2011 TMA805498	REGISTERED
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Goods: 35 - (1) Providing information to fish wholesalers, retailers and consumers in the field of fish and seafood products relating to the protection of the environment and sustainable and socially responsible business practice; operation of a business supplying private label fish and seafood to food retailers and food service distributors.

R.E.S.P.E.C.T. OUR PLANET, OUR PROMISE DESIGN

CANADA	42808-3213	High Liner Foods Incorporated	10 May 2010 1480409	29 Aug 2011 TMA805499	REGISTERED
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Goods: 35 - (1) Providing information to fish wholesalers, retailers and consumers in the field of fish and seafood products relating to the protection of the environment and sustainable and socially responsible business practice; operation of a business supplying private label fish and seafood to food retailers and food service distributors.

RAPIDELICE

CANADA	42808-3268	High Liner Foods Incorporated	08 Mar 1989 627066	03 Aug 1990 TMA371525	REGISTERED
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Goods: 29 - (1) Fish and poultry products, namely breaded fish burgers and breaded chicken burgers.

REDISCOVER FROZEN

CANADA	42808-3082	High Liner Foods Incorporated	29 Sep 2016 1802668		ALLOWED
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3084	High Liner Foods Incorporated	18 Oct 2016 87/206,640		PENDING
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Goods: 29 - Fish and seafood (not live)

SALMON ELITES

CANADA	42808-3239	High Liner Foods Incorporated	06 Jun 2002 1142972	08 Jan 2004 TMA598911	REGISTERED
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Goods: 29 - Seafood, namely, fresh, frozen, smoked, canned and salted fish and shellfish, either alone or in combination with other foods, either prepared or unprepared.

SANS FAUSSE NOTE

CANADA	42808-3103	High Liner Foods Incorporated	31 Jan 2017 1820693		ALLOWED
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Goods: 29 - Fish, not live; seafood, not live

SANS FAUSSE NOTE & Design

CANADA	42808-3129	High Liner Foods Incorporated	19 Jul 2017 1848165	29 Oct 2018 TMA1007703	REGISTERED
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Goods: 29 - fish, not live; seafood, not live

SAUCY SEAFOOD

CANADA	42808-3201	High Liner Foods Incorporated	06 Jul 1998 0883468	22 Feb 2000 TMA523569	REGISTERED
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SA-WEET! POTATO CRUSTED

UNITED STATES	42808-3006	High Liner Foods (USA) Incorporated	12 Jun 2013 85/957,721	11 Aug 2015 4,791,095	REGISTERED
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Goods: 29 - Sweet-potato breaded frozen fish fillets

SEA CUISINE & Design

CANADA	42808-3078	High Liner Foods Incorporated	14 Sep 2016 1800353		ALLOWED
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Goods: 29 - Prepared fish and seafood

CANADA	42808-3204	High Liner Foods Incorporated	03 Mar 1998 0870979	24 Jul 2000 TMA530422	REGISTERED
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SEA CUISINE CRAFTED WITH & Design

CANADA	42808-3137	High Liner Foods Incorporated			PROPOSED
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UNITED STATES	42808-3138	High Liner Foods Inc			PROPOSED
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SEA CUISINE CRAFTED WITH LOVE

CANADA	42808-3139	High Liner Foods Incorporated	04 Oct 2017 1861035	ALLOWED
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Goods: 29 - Prepared fish and seafood

UNITED STATES	42808-3140	High Liner Foods Incorporated	03 Nov 2017 87/670,928	PENDING
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Goods: 29 - Prepared fish and seafood

SEA NUGGETS

CANADA	42808-3168	High Liner Foods Incorporated	03 Mar 1986 0558332	29 May 1992 TMA398598	REGISTERED
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Goods: 01 - (1) Seafood namely frozen, raw, or pre-cooked, breaded pre-cut portion of natural or formed groundfish.

SEAFOOD AT ITS BEST

CANADA	42808-3250	High Liner Foods Incorporated	30 Oct 2013 1649991	21 Sep 2016 TMA949963	REGISTERED
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Goods: 40 - (1) Processing of seafood of others for wholesale distribution and retail sale

SEAFOOD BETTER

CANADA	42808-3299	High Liner Foods Incorporated	16 Oct 2018 1925462	PENDING
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Goods: 29 - Fish and seafood

35 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood

UNITED STATES	42808-3300	High Liner Foods Incorporated	12 Mar 2019 88/336,216	PENDING
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Goods: 29 - Fish and seafood

35 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood

UNITED STATES 42808-3096 High Liner Foods Incorporated 13 Jan 2017
87/300,855 ALLOWED

Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood (not live)

SEAFOOD IS BETTER

CANADA 42808-3063 High Liner Foods Incorporated 13 Jul 2016
1791199 ALLOWED

Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood

UNITED STATES 42808-3097 High Liner Foods Incorporated 13 Jan 2017
87/300,904 PENDING

Goods: 29 - Fish and seafood (not live)
35 - Providing consumer product information relating to food products, namely, providing information via the Internet in the field of fish and seafood

SEAFOOD IS SEXY

CANADA 42808-3066 High Liner Foods Incorporated 13 Jul 2016
1791204 ALLOWED

Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood

UNITED STATES 42808-3098 High Liner Foods Incorporated 13 Jan 2017
87/300,974 ALLOWED

Goods: 29 - Fish and seafood (not live)
35 - providing consumer product information relating to food products, namely, providing information via the Internet in the field of fish and seafood

SEAFRESH

CANADA 42808-3164 High Liner Foods 19 Jun 1958 05 Dec 1958 REGISTERED
Incorporated/Les Aliments High 0246137 TMA112433

Goods: 01 - (1) Frozen fish.

SHORE GRILLED

CANADA	42808-3288	High Liner Foods Incorporated	23 Feb 1987 578652	02 Mar 1990 TMA366057	REGISTERED
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Goods: 29 - (1) Fish and seafood.

Shrimp Heart Design

CANADA	42808-3233	High Liner Foods Incorporated	17 Mar 2005 1251546	16 Oct 2006 TMA674986	REGISTERED
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Goods: 35 - Distributorship services in the field of seafood.

SHRIMP SNACKS

CANADA	42808-3270	High Liner Foods Incorporated/Les Aliments High	09 Aug 1993 0734636	07 Jul 1995 TMA444945	REGISTERED
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Goods: 29 - Frozen shrimp.

SHRIMP TREASURES

CANADA	42808-3178	High Liner Foods Incorporated	17 May 1974 0375347	07 Mar 1975 TMA205681	REGISTERED
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Goods: 01 - (1) Shrimp

SIMPLEMENT POUR L'AMOUR DU POISSON

CANADA	42808-3226	High Liner Foods Incorporated	14 Aug 2014 1689624	16 Sep 2015 TMA914305	REGISTERED
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Goods: 01 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood
42 - (1) operation of educational and promotional programs in respect of nutrition, healthy eating and the consumption of fish and seafood;
providing a website in the field of nutrition, healthy eating and the consumption of fish and seafood

SIMPLY FOR THE LOVE OF FISH

CANADA	42808-3225	High Liner Foods Incorporated	14 Aug 2014 1689635	16 Sep 2015 TMA914287	REGISTERED
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Goods: 01 - (1) fish for food; seafood; frozen entrees consisting primarily of seafood
42 - (1) operation of educational and promotional programs in respect of nutrition, healthy eating and the consumption of fish and seafood;
providing a website in the field of nutrition, healthy eating and the consumption of fish and seafood

SMART FLAVOR AT FIRST SIGHT

CANADA	42808-3322	High Liner Foods (USA) Inc.	15 Mar 2019 1951780		PENDING
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Goods: 29 - Prepared fish and seafood

UNITED STATES	42808-3298	High Liner Foods (USA) Incorporated	19 Sep 2018 88/123,859		PENDING
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Goods: 29 - Prepared fish and seafood

SMART PREP

CANADA	42808-3323	High Liner Foods (USA) Incorporated	18 Mar 2019 1951999	PENDING
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Goods: 29 - Prepared fish and seafood

UNITED STATES	42808-3294	High Liner Foods (USA) Incorporated	18 Sep 2018 88/121,859	PENDING
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Goods: 29 - Prepared fish and seafood

SMART PROTEIN SMART CHOICE SMART INDULGENCE

CANADA	42808-3317	High Liner Foods (USA) Incorporated	25 Jan 2019 1942688	PENDING
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Goods: 29 - Prepared fish and seafood

UNITED STATES	42808-3162	High Liner Foods (USA) Incorporated	02 Aug 2018 88/062,574	PUBLISHED
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Goods: 29 - Prepared fish, namely, prepared frozen entrees consisting primarily of fish; seafood, namely, processed seafood, frozen seafood

SMART PROTEIN SMART CHOICE SMART PREP

CANADA	42808-3318	High Liner Foods (USA) Incorporated	25 Jan 2019 1942690	PENDING
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Goods: 29 - Prepared fish and seafood

UNITED STATES	42808-3163	High Liner Foods (USA) Incorporated	02 Aug 2018 88/063,168	PUBLISHED
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Goods: 29 - Prepared fish, namely, prepared frozen entrees consisting primarily of fish; seafood, namely, processed seafood, frozen seafood

SOLE ELITES

CANADA	42808-3271	High Liner Foods Incorporated	28 Apr 1993 0727853	09 Jun 1995 TMA443587	REGISTERED
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SOME THINGS ARE BETTER ON ICE

CANADA 42808-3081 High Liner Foods Incorporated 29 Sep 2016 1802665 ALLOWED

Goods: 29 - Fish and seafood

UNITED STATES 42808-3083 High Liner Foods Incorporated 18 Oct 2016 87/206,619 PENDING

Goods: 29 - Fish and seafood (not live)

SOUPER LÉGER

CANADA 42808-3169 High Liner Foods 22 Nov 1984 23 Oct 1987 REGISTERED
Incorporated/Les Aliments High 0532037 TMA333425

Goods: 01 - (1) Frozen and breaded fillets of fish.

SUPERIOR QUALITY SEAFOOD & Design

CANADA 42808-3116 High Liner Foods Incorporated 13 Apr 2017 1832568 PENDING

Goods: 29 - fish and seafood

THE SEAFOOD EFFECT

CANADA 42808-3068 High Liner Foods Incorporated 13 Jul 2016 1791205 ALLOWED

Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood

UNITED STATES	42808-3099	High Liner Foods Incorporated	13 Jan 2017 87/301,009	PENDING
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Goods: 00 - Dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood; education services, namely dissemination of information via the Internet, pamphlets, posters, displays in the field of food, namely fish and seafood
29 - Fish and seafood (not live)

THE SMARTEST FISH ON EARTH

CANADA	42808-3150	High Liner Foods Incorporated	03 Apr 2018 1891440	PENDING
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3309	High Liner Foods Incorporated	08 Nov 2018 88/186,625	PUBLISHED
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Goods: 29 - Fish and seafood, not live

THE SMARTEST PROTEIN ON EARTH

CANADA	42808-3151	High Liner Foods Incorporated	03 Apr 2018 1891445	PENDING
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Goods: 29 - Fish and seafood

UNITED STATES	42808-3310	High Liner Foods Incorporated	08 Nov 2018 88/186,641	PUBLISHED
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Goods: 29 - Fish and seafood, not live

TWISTED TAPAS

MEXICO	42808-3091	High Liner Foods (USA) Inc.	12 Jan 2017 1841377	20 Mar 2018 1862688	REGISTERED
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Goods: 29 - Fish, not live and seafood, not live

UNITED STATES	42808-3069	High Liner Foods (USA) Inc.	19 Jul 2016 87/109,174	21 Nov 2017 5,341,808	REGISTERED
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Goods: 29 - Fish, not live and seafood, not live

UNFISHIN' BELIEVABLE

CANADA	42808-3100	High Liner Foods (USA) Inc.	10 Jan 2017 1817352	ALLOWED
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Goods: 29 - Fish, not live and seafood, not live

UNITED STATES	42808-3074	High Liner Foods (USA) Inc.	11 Aug 2016 87/134,879	ALLOWED
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Goods: 29 - Fish, not live and seafood, not live

VALUE BAY

CANADA	42808-3275	High Liner Foods Incorporated/Les Aliments High	28 Oct 1991 0692553	11 Dec 1992 TMA406258	REGISTERED
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VOTRE PARTENAIRE DANS LA RÉUSSITE

CANADA	42808-3236	High Liner Foods Incorporated	17 Jul 2003 1185150	22 Feb 2006 TMA659659	REGISTERED
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Goods: 35 - Distributorship services in the field of fish and seafood.

WAVECREST

CANADA	42808-3243	High Liner Foods Incorporated/Les Aliments High	20 Feb 1953 0218580	20 Feb 1953 UCA46820	REGISTERED
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Goods: 01 - (1) Fresh, frozen and Smoked Fish.

WE CATCH CUSTOMERS FOR YOU

CANADA	42808-3237	High Liner Foods Incorporated	08 Apr 2003 1174039	04 Jun 2004 TMA612103	REGISTERED
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Goods: 35 - Distributorship services in the field of fish and seafood.

YOUR SEAFOOD SPECIALISTS

CANADA	42808-3194	High Liner Foods Incorporated	19 Jan 1999 1002204	19 Jun 2001 TMA546795	REGISTERED
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High

Active

Status

Domain Register

highlinerfoods.com	active	Network Solutions
highliner.com	active	Network Solutions
highlinerfoodservice.com	active	Network Solutions
fisherboy.com	active	Network Solutions
captainscut.com	active	Network Solutions
highlinerfoodsusa.com	active	Network Solutions
<u>seafoodissmartfood.com</u>	active	Network Solutions
fisheryproducts.com	active	Network Solutions
fpiondemand.com	active	Network Solutions
fpquality.com	active	Network Solutions
fpifulfillment.com	active	Network Solutions
seacuisine.com	active	Network Solutions
highlinerfoods.com.cn	active	
highlinersustainability.com	active	Network Solutions
highlinerfoodssustainability.com	active	Network Solutions
highlinerdeveloppementdurable.com	active	Network Solutions
lesalimentshighlinerdeveloppementdurable.com	active	Network Solutions
vikingseafoods.com	active	Network Solutions
Highlinerfs.com	active	Network Solutions
icelandicusa.com	active	Icelandic Group
onlyoneicelandic.com	active	Network Solutions
onlyoneicelandicseafood.com	active	Network Solutions
myhighlinerfoods.com	active	Network Solutions
thankgoodnessitsfishfriday.com	active	Network Solutions
tgiff.com	active	Network Solutions
tgiff.org	active	Network Solutions
guinnessdistinctiveseafood.com	active	Network Solutions
thevitalitycafe.ca	active	Network Solutions
americanprideseafood.com	not active (yet)	Network Solutions
americanprideseafoods.com		Network Solutions
theseafoodguyblog.com	not active (yet)	Network Solutions
highlinerfoodsbrokermeeting.com	not active (yet)	Network Solutions
theseafoodspot.com	not active (yet)	Network Solutions
seafoodspot.com	not active (yet)	Network Solutions
seacuisineblog.com	not active (yet)	Network Solutions
highlinerjobs.com	active	Network Solutions
highlinernews.com	Active	Network Solutions
HowlingSalmonCompany.ca	not active (yet)	Network Solutions
HowlingSalmonCompany.com	not active (yet)	Network Solutions

FishTankSalmonCompany.ca	not active (yet)	Network Solutions
FishTankSalmonCompany.com	not active (yet)	Network Solutions
CantF---itUpSalmonCompany.com	not active (yet)	Network Solutions
CantF---itUpSalmonCompany.ca	not active (yet)	Network Solutions
CantFlublUpSalmonCompany.com	not active (yet)	Network Solutions
CantFlublUpSalmonCompany.ca	not active (yet)	Network Solutions
CantMessItUpSalmonCompany.ca	not active (yet)	Network Solutions
CantMessItUpSalmonCompany.com	not active (yet)	Network Solutions
cantmessitup.ca	active	Network Solutions
sansfaussenote.ca	active	Network Solutions
highlinerschool.com	reserved	Network Solutions
was deactivated on July 3/09		
fisherboy.biz	reserved	Network Solutions
fisherboy.info	reserved	Network Solutions
fisherboy.org	reserved	Network Solutions
fisherboy.net	reserved	Network Solutions
highlinerfoodsinc.com	reserved	Network Solutions
highlinerfoods.ca	reserved	Canadian Domain Name Services
highlinerfoods.biz	reserved	Network Solutions
highlinerfoods.info	reserved	Network Solutions
highlinerfoods.net	reserved	Network Solutions
highlinerfoods.org	reserved	Network Solutions
highlinerfoodservice.ca	reserved	Canadian Domain Name Services
highlinerfoodservice.biz	reserved	Network Solutions
highlinerfoodservice.info	reserved	Network Solutions
highlinerfoodservice.net	reserved	Network Solutions
highlinerfoodservice.org	reserved	Network Solutions
highliner.ca	reserved	Canadian Domain Name Services
highliner.biz	reserved	Network Solutions
highliner.info	reserved	Network Solutions
highliner.org	reserved	Network Solutions
quicksteam.ca	reserved	Canadian Domain Name Services
quicksteam.biz	reserved	Network Solutions
quicksteam.info	reserved	Network Solutions
quicksteam.org	reserved	Network Solutions
captainhighliner.ca	reserved	Canadian Domain Name Services
captainhighliner.biz	reserved	Network Solutions
captainhighliner.info	reserved	Network Solutions

captainhighliner.net	reserved	Network Solutions
captainhighliner.org	reserved	Network Solutions
captainhighliner.com	reserved	Network Solutions
fpiltd.net	reserved	Network Solutions
fpilimited.com	reserved	Network Solutions
fpilimited.net	reserved	Network Solutions
fisheryproductsinternational.net	reserved	Network Solutions
fpil.com	reserved	Network Solutions
fpil.net	reserved	Network Solutions
fpil.org	reserved	Network Solutions
fpilimited.org	reserved	Network Solutions
fpiltd.org	reserved	Network Solutions
fisheryproductsinternational.com	reserved	Network Solutions
fisheryproductsinternational.org	reserved	Network Solutions
fisheryproducts.biz	reserved	Network Solutions
fisheryproducts.info	reserved	Network Solutions
fpinorthamerica.com	reserved	Network Solutions
fishery-products.com	reserved	Network Solutions
fpintranet.com	reserved	Network Solutions
fpidirectors.com	reserved	Network Solutions
fpicanada.com	reserved	Network Solutions
fisheryproducts.net	reserved	Network Solutions
fisheryproducts.org	reserved	Network Solutions
fisheryproducts.us	reserved	Network Solutions
fisheryproducts.ca	reserved	internic
seafoodissmartfood.net	reserved	Network Solutions
seafoodissmartfood.biz	reserved	Network Solutions
seafoodissmartfood.ca	reserved	Network Solutions
seafoodissmartfood.cn	reserved	Network Solutions
seafoodissmartfood.cn.com	reserved	Network Solutions
seafoodissmartfood.info	reserved	Network Solutions
seafoodissmartfood.net	reserved	Network Solutions
seafoodissmartfood.org	reserved	Network Solutions
seafoodissmartfood.us	reserved	Network Solutions
seafoodissmartfood.us.com	reserved	Network Solutions
ourplanetourpromise.com	reserved	Network Solutions
ourplanetourpromise.net	reserved	Network Solutions
ourplanetourpromise.ca	reserved	Network Solutions
highlinerrespect.ca	reserved	Network Solutions
highlinerrespect.com	reserved	Network Solutions
highlinerrespect.net	reserved	Network Solutions
highlinersustainability.net	reserved	Network Solutions
highlinersustainability.org	reserved	Network Solutions

highlinersustainability.info	reserved	Network Solutions
highlinersustainability.ca	reserved	Network Solutions
highlinerfoodssustainability.ca	reserved	Network Solutions
highlinerfoodssustainability.info	reserved	Network Solutions
highlinerfoodssustainability.net	reserved	Network Solutions
highlinerfoodssustainability.org	reserved	Network Solutions
lesalimentshighlinerdeveloppementdurable.ca	reserved	Network Solutions
highlinerdeveloppementdurable.ca	reserved	Network Solutions
vikingseafoods.net	reserved	Network Solutions
vikingseafoods.org	reserved	Network Solutions
vikingseafoods.biz	reserved	Network Solutions
vikingseafoods.us	reserved	Network Solutions
Liner Domain Names:		

A. COPYRIGHT (REGISTERED AND APPLICATIONS)

Canada

<u>Title</u>	<u>Author</u>	<u>Owner</u>	<u>Date Registered</u>	<u>Registration No.</u>
Mirabel Cooked Shrimp Ring Package	Paul Sicard	Fishery Products International Limited	1991-06-12	407581

An application has been made to transfer the above noted registration to High Liner Foods Incorporated.

B. PATENTS

Nil

SCHEDULE 6.13 BANK ACCOUNTS

[List of Bank Accounts & Lock Boxes Redacted]

SCHEDULE 6.14 LITIGATION

[Description of Litigation Redacted]

SCHEDULE 6.15 LABOUR DISPUTES

(a) Collective Agreements

(i) Collective Agreement between High Liner Foods Incorporated Lunenburg Division, Lunenburg, Nova Scotia and Unifor Local 1944: January 1, 2018 to December 31, 2020.

(b) See Expiry Dates noted above

(c) NIL

(d) NIL

SCHEDULE 6.16 ENVIRONMENTAL MATTERS

[Description of Environmental Reports and Incidents Redacted]

SCHEDULE 6.19 PLAN

On May 10, 2010, Icelandic USA, Inc. signed a Notice of Intent to Terminate the Pension Plan of Coldwater Seafood Corporation for Regular Full-Time Hourly Rated Employees at Cambridge Maryland. Icelandic USA, Inc filed PBGC Form 500 with the PBGC on June 14, 2010, along with Schedule EA-S, Standard Termination, Certificate of Sufficiency. Distributions were made to electing participants in the second half of 2010 and an annuity contract was purchased from Principal Life Insurance Company in September 2010 to cover the benefits of non-responding participant and retirees in pay status. The final payment for the annuity contract was paid in January 2011.

Canadian Defined Benefit Pension Plans:

[Details of Pension Plans for Managemet and NS Union Members Redacted]

SCHEDULE 6.25 MATERIAL AGREEMENTS

1. Oracle Licenses and Services Agreement for JD Edwards World, Enterprise One, Oracle Application Testing Suite and Oracle Product Life Cycle Management systems.
2. Term Loan Agreement.
3. Lease for 121 Hardwood Dr., Newport News, Virginia 23603.
4. Lease 183 International Drive, Pease International Tradeport, Portsmouth, NH.
5. Agreements in the ordinary course with customers and suppliers.
6. License Agreement dated August 14, 2015 between Proteus Industries Inc. and High Liner Foods Incorporated and further amended on March 28, 2017.
7. Shrimp Supply Agreement dated May 30, 2017 between Phatthana Seafood Co., Ltd., Phatthana Frozen Food Co., Ltd., Chanthaburi Seafood Co., Ltd., and Chanthaburi Frozen Food Co., Ltd., each an affiliate of P&M Holding Co., Ltd., a private limited company registered with the Department of Business Development of the Ministry of Commerce of Thailand collectively “PTN Group” and High Liner Foods (USA) Incorporated.
8. Shrimp Supply Agreement dated May 30, 2017 between Wales & Co. Universe Limited, on behalf of itself and its affiliates, Sea Wealth Frozen Food Co., Ltd. and Andaman Seafood Co., Ltd. and High Liner Foods (USA) Incorporated.
9. Brand License Agreement date April 10, 2018 between Icelandic Trademark Holding HF. and High Liner Foods Incorporated.

SCHEDULE 6.27 – INACTIVE SUBSIDIARIES

[Information in relation to Subsidiary Guarantors Redacted]

The following entities are Inactive Subsidiaries pursuant to section 6.27, however, they are authorized to execute, deliver and perform the obligations required under the Loan Documents (as defined in this Agreement) together with the Loan Documents (as defined in the Term Loan Agreement).

[Information in relation to Subsidiary Guarantors Redacted]

SCHEDULE 7.11 PERMITTED SALES

1. High Liner Foods Incorporated may dissolve the following entities shortly after the date hereof:

[Subsidiary Guarantor Names Redacted]

SCHEDULE 7.12 EXISTING INVESTMENTS

Nil

SCHEDULE 7.15 DEBTS AND LIENS

Debts and Liens in respect of the following Capital Leases which, in the aggregate, represent less than \$4,000,000.00:

1. Master Lease Agreement dated March 9, 2001 between Element Fleet Management Corp., (formerly GE Capital Equipment Financing Ltd., now Element Financial) and High Liner Foods Incorporated with respect to the lease of passenger motor vehicles for employees.
2. Master Lease Agreement dated April 19, 2018 between Cisco Systems Capital Canada Co. and High Liner Foods Incorporated with respect to the lease of equipment.
3. Master Lease Agreement dated April 25, 2018 between Cisco Systems Capital Corporation and High Liner Foods (USA), Incorporated with respect to the lease of equipment.

Those Permitted Investments set forth on Schedule 7.12

SCHEDULE 7.17 TRANSACTIONS WITH AFFILIATES

Procurement services within the High Liner Foods group of companies.

SCHEDULE 7.22 MORTGAGED PROPERTIES

High Liner Foods Incorporated

100 Battery Point
Lunenburg NS

High Liner Foods (USA), Incorporated

1 High Liner Avenue
Portsmouth, NH

[Details of Subsidiary Guarantors Redacted]

SCHEDULE 7.35 - POST CLOSING COVENANTS

1. The Agent shall have received of all certificates, customary legal written opinions and such other documents as may be reasonably requested by the Agent (in each case of the foregoing, in form and substance reasonably satisfactory to the Agent), in respect of [Names of Subsidiary Guarantors Redacted] within 15 days of the Effective Date, or such other time as may be agreed to by the Agent in its sole discretion acting reasonably (the failure by the Borrowers or the Guarantors to so perform or cause to be performed such conditions subsequent as and when required by the terms, shall constitute an Event of Default).

2. The Agent shall have received (a) a revised Schedule 6.7 to this Agreement, containing a complete and accurate disclosure of the information required under Section 6.7 of the Agreement, (b) a revised Schedule IV to the Canadian Security Agreement, containing a complete and accurate disclosure of the information required under the Canadian Security Agreement, (c) revised Schedules II and IV to the U.S Security Agreement, containing a complete and accurate disclosure of the information required under the U.S Security Agreement, (d) updates to any other Schedules to the Agreement or the Security Documents as may be requested by the Agent and (e) delivery of any other duly executed agreements, filings, instruments or other documents as may be requested by the Agent in connection with the creation, perfection or protection of security interests in the Collateral, in each case of the foregoing clauses (a) through (e), within 30 days of the Effective Date, or such time as may be agreed to by the Agent in its sole discretion acting reasonably (the failure by the Borrowers or the Guarantors to so perform or cause to be performed such conditions subsequent as and when required by the terms, shall constitute an Event of Default).