

**TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.**  
**as Borrower**

**- and -**

**NATIONAL BANK OF CANADA**

**- and -**

**THOSE OTHER FINANCIAL INSTITUTIONS WHICH HEREAFTER BECOME LENDERS  
UNDER THIS AGREEMENT  
as Lenders**

**- and -**

**NATIONAL BANK OF CANADA  
as Agent**

**- with -**

**NATIONAL BANK FINANCIAL MARKETS, [Redacted] AND [Redacted]  
as Co-Lead Arrangers and Joint Bookrunners**

**THIRD AMENDED AND RESTATED CREDIT AGREEMENT**

**Dated August 16, 2022**

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**THIRD AMENDED AND RESTATED CREDIT AGREEMENT**

**THIS AGREEMENT** is made effective August 16, 2022,

**BETWEEN:**

**TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
as Borrower**

- and -

**NATIONAL BANK OF CANADA**

- and -

**THOSE OTHER FINANCIAL INSTITUTIONS WHICH HEREAFTER BECOME LENDERS  
UNDER THIS AGREEMENT  
as Lenders**

- and -

**NATIONAL BANK OF CANADA  
as Agent**

- with -

**NATIONAL BANK FINANCIAL MARKETS, [Redacted] AND [Redacted]  
as Co-Lead Arrangers and Joint Bookrunners**

**PREAMBLE:**

- A. The Borrower, the Agent, and certain of the Lenders are party to the Original Credit Agreement.
- B. The parties hereto have agreed to amend and restate the Original Credit Agreement on the terms and conditions hereinafter set forth.
- C. The Lenders have agreed to provide the Credit Facilities to the Borrower on the terms and conditions herein set forth.
- D. The Lenders wish the Agent to act on their behalf with regard to certain matters associated with the Credit Facilities as set forth in this Agreement.

**AGREEMENT:**

In consideration of the covenants and agreements between the Parties contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

- 1.1 Definitions.** Capitalized words and phrases used in the Documents, the Schedules hereto and in all notices and communications expressed to be made pursuant to this Agreement will have the meanings set out in Schedule A, unless otherwise defined in any of the Documents.
- 1.2 Headings.** Headings, subheadings and the table of contents contained in the Documents are inserted for convenience of reference only and will not affect the construction or interpretation of the Documents.
- 1.3 Subdivisions.** Unless otherwise stated, reference herein to a Schedule or to an Article, Section, paragraph or other subdivision is a reference to such Schedule to this Agreement or such Article, Section, paragraph or other subdivision of this Agreement. Unless specified otherwise, reference in Schedule A to a Schedule or to an Article, Section, paragraph or other subdivision is a reference to such Schedule or Article, Section, paragraph or other subdivision of this Agreement.
- 1.4 Number.** Wherever the context in the Documents so requires, a term used herein importing the singular will also include the plural and vice versa.
- 1.5 Statutes, Regulations and Rules.** Any reference in the Documents to all or any section or paragraph or any other subdivision of any Law will, unless otherwise expressly stated, be a reference to that Law or the relevant section or paragraph or other subdivision thereof, as such Law may be amended, substituted, replaced or re-enacted from time to time.
- 1.6 Permitted Encumbrances.** Subject to Section 4.10, any reference in any of the Documents to a Permitted Encumbrance is not intended to and will not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any obligation of any Loan Party to the Lenders under any of the Documents to any Permitted Encumbrance.
- 1.7 Monetary References.** Whenever an amount of money is referred to in the Documents, such amount will, unless otherwise expressly stated, be in Canadian Dollars.
- 1.8 Time.** Time will be of the essence in respect of the Documents.
- 1.9 Governing Law.** The Documents will be governed by and construed in accordance with the Law in force in the Province of Alberta from time to time.
- 1.10 Enurement.** The Documents will be binding upon and will enure to the benefit of the Parties and their respective successors and permitted assigns.
- 1.11 Amendments.** No Document may be amended orally and, subject to Sections 1.12(a), 18.16 and 19.1(e), any amendment may only be made by way of an instrument in writing signed by the required Parties.
- 1.12 No Waiver.**
- (a) No waiver by a Party of any provision or of the breach of any provision of the Documents will be effective unless it is contained in a written instrument duly executed by an authorized officer or representative of such Party. Such written waiver will affect only the matter specifically identified in the instrument granting the waiver and will not extend to any other matter, provision or breach.

- (b) The failure of a Party to take any steps in exercising any right in respect of the breach or non-fulfilment of any provision of the Documents will not operate as a waiver of that right, breach or provision, nor will any single or partial exercise of any right preclude any other or future exercise of that right or the exercise of any other right, whether in Law or otherwise.
- (c) Acceptance of payment by a Party after a breach or non-fulfilment of any provision of the Documents requiring a payment to such Party will constitute a waiver of such provision if cured by such payment, but will not constitute a waiver or cure of any other provision of the Documents.

**1.13 Severability.** If the whole or any portion of the Documents or the application thereof to any circumstance will be held invalid or unenforceable to an extent that does not affect the operation of the Document in question in a fundamental way, the remainder of the Document in question, or its application to any circumstance other than that to which it has been held invalid or unenforceable, will not be affected thereby and will be valid and enforceable to the fullest extent permitted by applicable Law.

**1.14 Inconsistency.** To the extent that there is any inconsistency or ambiguity between the provisions of this Agreement and any other Document, the provisions of this Agreement will govern to the extent necessary to eliminate such inconsistency or ambiguity.

**1.15 Accounting Terms and Principles.** Except as otherwise expressly provided, all accounting terms, principles and calculations applicable to the Credit Facilities will be interpreted, applied and calculated, as the case may be, in accordance with GAAP. The basis of accounting and all calculations set out in this Agreement will be applied and made on a consistent basis and will not be changed for the purposes of this Agreement unless required by GAAP or as agreed to by the required Parties in writing, such agreement not to be unreasonably withheld. It will be reasonable for the Lenders to withhold their consent if a proposed change could adversely affect the obligations of the Borrower or rights of the Lenders under the Documents.

**1.16 Changes in GAAP or Accounting Policies.**

- (a) If the Borrower adopts a change in an accounting policy in the preparation of its financial statements in order to conform to accounting recommendations, guidelines, or similar pronouncements, or legislative requirements, and such change would require disclosure thereof under GAAP, or would reasonably be expected to materially and adversely affect (i) the rights of, or the protections afforded to, the Agent or the Lenders hereunder or (ii) the position either of the Borrower or of the Agent or the Lenders hereunder, the Borrower shall so notify the Agent, describing the nature of the change and its effect on the current and immediately prior year's financial statements in accordance with GAAP and in detail sufficient for the Agent and the Lenders to make the determination required of them in the following sentence. If any of the Borrower, the Agent or the Lenders determine at any time that such change in accounting policy results in a material adverse change either (A) in the rights of, or protections afforded to, the Agent or the Lenders intended to be derived, or provided for, hereunder or (B) in the position either of the Borrower or of the Agent and the Lenders hereunder, written notice of such determination shall be delivered by the Borrower to the Agent, in the case of a determination by the Borrower, or by the Agent to the Borrower, in the case of a determination by the Agent or the Lenders.
- (b) Upon the delivery of a written notice pursuant to Section 1.16(a) the Borrower and the Agent on behalf of the Lenders shall meet to consider the impact of such change in

GAAP or such change in accounting policy (in each case, an "**Accounting Change**"), as the case may be, on the rights of, or protections afforded to, the Agent and the Lenders or on the position of the Borrower or of the Agent and the Lenders and shall in good faith negotiate to execute and deliver an amendment or amendments to this Agreement in order to preserve and protect the intended rights of, or protections afforded to, the Borrower or the Agent and the Lenders (as the case may be) on the date hereof or the position of the Borrower or the Agent and the Lenders (as the case may be); provided that, until this Agreement has been amended in accordance with the foregoing, then for all purposes hereof, the applicable changes from GAAP or in accounting policy (as the case may be) shall be disregarded hereunder and any amount required to be determined hereunder shall, nevertheless, continue to be determined under GAAP prior to such change and the Borrower's prior accounting policy. For the purposes of this Section 1.16, the Borrower, the Lenders and the Agent acknowledge that the amendment or amendments to this Agreement are to provide substantially the same rights and protection to the Borrower, the Agent and the Lenders as is intended by this Agreement as at the Closing Date. If the Borrower and the Agent on behalf of the Lenders do not (for any reason whatsoever) mutually agree (in their respective sole discretions, without any obligation to so agree) on such amendment or amendments to this Agreement within 60 days following the date of delivery of such written notice, the Borrower shall either continue to provide financial statements in accordance with GAAP prior to such change or provide all such financial information as is reasonably required (or requested by the Agent acting reasonably) in order for any amount required to be determined hereunder to be determined in accordance with GAAP prior to such change and/or the Borrower's prior accounting policy, including to the extent applicable the calculation of and the reason for the changed amounts as between GAAP prior to such change and GAAP, and, for all purposes hereof, the applicable changes from GAAP prior to such change or in accounting policy (as the case may be) shall be disregarded hereunder and any amount required to be determined hereunder shall, nevertheless, continue to be determined under GAAP prior to such change and/or the Borrower's prior accounting policy.

- (c) If a Compliance Certificate is delivered in respect of a Fiscal Quarter or Fiscal Year in which an Accounting Change is implemented without giving effect to any revised method of calculating a financial calculation hereunder (each a "**Financial Calculation**"), and subsequently, as provided above, the method of calculating the Financial Calculation is revised in response to such Accounting Change, or the amount to be determined pursuant to the Financial Calculation is to be determined without giving effect to such Accounting Change, the Borrower shall deliver a revised Compliance Certificate. Any Event of Default which arises as a result of the Accounting Change and which is cured by this Section 1.16 shall be deemed never to have occurred.

**1.17 Amendment and Restatement.** On the date on which all of the conditions set forth in Section 2.1 have been satisfied (or waived in writing by all of the Lenders):

- (a) the Original Credit Agreement shall be and is hereby amended and restated in the form of this Agreement; and
- (b) all Advances (as that term is defined in the Original Credit Agreement) and other amounts outstanding under the Original Credit Agreement prior to the Closing Date shall continue to be outstanding under this Agreement and shall be deemed to be Advances and other Loan Obligations owing by the Borrower to the Lenders under this Agreement; the Lenders hereby agree to take all steps and actions and execute and

deliver all agreements, instruments and other documents as may be required by the Agent (including the assignment of interests in, or the purchase of participations in, such outstanding Advances) to give effect to the foregoing and to ensure that the aggregate Loan Obligations owing to each Lender are outstanding in proportion to each Lender's Rateable Portion of all outstanding Loan Obligations after giving effect to the foregoing.

Notwithstanding the foregoing or any other term hereof, all of the covenants, representations and warranties on the part of the Borrower under the Original Credit Agreement and all of the claims and causes of action arising against the Borrower in connection therewith, in respect of all matters, events, circumstances and obligations arising or existing prior to the Closing Date shall continue, survive and shall not be merged in the execution of this Agreement or any other Documents or any advance or provision of any Advance hereunder.

**1.18 Schedules.** The following are the Schedules which form part of this Agreement:

Schedule A:	Definitions
Schedule B:	Commitments
Schedule C:	Form of Compliance Certificate
Schedule D:	Form of Extension Request
Schedule E:	Form of Notice of Borrowing
Schedule F:	Form of Notice of Rollover or Notice of Conversion or Notice of Repayment
Schedule G:	List of Subsidiaries
Schedule H:	Form of Assignment
Schedule I:	List of Material Contracts
Schedule J:	Form of Environmental Certificate
Schedule K:	Dimsdale Project Permits
Schedule L:	List of Material LCFS Contracts
Schedule M:	Finance Lease Obligations and Purchase Money Obligations

## **ARTICLE 2 CONDITIONS PRECEDENT**

**2.1 Conditions Precedent.** This Agreement will become effective upon:

- (a) the receipt by the Agent, for and on behalf of the Lenders, of the following documents each in full force and effect, and in form and substance satisfactory to all the Lenders, acting reasonably:
  - (i) an executed copy of this Agreement;
  - (ii) an executed Closing Certificate from or on behalf of each Loan Party (other than the Excluded Subsidiaries), together with all attachments thereto (including, for certainty, true and complete copies of such Loan Party's constating documents, the relevant resolutions authorizing the Documents to which such Loan Party is a party, in each case, to the extent not previously delivered, and a certificate of incumbency in respect of such Loan Party);
  - (iii) an executed Compliance Certificate as at the Closing Date (the "**Closing Date Compliance Certificate**"), with respect to the most recent Fiscal Quarter of the Borrower, on a *pro forma* basis after giving effect to the closing of the Unit Offering and the Private Placement and the repayment or defeasance, as applicable, of the High Yield Notes and the Junior Credit Agreement;

- (iv) a certificate of status, certificate of good standing, partnership declaration or similar evidence as to the creation or existence of each Loan Party (other than the Excluded Subsidiaries) under the Laws of its jurisdiction of formation, such certificates to be dated on or about the Closing Date;
  - (v) a confirmation of guarantee and security from each Loan Party (other than any Excluded Subsidiary);
  - (vi) executed copies of the Security (to the extent not previously delivered);
  - (vii) an executed copy of the Closing Opinion and an opinion of Lenders' Counsel;
  - (viii) an amendment and restatement of the LCFS Intercreditor Agreement;
  - (ix) a Notice of Borrowing from the Borrower, requesting a Drawdown under the Syndicated Facility;
  - (x) a Capital Spending Budget and Plan, in form and substance satisfactory to the Agent and the Lenders;
  - (xi) termination, release and discharge documentation in respect of the Junior Credit Agreement and related security; and
  - (xii) the Unit Offering Flow of Funds;
- (b) the receipt by the Agent and the Lenders of any information, including supporting documentation and other evidence, requested by any Lender or the Agent, each acting reasonably, pursuant to Section 19.12 or other "know your client" information;
  - (c) the payment of all fees and expenses which are payable by the Borrower to the Co-Lead Arrangers, the Agent and the Lenders, as the case may be, in connection with the execution and delivery of this Agreement (or arrangements satisfactory to the Co-Lead Arrangers and the Agent having been made for the payment of same);
  - (d) the payment of all fees, disbursements and expenses which are payable to Lenders' Counsel (i) by the Borrower in connection with the execution and delivery of this Agreement, and (ii) by the Borrower's Affiliates in connection with credit facilities provided to such Affiliates (or, in either case, arrangements satisfactory to Lenders' Counsel and the Agent having been made for the payment of same);
  - (e) no Default, Event of Default or Material Adverse Effect shall have occurred, or result from the execution and delivery of the Documents, and the Agent shall have received a certificate of an officer of the Borrower certifying the same;
  - (f) each of the representations and warranties as provided in Section 13.1 being true and correct and the Agent shall have received a certificate of an officer of the Borrower certifying the same;
  - (g) prior to or concurrently with the closing of this Agreement, the Borrower shall have received gross proceeds from the Unit Offering and the Private Placement in an aggregate amount of not less than Cdn. \$92,500,000 and such proceeds, together with the proceeds from the initial drawdown of the Syndicated Facility on closing shall be sufficient to repay, satisfy or defease, as applicable, the obligations, liabilities and

indebtedness under the High Yield Notes and the Junior Credit Agreement and the Agent shall have received a certificate of an officer of the Borrower certifying the same;

- (h) substantially concurrently with the closing of this Agreement all obligations, liabilities and indebtedness under the High Yield Notes and the Junior Credit Agreement shall be repaid, satisfied or defeased, as applicable, in full in accordance with the Unit Offering Flow of Funds;
- (i) the *pro forma* availability under the Syndicated Facility after giving effect to the drawdown of the Syndicated Facility pursuant to Section 2.1(a)(ix) shall not be less than Cdn. \$50,000,000, and the Agent shall have received a certificate of an officer of the Borrower certifying the same; and
- (j) the receipt by the Agent, for and on behalf of the Lenders, of such other documents, certificates, opinions and agreements as are reasonably required to confirm the completion and satisfaction of the foregoing which the Agent and the Lenders may reasonably request.

### **ARTICLE 3 CREDIT FACILITIES**

**3.1 Credit Facilities.** Subject to the terms and conditions hereof and effective on the date hereof:

- (a) Syndicated Facility. The Syndicated Facility Lenders hereby establish the Syndicated Facility in favour of the Borrower as an extendible revolving credit facility. Accommodations under the Syndicated Facility may be drawn down by the Borrower in accordance with Section 3.4(a) in Canadian Dollars, or the Canadian Dollar Exchange Equivalent thereof in U.S. Dollars, or any combination thereof, to a maximum of the Syndicated Facility Commitment Amount. The Individual Syndicated Facility Commitment Amount of each of the Syndicated Facility Lenders is set out in Schedule B.
- (b) Operating Facility. The Operating Facility Lender hereby establishes the Operating Facility in favour of the Borrower as an extendible revolving credit facility. The Operating Facility may be drawn down by the Borrower in accordance with Section 3.4(b) in Canadian Dollars, or the Canadian Dollar Exchange Equivalent thereof in U.S. Dollars (or, in the case of Letters of Credit, in any other currency acceptable to the Operating Facility Lender), or any combination thereof, to a maximum of the Operating Facility Commitment Amount. The Operating Facility Commitment Amount of the Operating Facility Lender is set out in Schedule B.

**3.2 Extension of Final Maturity Date.**

- (a) Request for an Extension. The Borrower may, not more than once per calendar year, and provided there is no Default or Event of Default which is continuing, request an extension of the Final Maturity Date (an "**Extension**") of each Lender to a date not later than three (3) years from the effective date of such Extension by sending to the Agent, and if applicable, the Operating Facility Lender, an extension request in the form of Schedule D (an "**Extension Request**") and the Agent shall forthwith notify such Lenders of such request and each such Lender shall acknowledge receipt of such notification. Each such Lender shall advise the Agent as to whether it agrees with such request within thirty (30) days of receipt by each such Lender of such notification; provided that in the event such Lender does not so advise the Agent within such thirty

(30) day period, such Lender shall be deemed to have advised the Agent that it is not prepared to make an offer to the Borrower to extend the Final Maturity Date. Within two (2) Banking Days of the Agent receiving from each such Lender its decision with respect to making an offer to the Borrower to extend the Final Maturity Date, the Agent shall, subject to Section 3.2(b), provide the Borrower with an offer to extend the applicable Final Maturity Date in accordance with Section 3.2(c) and the Borrower, subject to Section 3.2(e), shall be entitled to accept any such offer at any time up to and including the last Banking Day preceding the then applicable anniversary of the Closing Date by written notice to the Agent of such acceptance.

- (b) Non-Extension. If any Lender does not agree or is deemed not to agree to make an offer to the Borrower to extend the Final Maturity Date pursuant to the Extension Request, the Agent shall not provide the Borrower with an offer to extend the Final Maturity Date of any of the Lenders in accordance with Section 3.2(a) and the Final Maturity Date of all Lenders shall not be extended.
- (c) Extension for All Lenders. If all Lenders agree to make an offer to the Borrower to extend the Final Maturity Date pursuant to an Extension Request and the Borrower accepts such offer in accordance with Section 3.2(a), then the Final Maturity Date for each such Lender shall be so extended.
- (d) Independent Decision. The Borrower understands that consideration of any Extension Request constitutes an independent credit decision which each Lender retains the absolute and unfettered discretion to make, and that no commitment in this regard is given by any such Lender and that any extension of the Final Maturity Date may be on such terms and conditions in addition to those set out herein as the Lenders may stipulate and the Borrower may agree to.
- (e) Default or Event of Default. Notwithstanding the foregoing, the Borrower shall not be entitled to accept any offer made by the Agent on behalf of the Lenders to extend the Final Maturity Date if a Default or Event of Default has occurred and is continuing unless such Default or Event of Default is waived by all of the Lenders; provided any such waiver shall be effective only for the purposes of this Section 3.2.
- (f) Operating Facility. Any Extension of the Final Maturity Date of the Operating Facility Lender in respect of the Operating Facility shall require the consent of the Operating Facility Lender.

**3.3** Maturity Date. Each Advance made by a Lender under a Credit Facility will have a Maturity Date which expires on or prior to the Final Maturity Date of such Lender under such Credit Facility. If, at any time, there are Lenders with different Final Maturity Dates, each applicable Lender will share in Accommodations on the basis of its Rateable Portion under the applicable Credit Facility except to the extent the particular Accommodation requested has a Maturity Date after the Final Maturity Date of a Lender, in which case the Borrower shall request a similar Accommodation to the extent permitted hereunder from such other applicable Lender with a Maturity Date occurring on or before the Final Maturity Date of such other applicable Lender. Each such determination by the Agent shall be prima facie evidence of such Rateable Portion or share.

**3.4** Repayment.

- (a) Syndicated Facility. The Borrower may borrow, repay and re-borrow any amount of the Individual Syndicated Facility Commitment Amount of each Syndicated Facility

Lender based on the Rateable Portion of such Lender's Individual Syndicated Facility Commitment Amount prior to the applicable Final Maturity Date of each Syndicated Facility Lender, and provided that a Notice of Borrowing or Notice of Repayment, as applicable, is received by the Agent (or the Operating Facility Lender in the case of the Operating Facility) in accordance with the notice provisions contained in Section 5.2.

- (b) Operating Facility. The Borrower may borrow, repay and re-borrow any amount of the Individual Commitment Amount of the Operating Facility Lender prior to the Final Maturity Date of the Operating Facility Lender.
- (c) Final Maturity Date. With respect to each Lender under a Credit Facility, the Aggregate Principal Amount owing to such Lender under such Credit Facility on the Final Maturity Date of such Lender and such Credit Facility will be repayable by the Borrower on such Final Maturity Date, together with all accrued and unpaid interest and fees thereon and all other Loan Obligations owing to such Lender under such Credit Facility.
- (d) Payments to Agent. All payments of the Loan Obligations of the Borrower to the Lenders under the Syndicated Facility will be made by the Borrower to the Agent for the account of the applicable Lenders, and, except to the extent otherwise provided herein, in accordance with each such Lender's Rateable Portion thereof, if any.
- (e) Payments to Operating Facility Lender. All payments of the Loan Obligations of the Borrower under the Operating Facility will be made by the Borrower to the Operating Facility Lender for its own account.

### **3.5 Prepayment and Cancellation.**

- (a) Prepayment. Subject to Section 9.5, and with the same notice required when the Advance to be prepaid was made, the Borrower may at any time prepay without premium, bonus or penalty, any or all of the Aggregate Principal Amount under a Credit Facility, provided that: (i) the Borrower shall post the required Escrow Funds in accordance with Section 9.5 to fully defease a Bankers' Acceptance prior to its Maturity Date, (ii) a SOFR Loan may only be paid prior to its Maturity Date in accordance with Sections 8.2 and 11.2 and (iii) an unexpired Letter of Credit will not be prepaid prior to its Maturity Date (except by the return of the original thereof to the Operating Facility Lender for cancellation or by the collateralization thereof in the manner set forth in Section 10.10).
- (b) Prepayment and Cancellation. At any time prior to the Final Maturity Date, the Borrower may also, upon the Borrower giving the Agent not less than 2 Banking Days prior notice, cancel undrawn portions of the Syndicated Facility Commitment Amount and Operating Facility Commitment Amount, including any undrawn portion resulting from a prepayment. Any prepayment and cancellation made under this Section 3.5(b) shall be permanent and must be made pro-rata between the Credit Facilities such that each Individual Commitment Amount maintains the same percentage of the total Commitment Amount prior to such cancellation.
- (c) Amounts. Each prepayment or cancellation made in accordance with Section 3.5(b) shall be in a minimum amount of the lesser of: (i) \$5,000,000 (and in multiples of \$1,000,000), and (ii) the Aggregate Principal Amount outstanding under the relevant Credit Facility immediately prior to such prepayment or cancellation.

### **3.6 Use of Proceeds.**

- (a) Syndicated Facility. The Borrower will be entitled to use the proceeds of the Syndicated Facility for general corporate purposes and, concurrently with the application of the net proceeds of the Unit Offering and the Private Placement, the repayment of all obligations, liabilities and indebtedness under or in connection with the High Yield Notes and the Junior Credit Agreement on closing, provided that no more than Cdn. \$55,000,000 (plus fees and expenses) of such proceeds may be used for such purpose; and
- (b) Credit Facilities. The Borrower will be entitled to use the proceeds of the Credit Facilities for general corporate purposes and, provided no Default or Event of Default has occurred and is continuing or would be expected to result therefrom, the repayment of the [Redacted] Obligations.

For certainty, the Borrower shall not use the proceeds of the Credit Facilities, or provide funds to any other Loan Party or Affiliate thereof or other Person, in either case, to (directly or indirectly) finance (i) a Hostile Acquisition, or (ii) the purchase or acquisition of, or investment in, any assets or business related to cryptocurrency, cryptocurrency mining or any similar business (including that carried on by WCSB).

### 3.7 Types of Accommodation.

- (a) Syndicated Facility. The Borrower may from time to time obtain Advances under the Syndicated Facility (unless otherwise indicated) by way of:
  - (i) Canadian Prime Rate Loans, in principal amounts of not less than Cdn.\$1,000,000 and in multiples of Cdn.\$100,000 for any amounts in excess thereof;
  - (ii) U.S. Base Rate Loans, in principal amounts of not less than U.S.\$1,000,000 and in multiples of U.S.\$100,000 for any amounts in excess thereof;
  - (iii) Bankers' Acceptances; and
  - (iv) SOFR Loans; and
- (b) Operating Facility. The Borrower may from time to time obtain Advances under the Operating Facility (unless otherwise indicated) by way of:
  - (i) Canadian Prime Rate Loans;
  - (ii) U.S. Base Rate Loans;
  - (iii) Bankers' Acceptances;
  - (iv) SOFR Loans; and
  - (v) Letters of Credit up to a maximum amount of Cdn.\$[Redacted] (or the Canadian Dollar Exchange Equivalent in any other currency acceptable to the Operating Facility Lender);

(collectively among (a) and (b), the "Accommodations").

### 3.8 Interest and Fees.

- (a) Interest and Fees. Interest and fees payable by the Borrower under the Credit Facilities will be payable in the following manner:
- (i) each Canadian Prime Rate Loan will bear interest at a variable rate of interest per annum equal to the Canadian Prime Rate plus the applicable margin indicated in the Pricing Table below payable monthly in arrears, subject to this Section 3.8;
  - (ii) each SOFR Loan will bear interest at a rate per annum equal to the Adjusted Term SOFR plus the applicable margin indicated in the Pricing Table below payable in accordance with Section 7.2(d), subject to this Section 3.8;
  - (iii) for each Bankers' Acceptance, the stamping fee (the "**BA Stamping Fee**") payable by the Borrower on the acceptance thereof by the applicable Lenders will be calculated based upon the applicable BA Stamping Fee indicated in the Pricing Table below, subject to this Section 3.8;
  - (iv) each U.S. Base Rate Loan will bear interest at a variable rate of interest per annum equal to the U.S. Base Rate plus the applicable margin indicated in the Pricing Table below, payable monthly in arrears, subject to this Section 3.8;
  - (v) the Borrower will pay to the Operating Facility Lender a fee (the "**Letter of Credit Fee**") in respect of each Letter of Credit issued in accordance with Section 10.6(a) at the applicable rate indicated in the Pricing Table below, subject to this Section 3.8; and
  - (vi) the standby fees payable quarterly in arrears by the Borrower as set forth in Section 12.2 will be calculated based upon the applicable standby fee indicated in the Pricing Table below, subject to this Section 3.8,

**Pricing Table**

Level	Consolidated Debt to Consolidated Adjusted EBITDA Ratio	Canadian Prime Rate/U.S. Base Rate Margin	BA Stamping Fee/SOFR Margin/Letter of Credit Fee for Financial Letters of Credit*	Standby Fees
I	[Redacted]	[Redacted]	[Redacted]	[Redacted]
II	[Redacted]	[Redacted]	[Redacted]	[Redacted]
III	[Redacted]	[Redacted]	[Redacted]	[Redacted]
IV	[Redacted]	[Redacted]	[Redacted]	[Redacted]
V	[Redacted]	[Redacted]	[Redacted]	[Redacted]
VI	[Redacted]	[Redacted]	[Redacted]	[Redacted]

\* Non-Financial Letters of Credit will be issued at 66.6% of the applicable fees stated in the Pricing Table above applicable to Financial Letters of Credit.

- \* From the Closing Date until the date on which the next Compliance Certificate is delivered hereunder, the Level applicable to the Borrower in the Pricing Table shall be the Level corresponding to the Consolidated Debt to Consolidated Adjusted EBITDA Ratio shown on the Closing Date Compliance Certificate.
- (b) Changes in Rates due to Change in Ratio. The effective date on which any change in interest rates, BA Stamping Fees, Letter of Credit Fees or standby fees occurs will be the first day of the calendar month immediately following the earlier of: (i) the date the Borrower delivers to the Agent the Compliance Certificate as required hereunder which evidences a change in the Consolidated Debt to Consolidated Adjusted EBITDA Ratio; and (ii) the date such Compliance Certificate is due in accordance with Section 14.2(b), provided that if such Compliance Certificate is not so delivered when required, then the applicable interest rates and fees shall be those set forth in Level VI of the Pricing Table effective the date such Compliance Certificate was otherwise due until such time as the Compliance Certificate is delivered. Any increase or decrease in: (x) the interest rates on SOFR Loans outstanding on the effective date of a change in the aforesaid rates and fees will apply proportionately to each such SOFR Loan outstanding on the basis of the number of days remaining until the Maturity Date thereof; (y) the BA Stamping Fees already paid on Bankers' Acceptances outstanding on the effective date of a change in the aforesaid rates and fees will be adjusted to reflect the applicable BA Stamping Fees for the remaining terms of such Bankers' Acceptances, and the Borrower shall pay to the Agent, for the benefit of the Lenders, any resulting increase in BA Stamping Fees in respect of such outstanding Bankers' Acceptances, and the Lenders shall pay to the Agent, for the benefit of the Borrower, any resulting decrease in BA Stamping Fees in respect of such outstanding Bankers' Acceptances, in each case, within 3 Banking Days of the effective date of such change; and (z) the Letter of Credit Fees outstanding on the effective date of a change in the aforesaid rates and fees will apply proportionately to each such Letter of Credit outstanding on the basis of the number of days remaining until the Maturity Date or renewal thereof.
- (c) Restatement of Ratio. If the Borrower has delivered a Compliance Certificate that is subsequently found to be inaccurate in any way as a result of the Borrower's financial results having to be restated or if the Borrower's financial results were inaccurately reflected in the original financial results on which such Compliance Certificate was based or for any other reason and the result thereof is that the Consolidated Debt to Consolidated Adjusted EBITDA Ratio was originally reported as lower (and the corresponding Level in the Pricing Table was lower) than it otherwise would have been in the absence of such inaccuracy or prior to such restatement, then the Borrower will, immediately upon the correction of such inaccuracy or upon such restatement, pay to the Agent for the benefit of the applicable Lenders an amount equal to the interest, BA Stamping Fees, Letter of Credit Fees and standby fees that the Lenders should have received, but did not receive, over the applicable period had the Consolidated Debt to Consolidated Adjusted EBITDA Ratio, and the underlying components thereof, been reported correctly in the first instance.
- (d) Event of Default. Effective upon the occurrence of an Event of Default (the "**Effective Date**"), the interest rates then applicable to Canadian Prime Rate Loans, SOFR Loans, U.S. Base Rate Loans, BA Stamping Fees and Letter of Credit Fees will each increase by [*Redacted*] Basis Points and such increase will remain in effect for as long as such Event of Default subsists. An increase in interest rates and fees as aforesaid arising from an Event of Default shall apply to all outstanding Advances under the Credit Facilities and will on the Effective Date apply proportionately to each outstanding

Advance on the basis of the number of days remaining until the Maturity Date of such Advance. The Borrower will pay to the Agent on behalf of the Lenders any resulting increase in BA Stamping Fees or Letter of Credit Fees on or prior to the third Banking Day following the Effective Date. In addition to the conditions set forth above, the Lenders' obligation to provide any Advances under either Credit Facility, other than Rollovers or Conversions of then-maturing Advances (in each case not to exceed a 30 day term), will be suspended for as long as there exists an Event of Default.

- 3.9 Swap Facilities.** Subject to Section 14.3(c), each Lender, or any one or more of its Affiliates, may enter into Swap Documents with any Loan Party (other than any Excluded Subsidiary); provided that, subject to Section 15.7, all Hedging Obligations of the Loan Parties shall rank at all times *pari passu* with the Borrower's and the other Loan Parties' other Obligations.
- 3.10 MasterCard Facility.** In addition to the foregoing, the Agent has agreed to provide the MasterCard Facility in favour of the Borrower in an amount up to the commitment amount set forth in Schedule B hereto in accordance with the applicable Bank Product Documents. For greater certainty the MasterCard Obligations form part of the Bank Product Obligations and, subject to Section 15.7, are secured by the Security on a *pari passu* basis and shall rank *pari passu* with all other Obligations.

#### **ARTICLE 4 SECURITY**

- 4.1 Security.** Subject to Section 4.12, all present and future Obligations, howsoever arising or incurred, will be secured by the following (collectively, the "**Security**"), each in form and substance acceptable to the Lenders, acting reasonably:
- (a) an amended and restated demand debenture in the principal amount of Cdn.\$1,500,000,000 from each Loan Party domiciled in Canada granting a floating charge over all present and after-acquired real and personal property and a negative pledge and undertaking to provide fixed charges on such Loan Party's real property at the request of the Agent in accordance with Section 4.6;
  - (b) subject to Section 4.12, a security agreement from each Loan Party domiciled in the United States granting a charge over all present and after-acquired property and a negative pledge and undertaking to provide fixed charge security on such Loan Party's real property at the request of the Agent in accordance with Section 4.6;
  - (c) subject to Section 4.12, an unconditional full liability guarantee from each Loan Party other than the Borrower;
  - (d) a share pledge agreement from the Borrower in respect of its shares in the capital of LCFS;
  - (e) a share pledge agreement from the Borrower in respect of its shares in the capital of Tidewater Pipelines Ltd.;
  - (f) a confirmation of guarantee and security from each Loan Party that has previously executed and delivered the Security;
  - (g) if requested by the Agent in accordance with Section 4.6, such documents and instruments providing a fixed Lien in accordance with Section 4.6; and

- (h) all such other guarantees and all such other mortgages, debentures, pledge agreements, assignments and other security agreements as may be required by the Agent, acting reasonably (each in form and substance satisfactory to the Agent, acting reasonably) in order to, or to more effectively, charge in favour of the Agent on behalf of itself, the Lenders and Swap Lenders or grant Liens in favour of the Agent on behalf of itself, the Lenders and Swap Lenders on and against all of the undertaking, assets and property (real or personal, tangible or intangible, present or future and of whatsoever nature and kind) of the Borrower and any other Loan Party.

**4.2 Sharing of Security.** The Borrower and the Lenders agree and acknowledge that, subject to Section 15.7, the Security is being shared equally among the Lenders, the Bank Product Providers and the Swap Lenders to secure the Obligations on a rateable basis; and that the Agent will hold the Security for the benefit of the Lenders hereunder, the Bank Product Providers and the Swap Lenders, in each case with respect to all the Obligations. For purposes of the above sentence, "rateable basis" means:

- (a) with respect to the Lenders, the Canadian Dollar Exchange Equivalent of the Loan Obligations relative to the Canadian Dollar Exchange Equivalent of the Obligations;
- (b) with respect to the Swap Lenders, the Canadian Dollar Exchange Equivalent of the Hedging Obligations relative to the Canadian Dollar Exchange Equivalent of the Obligations; and
- (c) with respect to the Bank Product Providers, the Canadian Dollar Exchange Equivalent of the Bank Product Obligations relative to the Canadian Dollar Exchange Equivalent of the Obligations.

If requested by the Lenders or any Swap Lender, the Lenders and the Swap Lenders will enter into such further agreements and assurances as may be reasonably requested to further evidence the provisions of this Section 4.2.

**4.3 Exclusivity of Remedies.** Nothing herein contained or in the Security now held or hereafter acquired by the Agent and the Lenders, nor any act or omission of the Agent and the Lenders with respect to any such Security, will in any way prejudice or affect the rights, remedies or powers of the Agent and the Lenders with respect to any other security at any time held by the Agent and the Lenders.

**4.4 Form of Security.** The Security will be in such form or forms as will be required by the Agent, acting reasonably, and will be registered in such public registry offices in Canada or any province thereof or any other jurisdiction as the Agent, acting reasonably, may from time to time require to protect the Liens created thereby, provided that the Agent will not register against title to the Loan Parties' oil and gas properties or in any land titles or real property registry, except pursuant to Section 4.6. Should the Agent determine at any time and from time to time, acting reasonably, that the form and nature of the then existing Security is deficient in any way or does not fully provide the Agent, the Lenders or the Swap Lenders with the Liens and priority to which each is entitled hereunder, the Borrower will forthwith execute and deliver or cause to be executed and delivered to the Agent, at the Borrower's expense, such amendments to the Security or provide such new security as the Agent may reasonably request.

**4.5 After-Acquired Property.** Subject to Section 4.12, all property acquired by or on behalf of the Borrower or any other Loan Party which forms part of the property of the Borrower or any other Loan Party (hereafter collectively referred to as "**After-Acquired Property**"), will be

subject to the Security without any further conveyance, mortgage, pledge, charge, assignment or other act on the part of the Parties. Without limiting the effect of the preceding sentence, the Borrower will, or will cause the applicable Loan Party to, from time to time execute and deliver and the Agent will register, all at the Borrower's expense, such instruments supplemental to the Security, in form and substance satisfactory to the Agent, acting reasonably, as may be necessary or desirable to ensure that the Security as amended and supplemented constitutes in favour of the Agent, the Lenders and the Swap Lenders an effective Lien to the extent created by the Security over such After-Acquired Property as required hereunder, subject only to Permitted Encumbrances which under applicable Law rank in priority thereto.

**4.6 Undertaking to Grant Fixed Charge Security.** Subject to Section 4.12, if a Default or an Event of Default has occurred and is continuing, the Borrower, at the request of the Agent on behalf of the Majority Lenders, will forthwith grant or cause to be granted to the Agent, for its benefit and for the benefit of the Lenders and the Swap Lenders, a fixed charge in all or any of the Borrower's and the Loan Parties' property (including any After-Acquired Property) which is intended by the terms of the Documents to be subject to a fixed charge pursuant to Section 4.1.

**4.7 Further Assurances.** Subject to Section 4.12, the Borrower will and will cause each other Loan Party, in connection with the provision of any amended, new or replacement Security referred to in Section 4.4 or 4.5:

- (a) do, make, execute and deliver, or cause to be done, made, executed and delivered, all such further documents, financing statements, assignments, acts, matters and things which may be reasonably required by the Agent to give effect to any provision of the amended, new or replacement Security;
- (b) provide the Agent with such information as is reasonably required by the Agent to identify the property to be charged;
- (c) do all such things as are reasonably required to grant the Liens to be granted pursuant to the amended, new or replacement Security;
- (d) provide the Agent with all corporate, partnership or other organizational resolutions and other action required for the applicable Loan Party to grant the amended, new or replacement Security;
- (e) provide the Agent with an opinion of the Borrower's Counsel confirming the due authorization, execution and delivery by the applicable Loan Party of all such agreements and instruments comprising the amended, new or replacement Security in form and content satisfactory to the Agent, acting reasonably; and
- (f) assist the Agent in the registration or recording of such Security in such public registry offices in Canada and any province thereof or any other jurisdiction as the Agent, acting reasonably, deems necessary to protect the Liens created by such Security.

**4.8 Security for Swap Documents with Former Lenders.** If a Lender ceases to be a Lender under this Agreement (a "**Former Lender**"), all Hedging Obligations owing to such Former Lender and its Affiliates under Swap Documents entered into while such Former Lender was a Lender shall remain secured by the Security (equally and rateably) to the extent that such Hedging Obligations were secured by the Security prior to such Lender becoming a Former Lender, subject to the following provisions of this Section 4.8. For certainty, any Hedging

Obligations under Financial Instruments entered into with a Former Lender or an Affiliate thereof after the Former Lender has ceased to be a Lender shall not be secured by the Security. Notwithstanding the foregoing, while any Loan Obligations remain outstanding under either Credit Facility, no Former Lender or any Affiliate thereof shall have any right to cause or require the enforcement of the Security or any right to participate in any decisions relating to the Security, including any decisions relating to the enforcement or manner of enforcement of the Security or decisions relating to any amendment to, waiver under, release of or other dealing with all or any part of the Security; for certainty, the sole right of a Former Lender and its Affiliates with respect to the Security while any Loan Obligations remain outstanding under either Credit Facility is to share, on a *pari passu* basis, in any proceeds of realization and enforcement of the Security.

**4.9 Discharge of Security.** The Agent will discharge all of the Security at the Borrower's expense forthwith after all of the Loan Parties' Obligations have been unconditionally and irrevocably paid or satisfied in full and the Credit Facilities have been fully cancelled, and will discharge the Security in respect of a particular Person if such Person ceases to be a Loan Party in compliance with the terms of this Agreement.

**4.10 Priority.** The Agent and the Lenders acknowledge and agree that holders of Purchase Money Liens and Finance Leases which are permitted to be incurred under this Agreement and are permitted to be secured under paragraph (p) of the definition of Permitted Encumbrances shall rank in priority to the Security with respect to the applicable assets of any Loan Party which are subject to such Liens and the Agent is hereby authorized to execute and deliver all such documents as may be reasonably requested by the Borrower in order to confirm such priority; provided that, notwithstanding the foregoing or anything to the contrary herein, any Liens required to secure obligations of any Loan Party under any Financial Instruments shall be restricted to (A) in the case of hedge counterparties that are Swap Lenders, the Security, and (B) in the case of hedge counterparties that are not Swap Lenders, aggregate amounts of up to Cdn.\$500,000 in Letters of Credit issued by the Agent under the Operating Facility and up to Cdn.\$500,000 in cash or Cash Equivalents.

**4.11 [Redacted]**

**4.12 Excluded Subsidiary Security.** Notwithstanding any other provision to the contrary in this Agreement, no Excluded Subsidiary shall be required to provide the Security contemplated to be provided by it in Section 4.1 until (i) the Consolidated EBITDA or Consolidated Assets, attributable to it, reaches or exceeds Cdn.\$[Redacted] (or the equivalent amount thereof in U.S. Dollars) (the "**Individual Security Threshold**"), or (ii) the combined Consolidated EBITDA or Consolidated Assets attributable to all Excluded Subsidiaries reaches or exceeds Cdn.\$[Redacted] (or the equivalent amount thereof in U.S. Dollars) (the "**Combined Security Threshold**"); provided that:

- (a) once the Individual Security Threshold has been met in respect of an Excluded Subsidiary, such Subsidiary shall no longer be an "Excluded Subsidiary" for purposes of this Agreement and, within 10 Banking Days, the Borrower will notify the Agent of the Individual Security Threshold being met and cause such Subsidiary to provide a guarantee and the other Security contemplated to be provided by it in Section 4.1, in form and substance acceptable to the Agent, acting reasonably, together with such other supporting documentation and legal opinions as the Agent may reasonably require; and
- (b) once the Combined Security Threshold has been met, all Excluded Subsidiaries shall no longer be "Excluded Subsidiaries" for purposes of this Agreement and, within 10

Banking Days, the Borrower will notify the Agent of the Combined Security Threshold being met and, at the request of the Agent, cause all such Subsidiaries to provide guarantees and the other Security contemplated to be provided by them in Section 4.1, in form and substance acceptable to the Agent, acting reasonably, together with such other supporting documentation and legal opinions as the Agent may reasonably require.

**4.13 Acknowledgment Regarding Any Supporting QFCs.**

- (a) To the extent that the Documents provide support, through a guarantee or otherwise, for any Financial Instrument 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 United States Federal Deposit Insurance Act and Title II of the United States 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 Documents and any Supported QFC may in fact be stated to be governed by the laws of the Province of Alberta and the laws of Canada applicable therein or the laws of any other jurisdiction).
- (b) 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 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 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.

- 4.14 Confirmation.** The Borrower hereby confirms and agrees that the Security (as such term is defined in the Original Credit Agreement) is and shall remain in full force and effect in all respects notwithstanding the amendment and restatement of the Original Credit Agreement pursuant to this Agreement and shall continue to exist and apply to all of the Obligations hereunder.

**ARTICLE 5  
FUNDING AND OTHER MECHANICS**

- 5.1 Funding of Accommodations.** Subject to Section 5.2 and Article 9, all Advances (other than Letters of Credit) requested by the Borrower will be made available by deposit of the applicable

funds (which in the case of Bankers' Acceptances will be the Net Proceeds) into the Borrower's Account for value on the Banking Day on which the Advance is to take place.

**5.2 Notice Provisions.** Drawdowns under each Credit Facility will be made available to the Borrower and the Borrower will be entitled to effect a Rollover or Conversion where permitted hereunder, in each case on the requested Banking Day, provided a Notice of Borrowing or Notice of Rollover or Notice of Conversion, as applicable, is received by the Agent (or the Operating Facility Lender in the case of the Operating Facility) from the Borrower as follows:

- (a) with respect to Advances under the Syndicated Facility by way of Canadian Prime Rate Loans and U.S. Base Rate Loans, at least 1 Banking Day prior to such Advance, provided notice is received by the Agent no later than 12:00 noon (Toronto time) on the first Banking Day immediately preceding the requested issuance date; Canadian Prime Rate Loan and U.S. Base Rate Loan Advances under the Operating Facility shall not require any notice to the Operating Facility Lender, and for certainty, any cheque, payment instructions or other debit authorization resulting in any account of the Borrower or another Loan Party with the Operating Facility Lender will be deemed to be a request for an Advance under the Operating Facility, in each case, in accordance with such procedures as agreed from time to time between the Borrower and Operating Facility Lender;
- (b) with respect to Advances by way of Banker's Acceptances and BA Equivalent Loans, at least 2 Banking Days prior to such Advance, provided notice is received by the Agent or the Operating Facility Lender (as applicable) no later than 12:00 noon (Toronto time) on the second Banking Day immediately preceding the requested Drawdown Date or the date of Rollover or Conversion, as applicable;
- (c) with respect to a Drawdown, Rollover or Conversion of or into a SOFR Loan, at least 3 Banking Days prior to such Advance, provided notice is received by the Agent or the Operating Facility Lender (as applicable) no later than 12:00 noon (Toronto time) on the third Banking Day immediately preceding the Drawdown Date or the date of Rollover or Conversion, as applicable; and
- (d) with respect to the issuance of Letters of Credit, at least 3 Banking Days prior to the requested issuance date, provided notice is received by the Operating Facility Lender no later than 12:00 noon (Toronto time) on the third Banking Day immediately preceding the requested issuance date (or such shorter period of time as may be agreed to by the Operating Facility Lender).

Any of the notices referred to in the foregoing paragraphs of this Section 5.2 may, subject to Section 19.2, be given by the Borrower, solely at the risk of the Borrower, to the Agent or the Operating Facility Lender, as applicable, by telephone and in such case will be followed by the Borrower delivering to the Agent or the Operating Facility Lender, as applicable, on the same day, the written notice required hereunder confirming such instructions.

**5.3 Irrevocability.** Subject to Section 8.3(f), a Notice of Borrowing, Notice of Rollover or Notice of Conversion when given by the Borrower will be irrevocable and will oblige the Borrower, the Agent and the Lenders to take the action contemplated herein and therein on the date specified therein, provided that, any such notice will not be binding on a Lender who makes a determination under Section 11.2.

**5.4 Rollover or Conversion of Accommodations.**

- (a) Subject to Section 3.3, Section 5.2, Article 8 and Article 9, the Borrower will be entitled to effect a Rollover of one type of Accommodation into the same type of Accommodation or to effect a Conversion of one type of Accommodation into another type of Accommodation on the terms herein provided in each case under the same Credit Facility.
- (b) Subject to Section 8.1(b), if the Borrower fails to give the Agent, or the Operating Facility Lender, as applicable, a duly completed Notice of Rollover or Notice of Conversion under a Credit Facility if and as required by Section 5.2, or if in giving such notice the Borrower fails to provide for the Rollover or Conversion of all of the Advances then maturing under a Credit Facility, the Borrower will be deemed to have irrevocably elected to convert such maturing Advances under a Credit Facility, or that part of such maturing Advances which the Borrower has failed to provide for in such notice, as the case may be, into a Canadian Prime Rate Loan with respect to a Cdn.\$ Advance or a U.S. Base Rate Loan with respect to a U.S. Dollar Advance.
- (c) No Conversion of a Bankers' Acceptance will be made prior to its Maturity Date.

**5.5 Agent's Obligations.** Upon receipt of a Notice of Borrowing, Notice of Rollover or Notice of Conversion with respect to a proposed Advance under a Credit Facility, the Agent will forthwith notify the applicable Lenders of the proposed date on which such Advance is to take place, of each applicable Lender's Rateable Portion of such Advance and of the account of the Agent to which each applicable Lender's Rateable Portion thereof is to be credited, if applicable.

**5.6 Lenders' Obligations.** Each Lender will, prior to 12:00 noon (Toronto time) on the proposed date on which an Advance under the Syndicated Facility is to take place (other than an Advance by way of Bankers' Acceptances, in which case prior to 2:00 p.m. (Toronto time)), credit the account of the Agent specified in the Agent's notice given pursuant to Section 5.5 with such Lender's Rateable Portion of such Advance, and upon receipt of the funds from the Lenders, the Agent will make available to the Borrower the amount so credited.

**5.7 Failure of a Lender to Fund.**

- (a) Subject to repayment in accordance with Section 18.2(c), if any Syndicated Facility Lender fails to make available to the Agent its Rateable Portion of any Advance, which for greater certainty includes a deemed Advance hereunder (such Syndicated Facility Lender being herein called the "**Non-Paying Lender**"), the Agent shall forthwith give notice of such failure by the Non-Paying Lender to the Borrower (except where such failure relates to a deemed Advance). Upon the Non-Paying Lender becoming a Defaulting Lender, the Agent shall then forthwith give notice to the other Syndicated Facility Lenders that any such other Syndicated Facility Lender may make available to the Agent all or any portion of the Non-Paying Lender's Rateable Portion of such Advance (but in no way shall any such other Syndicated Facility Lender or the Agent be obliged to do so) in the place of the Non-Paying Lender. If more than one Syndicated Facility Lender gives notice that it is prepared to make funds available in the place of a Non-Paying Lender in such circumstances and the aggregate of the funds which such other Syndicated Facility Lenders (herein collectively called the "**Contributing Lenders**" and individually called the "**Contributing Lender**") are prepared to make available exceeds the amount of the Advance which the Non-Paying Lender failed to make, then each Contributing Lender shall be deemed to have given notice that it is prepared to make available its Rateable Portion of such Advance based on the Contributing Lenders' relative commitments to advance in such circumstances. If any Contributing Lender makes funds available in the place of a Non-Paying Lender in such

circumstances, then the Non-Paying Lender shall pay to any Contributing Lender making the funds available in its place, forthwith on demand, any amount advanced on the Non-Paying Lender's behalf together with interest thereon at the rate applicable to such Advance from the date of advance to the date of payment, against payment by the Contributing Lender making the funds available in the place of a Non-Paying Lender of all interest received in respect of the Advance from the Borrower. The failure of any Syndicated Facility Lender to make available to the Agent such other Syndicated Facility Lender's Rateable Portion of any Advance as required herein, shall not relieve any other Syndicated Facility Lender of its obligations to make available to the Agent its Rateable Portion of any Advance as required herein.

- (b) Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, either as a result of being a Non-Paying Lender or otherwise, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:
- (i) the standby fees payable pursuant to Section 12.2 shall cease to accrue on the unused portion of the Individual Syndicated Facility Commitment Amount and the Operating Facility Commitment Amount, as applicable, of such Defaulting Lender;
  - (ii) a Defaulting Lender shall not be included in determining whether, and the Individual Syndicated Facility Commitment Amount, Operating Facility Commitment Amount and the Rateable Portion of the Aggregate Principal Amount of such Defaulting Lender under the Credit Facilities or either of them shall not be included in determining whether, all Lenders, a Special Majority of Lenders or the Majority Lenders, have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 18.16), provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that affects such Defaulting Lender differently than other affected Lenders shall require the consent of such Defaulting Lender;
  - (iii) after giving effect to Section 5.7(a), for the purposes of any Advance requested hereunder while there is a Defaulting Lender, each Syndicated Facility Lender's Rateable Portion thereof shall be calculated based on such Lender's Individual Syndicated Facility Commitment Amount relative to the Syndicated Facility Commitment Amount reduced by the Individual Syndicated Facility Commitment Amount of the Defaulting Lender, in the case of the Syndicated Facility; provided that, for certainty, no Lender will be required to exceed its Individual Commitment Amount;
  - (iv) the Agent may require such Defaulting Lender to pay to the Agent for deposit into an escrow account maintained by and in the name of the Agent, an amount equal to such Defaulting Lender's maximum contingent obligations hereunder to the Agent;
  - (v) the Agent may withhold any payments owing to such Defaulting Lender for set-off against such Defaulting Lender's existing or reasonably foreseeable future obligations hereunder; and
  - (vi) for the avoidance of doubt, the Borrower shall retain and reserve its other rights and remedies under applicable Law respecting such Defaulting Lender.

**5.8 Exchange Rate Fluctuations.**

- (a) Subject to Sections 5.8(b) and 5.9, if as a result of currency fluctuation, the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount attributable to any Lender or Lenders under a Credit Facility exceeds such Lender or Lenders' Commitment Amount(s) under such Credit Facility (in each case, an "**Excess**"), the Borrower will, within 3 Banking Days after a written request from the Agent, pay the applicable Excess to the Agent as a Principal Repayment for the benefit of such Lender or Lenders (to be shared on the basis of each such Lender's Rateable Portion of such Credit Facility) under such Credit Facility.
- (b) If the Excess represents an amount which is less than 3% of such Lender or Lenders' then current Individual Syndicated Facility Commitment Amount(s) or Operating Facility Commitment Amount, as applicable, then the Borrower will only be required to repay the applicable Excess on the earlier of the next Drawdown Date, Rollover date or Conversion date and 30 days after written request from the Agent.

- 5.9 Excess Relating to SOFR Loans and Bankers' Acceptances.** If to pay an Excess it is necessary to repay an Advance made by way of Bankers' Acceptance or a SOFR Loan prior to the Maturity Date thereof, the Borrower will not be required to repay such Advances until the Maturity Date applicable thereto, provided, however, that at the request of the Agent, the Borrower will forthwith pay the Excess to the Agent for deposit into a cash collateral, non-interest bearing account maintained by and in the name of the Agent for the benefit of the Lenders. The Excess will be held by the Agent for set-off against future Obligations owing by the Borrower to the Lenders in respect of such Excess, if any. The Agent shall have exclusive control over all amounts at any time on deposit in such cash collateral account. The deposit of the Excess by the Borrower with the Agent as herein provided, will not operate as a repayment of the Aggregate Principal Amount under the Credit Facilities until such time as the Excess is actually paid to the Lenders as a Principal Repayment.

**ARTICLE 6  
DRAWDOWNS UNDER THE CREDIT FACILITIES**

- 6.1 Conditions Precedent to Drawdown.** The Lenders' obligation to provide Advances will be subject to the following conditions precedent being met:

- (a) the Borrower will have complied, or caused to be complied, with the deliveries required under Section 2.1;
- (b) except in the case of Canadian Prime Rate Loans and U.S. Base Rate Loans under the Operating Facility, the appropriate Notice of Borrowing, Notice of Rollover or Notice of Conversion will have been delivered in accordance with the notice provisions provided in Section 5.2;
- (c) no Default or Event of Default will have occurred and be continuing or would be expected to result therefrom;
- (d) subject to Section 13.2, each of the representations and warranties set out in Article 13 (except those representations and warranties made as of a specific date) will be true and correct with the same effect as if such representations and warranties had been made on the date of such Advance;

- (e) after giving effect to such Advance and the application of proceeds thereof, the Borrower would not have any Excess Cash;
- (f) after giving effect to such Advance and the application of proceeds thereof, the Borrower will be in *pro forma* compliance with the financial covenant set forth in Section 14.4(d); and
- (g) after giving effect to such Advance, the Borrower will be in *pro forma* compliance, including by giving effect on a pro forma basis to the actual and projected Consolidated EBITDA as at the end of the current Fiscal Quarter, with each of the financial ratios set out in Section 14.4; and provided that, upon the reasonable request of the Agent, for and on behalf of the Lenders, the Borrower shall have delivered to the Agent, for and on behalf of the Lenders, no later than 3 Banking Days prior to the requested date of such Advance, reasonable evidence of such pro forma compliance, in form and substance satisfactory to the Agent and the Lenders in their sole discretion (including, without limitation, delivery of a *pro forma* Compliance Certificate and supporting calculations and assumptions).

## **ARTICLE 7 CALCULATION OF INTEREST AND FEES**

**7.1 Records.** The Operating Facility Lender will maintain records, in written or electronic form, evidencing all Advances it has made in respect of the Operating Facility. The Agent will maintain records, in written or electronic form, evidencing all Advances (other than Advances under the Operating Facility) and all other Loan Obligations owing by the Borrower to the Agent and each Lender under this Agreement. The Operating Facility Lender or Agent, as applicable, will enter in such records details of all amounts from time to time owing, paid or prepaid by the Borrower to it hereunder. In addition, each Lender will maintain records, in written or electronic form, evidencing all Advances and other Loan Obligations owing by the Borrower to such Lender. The information entered in such records will constitute *prima facie* evidence of the Loan Obligations of the Borrower to the Agent, the Operating Facility Lender and each other Lender. In the event of a conflict between the records of the Agent and a Syndicated Facility Lender maintained pursuant to this Section 7.1, the records of the Agent shall prevail, absent manifest error.

**7.2 Payment of Interest and Fees.**

- (a) Interest. Except as expressly stated otherwise herein, all Canadian Prime Rate Loans, U.S. Base Rate Loans and SOFR Loans from time to time outstanding will bear interest, as well after as before maturity, default and judgment, with interest on overdue interest, at the applicable rates as prescribed under Section 3.8 or Section 19.10. Interest payable in respect of Canadian Prime Rate Loans and U.S. Base Rate Loans will be adjusted automatically without notice to the Borrower whenever there is a variation in such rate.
- (b) Calculation of Interest and Fees. Interest on Canadian Prime Rate Loans and U.S. Base Rate Loans will accrue and be calculated but not compounded daily and be payable monthly in arrears on the third Banking Day of each calendar month for the immediately preceding calendar month. Interest on Canadian Prime Rate Loans, U.S. Base Rate Loans and Letter of Credit Fees will be calculated on the basis of a 365 or 366 day year, as applicable, except if the U.S. Base Rate is based on the Federal Funds Rate in which case it will be calculated on the basis of a 360 day year. The BA Stamping Fees on Bankers' Acceptances will be calculated on the basis of a 365 day year.

- (c) Interest Act (Canada). For the purposes of the *Interest Act (Canada)* and any other applicable Laws which may hereafter regulate the calculation or computation of interest on borrowed funds, the annual rates of interest and fees applicable to Canadian Prime Rate Loans, U.S. Base Rate Loans, Bankers' Acceptances and Letters of Credit, respectively, are the rates as determined hereunder multiplied by the actual number of days in a period of one year commencing on the first day of the period for which such interest or stamping fee is payable and divided by 360, 365 or 366, as applicable.
- (d) SOFR Loans. Interest on SOFR Loans will accrue and be calculated but not compounded daily and be payable at the end of each applicable SOFR Period, provided that, where the SOFR Period exceeds 3 months, interest will be calculated and payable every 3 months during the term of the SOFR Period and on the last day of the applicable SOFR Period. Interest on SOFR Loans will be calculated, and rounded to 2 decimal places, on the basis of the actual number of days in each SOFR Period divided by 360. For the purposes of the *Interest Act (Canada)* and any other applicable Laws, the annual rates of interest applicable to SOFR Loans are the rates as determined hereunder multiplied by the actual number of days in a period of one year commencing on the first day of the period for which such interest is payable and divided by 360.

**7.3 Payment of BA Stamping Fee.** The Borrower will pay to the Agent for the account of the Lenders the applicable BA Stamping Fee under Section 3.8(a) with respect to Bankers' Acceptances on the date of acceptance thereof by the Lenders. Payment of the BA Stamping Fee may be made by way of set-off as provided in Section 9.4.

**7.4 Debit Authorization.** Subject to the provisions of this Agreement, the Borrower does hereby expressly and irrevocably authorize the Agent and the Operating Facility Lender to effect all the necessary debits, deposits and credits in the Borrower's Accounts in order to accommodate the Lenders in making Advances, in order to accommodate the Borrower in making payments to the Lenders as required hereunder and to pay all amounts due and payable under the Lender Secured Documents, including any cash management arrangements under the Bank Product Documents. The Borrower authorizes the Operating Facility Lender daily, or otherwise as and when determined by the Operating Facility Lender from time to time, to ascertain the position or net position (as the case may be) in respect of all amounts contained in the Borrower's Account in respect of overdraft borrowings under the Operating Facility and the Aggregate Principal Amount owing under the Operating Facility, and that:

- (a) if such position or net position is a credit in favour of the Borrower, the Operating Facility Lender may apply the amount of such credit or any part thereof as a repayment of the Aggregate Principal Amount of the Operating Facility, and the Operating Facility Lender will debit the Borrower's Account with the amount of such repayment; and
- (b) if such position or net position is a debit in favour of the Operating Facility Lender, the Operating Facility Lender will make an overdraft borrowing under the Operating Facility of such amount as is required to place such account in such credit or net credit position as has been agreed between the Borrower and the Operating Facility Lender from time to time, and the Operating Facility Lender may increase the Aggregate Principal Amount under the Operating Facility and credit such account with such Advance,

provided that at no time shall the Aggregate Principal Amount of the Operating Facility exceed the Operating Facility Commitment Amount.

- 7.5 **Conversion to Another Currency.** A Conversion of an Advance from one currency to another currency may be made only by the repayment of such existing Advance in the same currency as such existing Advance and the request of a new Advance in another currency.
- 7.6 **Maximum Rate of Return.** Notwithstanding any provision herein to the contrary, in no event will the aggregate "interest" (as defined in section 347 of the *Criminal Code* (Canada)) payable under this Agreement exceed the maximum effective annual rate of interest on the "credit advanced" (as defined in that section 347) permitted under that section and, if any payment, collection or demand pursuant to this Agreement in respect of "interest" (as defined in that section 347) is determined to be contrary to the provisions of that section 347, such payment, collection or demand will be deemed to have been made by mutual mistake of the Borrower and the applicable Lenders and the amount of such payment or collection will be refunded to the Borrower. For purposes of this Agreement, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Credit Facilities on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Agent will be *prima facie* evidence, for the purposes of such determination.
- 7.7 **Waiver of Judgment Interest Act (Alberta).** To the extent permitted by applicable Law, the provisions of the *Judgment Interest Act* (Alberta) will not apply to the Documents and are hereby expressly waived by the Borrower.
- 7.8 **Deemed Reinvestment Not Applicable.** For the purposes of the *Interest Act* (Canada), the principle of deemed reinvestment of interest will not apply to any interest calculation under the Documents, and the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

## ARTICLE 8 GENERAL PROVISIONS RELATING TO SOFR LOANS

- 8.1 **General.**
- (a) The aggregate amount of each Advance by way of a SOFR Loan will be at least U.S.\$1,000,000 and in multiples of U.S.\$100,000 for any amount in excess thereof, and each SOFR Loan will have a term to maturity of 1, 3 or 6 months, or, subject to availability, as otherwise agreed by the Lenders. Notwithstanding the foregoing, no SOFR Loan shall have a term which exceeds the Final Maturity Date of a Lender.
  - (b) If the Borrower elects to Drawdown by way of a SOFR Loan or effect a Rollover of a SOFR Loan or a Conversion of an Accommodation into a SOFR Loan, the Borrower will specify in its Notice of Borrowing, Notice of Rollover or Notice of Conversion, as applicable, the SOFR Period (which will begin and end on a Banking Day) applicable to such SOFR Loan. If the Borrower fails, as required hereunder, to select a SOFR Period for any proposed SOFR Loan, such election shall be deemed to be for a U.S. Base Rate Loan.
  - (c) Any amount owing by the Borrower in respect of any SOFR Loan which is not paid or subject to a Rollover at maturity in accordance with this Agreement will, as and from its Maturity Date, be deemed to be outstanding as a U.S. Base Rate Loan.
- 8.2 **Early Termination of SOFR Periods.** If the early termination of any SOFR Loan is required hereunder, the Borrower will pay to the Lenders all expenses and out-of-pocket costs incurred

by the Lenders as a result of the early termination of the SOFR Loan, including expenses and out-of-pocket costs incurred due to early redemption of offsetting deposits. If, in the sole discretion of a Lender, acting reasonably, any such early termination cannot be effected, the SOFR Loan will not be terminated and the Borrower will continue to pay interest to the applicable Lenders, at the rate per annum applicable to such SOFR Loan for the remainder of the applicable SOFR Period. A written statement of the Agent as to the aggregate amount of such expenses and out of pocket costs will be *prima facie* evidence of the amount thereof.

**8.3 Benchmark Replacement.** Notwithstanding anything to the contrary herein or in any other Document:

- (a) Replacing Future Benchmarks. Upon the occurrence of a Benchmark Transition Event, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Banking Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Document so long as the Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Majority Lenders. If the Benchmark Replacement is Adjusted Daily Simple SOFR, all interest payments will be payable on a monthly basis.
- (b) Unavailability of Benchmark. At any time that the administrator of the then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Borrower may revoke any request for an Advance of, Conversion to or renewal of Advances to be made, converted or continued that would bear interest by reference to such Benchmark until the Borrower's receipt of notice from the Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or Conversion to U.S. Base Rate Loans. During the period referenced in the foregoing sentence, the component of U.S. Base Rate based upon the Benchmark will not be used in any determination of U.S. Base Rate.
- (c) Benchmark Replacement Conforming Changes. In connection with the implementation and administration 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 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.
- (d) Notices; Standards for Decisions and Determinations. The Agent will promptly notify the Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 8.3, 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 8.3.

- (e) Unavailability of Tenor of Benchmark. At any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR), then the Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (ii) the Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings that has ceased to be unavailable or non-representative.
- (f) Inability to make Benchmark Advances. If at any time subsequent to the giving of a Notice of Borrowing or any Notice of Rollover or Notice of Conversion to the Agent (or the Operating Facility Lender in the case of the Operating Facility) by the Borrower with regard to any requested Advance bearing interest at a rate based on the Benchmark (each, a "**Benchmark Advance**") the Agent is advised by Syndicated Facility Lenders holding at least 25% of the Syndicated Facility Commitment Amount (or the Operating Facility Lender in the case of an Advance under the Operating Facility) by written notice (each, a "**Lender Benchmark Suspension Notice**"), such notice received by the Agent (or the Operating Facility Lender in the case of the Operating Facility) no later than 4:00 p.m. (Toronto time) on the third Banking Day prior to the date of the requested Advance that such Syndicated Facility Lenders (or the Operating Facility Lender in the case of an Advance under the Operating Facility) have determined (acting reasonably and in good faith) that the Benchmark will not or does not represent the effective cost to such Syndicated Facility Lenders (or the Operating Facility Lender in the case of an Advance under the Operating Facility) of United States Dollar deposits in such market for the relevant Available Tenor, then the Agent shall give notice thereof to the Syndicated Facility Lenders (or the Operating Facility Lender in the case of an Advance under the Operating Facility) and the Borrower as soon as possible after such determination or receipt of such Lender Benchmark Suspension Notice, as the case may be, and the Borrower shall, within one Banking Day after receipt of such notice and in replacement of the Notice of Borrowing, Notice of Rollover or Notice of Conversion, as the case may be, previously given by the Borrower, give the Agent (or the Operating Facility Lender in the case of the Operating Facility) a Notice of Borrowing or a Notice of Conversion, as the case may be, which specifies the Advance of a U.S. Base Rate Loan or the Conversion of the relevant Benchmark Advance on the last day of the applicable Available Tenor into a U.S. Base Rate Loan. In the event the Borrower fails to give, if applicable, a valid replacement Notice of Conversion with respect to the maturing Benchmark Advances which were the subject of a Notice of Rollover, such maturing Benchmark Advances shall be converted on the last day of the applicable Available Tenor into U.S. Base Rate Loans under the applicable Credit Facility as if a Notice of Conversion had been given to the Agent (or the Operating Facility Lender in the case of the Operating Facility) by the Borrower pursuant to the provisions hereof. In the event the Borrower fails to give, if applicable, a valid replacement Notice of Borrowing with respect to an Advance originally requested by way of a Benchmark Advance, then the Borrower shall be deemed to have requested an Advance by way of a U.S. Base Rate Loan in the amount specified in the original Notice of Borrowing and, on the originally requested date of Advance, the Syndicated Facility Lenders or Operating Facility Lender (in each case, subject to the other provisions hereof) shall make available the requested amount by way of a U.S. Base Rate Loan under the applicable Credit Facility.

## ARTICLE 9 BANKERS' ACCEPTANCES

**9.1 General.** Each Bankers' Acceptance draft tendered by the Borrower for acceptance by a Lender will be in a form acceptable to the accepting Lenders, acting reasonably, and the Advance in respect thereof will be in a principal amount of not less than Cdn.\$1,000,000 and in multiples of Cdn.\$100,000 for any amounts in excess thereof and will have terms of not less than 1, 2, or 3 months, unless, subject to availability, otherwise agreed to by the accepting Lenders. Notwithstanding the foregoing, no Bankers' Acceptance shall have a term which exceeds the Final Maturity Date of a Lender.

### **9.2 Terms of Acceptance by the Lenders.**

- (a) Payment. The Borrower will provide for payment to the Agent for the benefit of the Lenders of each Bankers' Acceptance at its maturity, either by payment of the face amount thereof or, subject to Section 7.4, through the utilization of an Accommodation (including by way of Rollover or Conversion) in accordance with this Agreement, or through a combination thereof. The Borrower waives presentment for payment of Bankers' Acceptances by the Lenders and will not claim from the applicable Lenders any days of grace for the payment at maturity of Bankers' Acceptances. Any amount owing by the Borrower in respect of any Bankers' Acceptance which is not paid at maturity in accordance with this Agreement or subject to a Rollover, will, as and from its Maturity Date, be deemed to be outstanding as a Canadian Prime Rate Loan.
- (b) Power of Attorney. To facilitate the procedures contemplated in this Agreement, the Borrower appoints each Lender from time to time as the attorney-in-fact of the Borrower to execute, endorse and deliver on behalf of the Borrower drafts or depository bills in the form or forms prescribed by such Lender for bankers acceptances denominated in Canadian Dollars. Each Bankers' Acceptance executed and delivered by a Lender on behalf of the Borrower as provided for in this Section 9.2(b) will be as binding upon the Borrower as if it had been executed and delivered by a duly authorized officer of the Borrower. The foregoing appointment will cease to be effective three Banking Days following receipt by the Lender in question of a notice from the Borrower revoking such appointment provided that any such revocation will not affect Bankers' Acceptances previously executed and delivered by a Lender pursuant to such appointment.
- (c) Depository Bills. It is the intention of the Parties that pursuant to the *Depository Bills and Notes Act (Canada)* ("**DBNA**"), all Bankers' Acceptances accepted by the Lenders under this Agreement will be issued in the form of a "depository bill" (as defined in the DBNA), deposited with a "clearing house" (as defined in the DBNA), including The Canadian Depository for Securities Limited or its nominee CDS Clearing and Depository Services Inc. ("**CDS**"). In order to give effect to the foregoing, the Agent will, subject to the approval of the Borrower and the Lenders, establish and notify the Borrower and the Syndicated Facility Lenders, or the Operating Facility Lender with the approval of the Borrower, as applicable, of any additional procedures, consistent with the terms of this Agreement, as are reasonably necessary to accomplish such intention, including:
  - (i) any instrument held by the Agent or the Operating Facility Lender, as applicable, for purposes of Bankers' Acceptances will have marked prominently and legibly on its face and within its text, at or before the time of issue, the words "This is a depository bill subject to the *Depository Bills and Notes Act (Canada)*";

- (ii) any reference to the authentication of the Bankers' Acceptance will be removed; and
- (iii) any reference to the "bearer" will be removed and such Bankers' Acceptances will not be marked with any words prohibiting negotiation, transfer or assignment of it or of an interest in it.

**9.3 BA Equivalent Loans.** In lieu of accepting bankers' acceptance drafts on any Drawdown Date, or any date of Rollover or Conversion, as applicable, each Non-BA Lender will make a BA Equivalent Loan. Any BA Equivalent Loan will be made on the relevant Drawdown Date, or any date of Rollover or Conversion, as applicable, and its Maturity Date will be the Maturity Date of the corresponding Bankers' Acceptances. The amount of each BA Equivalent Loan will be equal to the Discount Proceeds of the corresponding Bankers' Acceptances calculated on the basis the Lenders purchased such Bankers' Acceptances. On the Maturity Date of a BA Equivalent Loan, the Borrower will pay to the Non-BA Lender an amount equal to the face amount of the Bankers' Acceptance which such Non-BA Lender would have accepted in lieu of making a BA Equivalent Loan if it were not a Non-BA Lender. All provisions of this Agreement with respect to Bankers' Acceptances will apply to BA Equivalent Loans provided that BA Stamping Fees with respect to a BA Equivalent Loan will be calculated on the basis of the amount of such BA Equivalent Loan which the Borrower is required to pay on the Maturity Date.

**9.4 General Mechanics.**

- (a) Bankers' Acceptances. Unless such Lender makes a BA Equivalent Loan pursuant to the terms of Section 9.3, upon acceptance of a Bankers' Acceptance by a Lender, such Lender will purchase, or arrange for the purchase of, each Bankers' Acceptance from the Borrower at the BA Discount Rate applicable for such Lender for such Bankers' Acceptance accepted by it and provide to the Agent the Discount Proceeds for the account of the Borrower. The BA Stamping Fee payable by the Borrower to a Lender in respect of each Bankers' Acceptance by such Lender will be set off against the Discount Proceeds payable by such Lender under this Section 9.4.
- (b) Rollovers. In the case of a Rollover of maturing Bankers' Acceptances, each Lender, in order to satisfy the continuing liability of the Borrower to the Lender for the face amount of the maturing Bankers' Acceptances, will retain for its own account the Net Proceeds of each new Bankers' Acceptance issued by it in connection with such Rollover and the Borrower will, on the Maturity Date of the maturing Bankers' Acceptances, pay to the Agent for the benefit of the Lenders an amount equal to the difference between the face amount of the maturing Bankers' Acceptances and the aggregate Net Proceeds of the new Bankers' Acceptances.
- (c) Conversion to BAs. In the case of a Conversion from a Canadian Prime Rate Loan into an Accommodation by way of Bankers' Acceptances, each Lender, in order to satisfy the continuing liability of the Borrower to each Lender for the amount of the Canadian Prime Rate Loan being converted, will retain for its own account the Net Proceeds of each new Bankers' Acceptance issued by it in connection with such Conversion and the Borrower will, on the date of issuance of the Bankers' Acceptances pay to the Agent for the benefit of the Lenders an amount equal to the difference between the amount of the Canadian Prime Rate Loan being converted, owing to the Lenders and the Net Proceeds of such Bankers' Acceptances.

- (d) Conversion from BAs. In the case of a Conversion of an Accommodation by way of Bankers' Acceptances into a Canadian Prime Rate Loan, each Lender, in order to satisfy the liability of the Borrower to each Lender for the face amount of the maturing Bankers' Acceptances, will record the obligation of the Borrower to it as a Canadian Prime Rate Loan, unless the Borrower provides for payment to the Agent for the benefit of the Lenders of the face amount of the maturing Bankers' Acceptance in some other manner acceptable to the Lenders.
- (e) Rounding. In the case of an Advance by way of Bankers' Acceptances under the Syndicated Facility, the Agent, in its sole discretion, will round allocations amongst the Syndicated Facility Lenders to ensure that each Bankers' Acceptance issued has a face amount which is a whole number multiple of Cdn.\$100,000 (and such rounded allocations shall constitute the Syndicated Facility Lenders' respective Rateable Portions for the purposes of this Agreement).

**9.5** Escrowed Funds. Upon the request of the Agent after the occurrence and during the continuance of an Event of Default, the Borrower will forthwith pay to the Agent for deposit into a non-interest bearing escrow account maintained by and in the name of the Agent for the benefit of the Lenders, an amount equal to the Lenders' maximum potential liability under then outstanding Bankers' Acceptances (the "**Escrow Funds**"). The Escrow Funds will be held by the Agent for set-off against future Loan Obligations owing by the Borrower to the applicable Lenders in respect of such Bankers' Acceptances. If such Event of Default is either waived or cured in compliance with the terms of this Agreement, then the remaining Escrow Funds if any, will be released to the Borrower. The deposit of the Escrow Funds by a Borrower with the Agent as herein provided, will not operate as a repayment of the Aggregate Principal Amount until such time as the Escrow Funds are actually paid to the applicable Lenders as a Principal Repayment.

**9.6** Market Disruption. If:

- (a) the Agent (acting reasonably) makes a determination, which determination shall be conclusive and binding upon the Borrower, and notifies the Borrower, that there no longer exists an active market for Bankers' Acceptances accepted by the Lenders; or
- (b) the Agent is advised by Lenders holding at least 25% of the Commitment Amount hereunder by written notice (each, a "**Lender BA Suspension Notice**") that such Lenders have determined with respect to their general banking practice concerning bankers' acceptances (acting reasonably and in good faith) that the BA Discount Rate will not or does not accurately reflect the cost of funds of such Lenders or the discount rate which would be applicable to a sale of Bankers' Acceptances accepted by such Lenders in the market;

then:

- (c) the right of the Borrower to request Bankers' Acceptances or BA Equivalent Loans from any Lender shall be suspended until the Agent determines that the circumstances causing such suspension no longer exist, and so notifies the Borrower and the Lenders;
- (d) any outstanding Notice of Borrowing requesting an Advance by way of Bankers' Acceptances or BA Equivalent Loans shall be deemed to be a Notice of Borrowing requesting an Advance by way of Canadian Prime Rate Loans under the applicable Credit Facility in the amount specified in the original Notice of Borrowing;

- (e) any outstanding Notice of Conversion requesting a Conversion of an Advance by way of Bankers' Acceptances or BA Equivalent Loans shall be deemed to be a Notice of Conversion requesting a Conversion of such Advances into an Advance by way of Canadian Prime Rate Loans under the applicable Credit Facility; and
- (f) any outstanding Notice of Rollover requesting a Rollover of an Advance by way of Bankers' Acceptances or BA Equivalent Loans, shall be deemed to be a Notice of Conversion requesting a Conversion of such Advances into an Advance by way of Canadian Prime Rate Loans under the applicable Credit Facility.

The Agent shall promptly notify the Borrower and the Lenders of any suspension of the Borrower's right to request Advances by way of Bankers' Acceptances or BA Equivalent Loans and of any termination of any such suspension. A Lender BA Suspension Notice shall be effective upon receipt of the same by the Agent if received prior to 4:00 p.m. (Toronto time) on a Banking Day and if not, then on the next following Banking Day, except in connection with an outstanding Notice of Borrowing, Notice of Conversion or Notice of Rollover, in which case the applicable Lender BA Suspension Notice shall only be effective with respect to such outstanding Notice of Borrowing, Notice of Conversion or Notice of Rollover if received by the Agent prior to 4:00 p.m. (Toronto time) two Banking Days prior to the proposed date of Advance, date of Conversion or date of Rollover (as applicable) applicable to such outstanding Notice of Borrowing, Notice of Conversion or Notice of Rollover, as applicable.

**9.7 CDOR Replacement.** If at any time the Agent (acting reasonably) determines (which determination shall be conclusive, absent manifest error) that:

- (a) an interest rate or discount rate is not ascertainable pursuant to the provisions of the definition of "CDOR Rate" and the inability to ascertain such rate is unlikely to be temporary;
- (b) the regulatory supervisor for the administrator of the CDOR Rate screen rate, the Bank of Canada, an insolvency official with jurisdiction over the administrator for the CDOR Rate, a resolution authority with jurisdiction over the administrator for the CDOR Rate, or a court or an entity with similar insolvency or resolution authority over the administrator for the CDOR Rate, has made a public statement, or published information, stating that the administrator of the CDOR Rate, has ceased or will cease to provide the CDOR Rate, permanently or indefinitely on a specific date; provided that, at that time, there is no successor administrator that will continue to provide the CDOR Rate; or
- (c) the administrator of the CDOR Rate screen rate or a Governmental Authority having jurisdiction over the Agent or the administrator of the CDOR Rate screen rate has made a public statement identifying a specific date after which the CDOR Rate, or the CDOR Rate screen rate shall no longer be made available, or used for determining the interest rate of loans or the discount rates for bankers' acceptances; provided that, at that time, there is no successor administrator that will continue to provide the CDOR Rate,

(the date of determination or such specific date in the foregoing paragraphs (a) through (c), the "**CDOR Discontinuation Date**"),

then the Agent and the Borrower shall negotiate in good faith to select a replacement index rate for the CDOR Rate and make such spread adjustments thereto and other related amendments to this Agreement that shall give due consideration to the prevailing market practice for: (x) determining a rate of interest applicable to newly originated Canadian Dollar

loans made in Canada at such time and for determining the discount rate for Canadian Dollar bankers' acceptances issued and accepted in Canada at such time, and (y) transitioning existing loans and bankers' acceptances from CDOR Rate-based rates to loans bearing interest and bankers' acceptances with discount rates calculated with reference to the new reference index rate.

Upon an agreement being reached between the Agent and the Borrower pursuant to the immediately preceding paragraph, the Agent and the Borrower shall enter into an amendment to this Agreement that gives effect to the replacement index rate, spread adjustments and such other related amendments as may be appropriate in the discretion of the Agent for the implementation and administration of Canadian Dollar loans bearing interest or bankers' acceptances with discount rates calculated with reference to the replacement index rate. Notwithstanding anything to the contrary in this Agreement (including Section 1.11) or any other Document, such amendment shall become effective at 5:00 p.m. (Calgary time) on the fifth Banking Day after a copy of the amendment is provided to the Lenders and without any further action or consent of any other party to this Agreement, unless the Agent receives, on or before such date and time, a written notice from the Majority Lenders stating that such Lenders object to such amendment. If at any time the replacement index rate agreed upon to replace the CDOR Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

Until an amendment reflecting the transition to a new reference index rate becomes effective as contemplated by this Section 9.7, the discount rate applicable to each Drawdown, Conversion or Rollover of a Bankers' Acceptance or a BA Equivalent Loan shall continue to be calculated with reference to the CDOR Rate; provided that if the Agent determines (which determination shall be conclusive, absent manifest error) that a CDOR Discontinuation Date has occurred, then following the CDOR Discontinuation Date, until such time as an amending agreement adopting such a new reference index rate becomes effective as contemplated by this Section 9.7:

- (a) any requested Drawdown by way of, Conversion into, or Rollover of, a Bankers' Acceptance or a BA Equivalent Loan shall be deemed to be a request for a Canadian Prime Rate Loan in the same principal amount; and
- (b) in respect of a maturing Bankers' Acceptance or a BA Equivalent Loan under the Credit Facilities, in the event the Borrower fails to give, if applicable, a Notice of Conversion with respect thereto specifying the Conversion of such Bankers' Acceptance or BA Equivalent Loan on the maturity date thereof into an Advance other than a Bankers' Acceptance or a BA Equivalent Loan (and provided a valid Notice of Repayment has not been delivered to the Agent in respect thereof), such maturing Bankers' Acceptance or BA Equivalent Loan shall be converted on the maturity date thereof into a Canadian Prime Rate Loan as if a valid Notice of Conversion had been given to the Agent by the Borrower pursuant to the provisions hereof.

For certainty, upon the occurrence of a CDOR Discontinuation Date, the Canadian Prime Rate shall be determined without reference to the Floor Rate.

## **ARTICLE 10 LETTERS OF CREDIT**

- 10.1 Letters of Credit Commitment.** The Operating Facility Lender agrees, on the terms and conditions herein set forth, from time to time on any Banking Day, to issue Letters of Credit for the account of the Borrower; provided that at no time shall the Aggregate Principal Amount

owing under the Operating Facility with respect to the face amount of outstanding Letters of Credit exceed collectively Cdn.\$[Redacted] or the Canadian Dollar Exchange Equivalent thereof.

**10.2 Notice of Issuance.**

- (a) Notice. Each issuance of a Letter of Credit shall be made by way of a Notice of Borrowing provided in accordance with Section 5.2(d) by the Borrower to the Operating Facility Lender.
- (b) Other Documents. In addition, the Borrower shall execute and deliver to the Operating Facility Lender a customary form of letter of credit indemnity agreement; provided that, if there is any inconsistency between the terms of this Agreement and the terms of such customary form of indemnity agreement, the terms of this Agreement shall prevail.

**10.3 Form of Letter of Credit.** Each Letter of Credit to be issued hereunder shall:

- (a) be dated the date of issuance of the Letter of Credit;
- (b) have an expiration date on a Banking Day which occurs no more than 365 days after the date of such issuance (provided that Letters of Credit may have (i) auto-renewal provisions or (ii) a term in excess of 365 days if the Operating Facility Lender shall agree);
- (c) have an expiration date prior to the Final Maturity Date of the Operating Facility Lender, except to the extent cash collateral has been deposited by the Borrower into a cash collateral account in accordance with Section 10.10; and
- (d) comply with the definition of Letter of Credit and shall otherwise be satisfactory in form and substance to the Operating Facility Lender.

**10.4 Procedure for Issuance of Letters of Credit.**

- (a) Issue. On the date of issue, the Operating Facility Lender will complete and issue one or more Letters of Credit in favour of the beneficiary as specified by the Borrower in its Notice of Borrowing.
- (b) Time for Honour. No Letter of Credit shall require payment against a conforming draft to be made thereunder on the same Banking Day upon which such draft is presented, if such presentation is made after 11:00 a.m. (Toronto time) on such Banking Day.
- (c) Text. Prior to the issue date, the Borrower shall specify a precise description of the documents and the verbatim text of any certificate to be presented by the beneficiary prior to payment under the Letter of Credit. The Operating Facility Lender may require changes in any such documents or certificate, acting reasonably.
- (d) Conformity. In determining whether to pay under a Letter of Credit, the Operating Facility Lender shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit.

**10.5 Payment of Amounts Drawn Under Letters of Credit.** If the Operating Facility Lender makes any payment pursuant to a Letter of Credit and the Borrower does not reimburse the

Operating Facility Lender for any such payment on or before the next Banking Day from the proceeds of an Accommodation obtained under this Agreement or otherwise, the Operating Facility Lender shall, without receipt of a Notice of Borrowing and irrespective of whether any other applicable conditions precedent specified herein have been satisfied, make a Canadian Prime Rate Loan (or, where the Letter of Credit is denominated in a currency other than Canadian Dollars, in the Canadian Dollar Exchange Equivalent thereof on that day) to the Borrower under the Operating Facility in the amount of such required payment. The Borrower agrees to accept each such Canadian Prime Rate Loan, and hereby irrevocably authorizes and directs the Operating Facility Lender to apply the proceeds thereof in payment of the liability of the Borrower with respect to such required payment.

#### **10.6 Fees.**

- (a) Issue Fee. The Borrower shall pay to the Operating Facility Lender for the account of the Operating Facility Lender a fee in respect of each Letter of Credit equal to the issuance fee specified in Section 3.8(a), such fee to be payable in Canadian Dollars (or, where the Letter of Credit is denominated in a currency other than Canadian Dollars, in the Canadian Dollar Exchange Equivalent thereof on the immediately preceding Banking Day) in full at the time of issuance and determined for a period equal to the number of days that each such Letter of Credit will be outstanding to the Maturity Date or renewal thereof.
- (b) Administrative Fee. The Borrower shall pay to the Operating Facility Lender, upon the issuance of each Letter of Credit or the amendment or transfer of each Letter of Credit, the Operating Facility Lender's standard documentary and administrative charges for issuing, amending or transferring standby or commercial letters of credit or letters of guarantee of a similar amount, term and risk, such charges to be payable in Canadian Dollars (or, where the Letter of Credit is denominated in a currency other than Canadian Dollars, in the Canadian Dollar Exchange Equivalent thereof on the immediately preceding Banking Day), provided that such fees will be in a minimum amount of Cdn.\$500 in the applicable currency at the time of each payment made with respect thereto.

#### **10.7 Obligations Absolute.** The obligation of the Borrower to reimburse the Operating Facility Lender for drawings made under any Letter of Credit shall be unconditional and irrevocable and shall be fulfilled strictly in accordance with the terms of this Agreement under all circumstances, including:

- (a) any lack of validity or enforceability of any Letter of Credit;
- (b) the existence of any claim, set-off, defence or other right which the Borrower may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), the Operating Facility Lender, any other Lender or any other Person, whether in connection with this Agreement, the Documents, the transactions contemplated herein and therein or any unrelated transaction (including any underlying transaction between the Borrower and the beneficiary of such Letter of Credit);
- (c) any draft, demand, certificate or other document presented under any Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect;

- (d) payment by the Operating Facility Lender under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit (provided that such payment does not breach the standards of reasonable care specified in the Uniform Customs or disentitle the Operating Facility Lender to reimbursement under ISP98, in each case as stated on its face to be applicable to such Letter of Credit); or
- (e) the fact that a Default or an Event of Default shall have occurred and be continuing.

#### **10.8 Indemnification; Nature of Lenders' Duties.**

- (a) Indemnity. In addition to amounts payable as elsewhere provided in this Article 10, the Borrower hereby agrees to protect, indemnify, pay and save the Operating Facility Lender and its directors, officers, employees, agents and representatives harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including legal fees and expenses) (a "**Loss**") which the indemnitee may incur or be subject to as a consequence, direct or indirect, of:
  - (i) the issuance of any Letter of Credit, other than as a result of the breach of the standards of reasonable care specified in the Uniform Customs or where the Operating Facility Lender would not be entitled to the foregoing indemnification under ISP98, in each case as stated on its face to be applicable to such Letter of Credit; or
  - (ii) the failure of the indemnitee to honour a drawing under any Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future *de jure* or *de facto* Governmental Authority, (all such acts or omissions called in this Section 10.8, "**Governmental Acts**");

provided that the above indemnity shall not apply to any Loss which arises from or relates to the gross negligence or willful misconduct of an indemnitee.

- (b) Risk. As between the Borrower, on the one hand, and the Operating Facility Lender, on the other hand, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued hereunder by, the respective beneficiaries of such Letters of Credit and, without limitation of the foregoing, the Operating Facility Lender shall not be responsible for:
  - (i) the form, validity, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, inaccurate, fraudulent or forged;
  - (ii) the invalidity or insufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason;
  - (iii) errors, omissions, interruptions or delays in transmission or delivery of any messages, by fax, electronic transmission, mail, cable telegraph, telex or otherwise, whether or not they are in cipher;
  - (iv) errors in interpretation of technical terms;

- (v) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof;
- (vi) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; and
- (vii) any consequences arising from causes beyond the control of the Operating Facility Lender, including any Governmental Acts.

None of the above shall affect, impair or prevent the vesting of any of the Operating Facility Lender's rights or powers hereunder. No action taken or omitted by the Operating Facility Lender under or in connection with any Letter of Credit issued by it or the related certificates, if taken or omitted in good faith, shall put the Operating Facility Lender under any resulting liability to the Borrower (provided that the Operating Facility Lender acts in accordance with the standards of reasonable care specified in the Uniform Customs and otherwise as may be required under ISP98, in each case as stated on its face to be applicable to the respective Letter of Credit).

**10.9 Default, Maturity, etc.** Upon the earlier of the Maturity Date of the Letter of Credit and the Agent declaring the Loan Obligations to be due and payable pursuant to Section 15.2, and notwithstanding the expiration date of any outstanding Letters of Credit, an amount equal to the undrawn face amount of all outstanding Letters of Credit, and all accrued and unpaid fees owing by the Borrower in respect of the issuance of such Letters of Credit pursuant to Section 10.6, if any, shall thereupon forthwith become due and payable by the Borrower to the Agent for the benefit of the Operating Facility Lender and, except for any amount payable in respect of unpaid fees as aforesaid, such amount shall be held in a trust account kept by the Agent and applied against amounts payable under such Letters of Credit in respect of any drawing thereunder.

**10.10 Escrowed Funds.** If any Letter of Credit is or will be outstanding on the Final Maturity Date of the Operating Facility Lender, at any time that an Event of Default occurs, a demand for repayment is made hereunder, or a domestic or foreign court issues any judgment or order restricting or prohibiting payment by the Operating Facility Lender under such Letter of Credit or extending the liability of the Operating Facility Lender to make payment under such Letter of Credit beyond the expiry date specified therein, the Borrower will, in the case of a Letter of Credit with a Maturity Date extending beyond the Final Maturity Date of the Operating Facility Lender, 90 days prior to such Final Maturity Date, and in all other cases referenced above, forthwith upon demand by the Operating Facility Lender, deposit into a cash collateral account maintained by and in the name of the Operating Facility Lender, funds in the applicable currency (or, in the case of a Letter of Credit issued in a currency other than Cdn.\$ or U.S.\$, the Canadian Dollar Exchange Equivalent thereof) in the amount of the Advance constituted by such Letter of Credit and such funds (together with interest thereon) will be held by the Operating Facility Lender for payment of the liability of the Borrower pursuant to this Article 10 or otherwise in respect of such Letter of Credit so long as the Operating Facility Lender has or may in any circumstance have any liability under such Letter of Credit, and, pending such payment, shall bear interest at the Operating Facility Lender's then prevailing rate in respect of deposits of similar amounts and of similar periods of time. Any balance of such funds and interest remaining at such time as the Operating Facility Lender does not have and may never have any liability under such Letter of Credit will nevertheless continue to be held by the Operating Facility Lender, if and so long as any Default or Event of Default is continuing or after a demand for repayment is made or both, as security for the remaining liabilities of the Borrower hereunder. The Operating Facility Lender shall have exclusive control over all

amounts at any time on deposit in such cash collateral account. The deposit of such funds by the Borrower with the Operating Facility Lender as herein provided will not operate as a repayment of the Aggregate Principal Amount of the Operating Facility until such time as such funds are actually paid to the Operating Facility Lender as a Principal Repayment.

**10.11 Records.** The Agent and the Operating Facility Lender shall maintain records showing the undrawn and unexpired amount of each Letter of Credit outstanding hereunder and showing for each Letter of Credit issued hereunder:

- (a) the dates issuance and expiration thereof;
- (b) the amount thereof; and
- (c) the date and amount of all payments made thereunder.

The Agent and the Operating Facility Lender shall make copies of such records available to the Borrower upon its request.

**10.12 Notices with Respect to Letters of Credit.** Each Notice of Borrowing in respect of a Letter of Credit shall be delivered in accordance with Section 5.2(d).

## **ARTICLE 11 INCREASED COSTS**

**11.1 Changes in Law.**

- (a) If, after the date hereof, due to either:
  - (i) the introduction of, or any change in, or in the interpretation of any Law, whether having the force of law or not, resulting in the imposition or increase of reserves, deposits or similar requirements by any central bank or Governmental Authority charged with the administration thereof; or
  - (ii) the compliance with any guideline or request from any central bank or other Governmental Authority which a Lender, acting reasonably, determines that it is required to comply with,

there will be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining an Accommodation or there will be any reduction in the effective return to such Lender thereunder, then, subject to Section 11.1(b), the Borrower will, within 10 Banking Days after being notified by such Lender of such event, pay to such Lender, quarterly in arrears, that amount (the "**Additional Compensation**") which such Lender, acting reasonably, determines will compensate it, after taking into account all applicable Taxes and all interest and other amounts received, for any such increased costs or reduced returns incurred or suffered by such Lender.

- (b) If Additional Compensation is payable pursuant to Section 11.1(a), the Borrower will have the option to convert the Accommodation to another type of Accommodation, in accordance with this Agreement, in respect of which no further Additional Compensation will be payable, or prepay any amount of the Credit Facilities owed to the Lender entitled to receive the Additional Compensation, subject always to Section 8.2 without obligation to make a corresponding prepayment to any other Lender. If the Additional Compensation relates to outstanding Bankers' Acceptances, such Lender

may require the Borrower to deposit in an interest bearing cash collateral account with such Lender such amount as may be necessary to fully satisfy the contingent obligations of such Lender for all outstanding Bankers' Acceptances in accordance with the arrangements similar to those set out in Section 9.5.

Notwithstanding anything herein to the contrary, (i) the *Dodd-Frank Wall Street Reform and Consumer Protection Act* and all regulations, requests, requirements, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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, Canadian or other foreign regulatory authorities, in each case pursuant to Basel III ((i) and (ii) being, the "**New Rules**"), shall in each case be deemed to be a change in as described in clauses (a) and (b) above regardless of the date enacted, adopted or issued, in each case to the extent that such New Rules are applicable to a Lender claiming Additional Compensation.

**11.2 Changes in Circumstances.** Notwithstanding anything to the contrary herein or in any of the other Documents, if on any date a Lender determines, acting reasonably and in good faith, which determination will be conclusive and binding on the Parties, and provided notice is given to the Agent and the other Lenders and to the Borrower that such Lender's ability to maintain, or continue to offer any Accommodation has become unlawful or impossible due to:

- (a) any change in applicable Law, or in the interpretation or administration thereof by authorities having jurisdiction in the matter; or
- (b) the imposition of any condition, restriction or limitation upon such Lender which is outside of its control,

then in any such case, the Borrower will forthwith repay to such Lender all principal amounts affected thereby, together with all unpaid interest accrued thereon to the date of repayment and all other expenses incurred in connection with the termination of any such Accommodation, including any expenses resulting from the early termination of any SOFR Period relating thereto in accordance with Section 8.2, without any obligation to make a corresponding prepayment to any other Lender. The Borrower may utilize other forms of Accommodations not so affected in order to make any required repayment and after any such repayment, the Borrower may elect to re-borrow the amount repaid by way of some other Accommodation upon complying with applicable requirements thereof.

**11.3 Application of Sections 11.1 and 11.2.** If a Lender exercises its discretion under either Section 11.1 or 11.2, then concurrently with a notice from such Lender to the Agent and the Borrower requiring compliance with the applicable Section, such Lender will provide the Borrower (with a copy to the Agent who will notify the other Lenders) with a certificate in reasonable detail outlining the particulars giving rise to such notice, confirming that its actions are consistent with actions concurrently taken by such Lender with respect to similar type provisions affecting other borrowers of such Lender in comparable circumstances and certifying (with reasonable supporting detail) the increased costs, if any, payable by the Borrower thereunder, which will be prima facie evidence thereof and binding on the Parties.

**11.4 Limitations on Additional Compensation.** Sections 11.1 and 11.2 will not apply to a Lender with respect to any event, circumstance or change of the nature and kind of which such Lender had actual knowledge on the Closing Date. A Lender will not be entitled to Additional Compensation to the extent such increase in costs or reduction in return is reflected in or recovered by an increase in the interest or other amounts payable hereunder (other than

pursuant to Section 11.1) or relates to any period which is more than 90 days prior to such Lender becoming aware such Additional Compensation was owing or if such Lender is not generally collecting amounts which are the equivalent to Additional Compensation from other borrowers in similar circumstances to the Borrower where such Lender is contractually entitled to do so.

## **ARTICLE 12 FEES AND EXPENSES**

- 12.1 Agency Fee.** The Borrower will pay to the Agent, on an annual basis, the agency fee agreed upon between the Borrower and the Agent, the amount thereof to be kept confidential by the Borrower and the Agent.
- 12.2 Standby Fee.** The Borrower will, effective from and including the Closing Date to and excluding the Final Maturity Date of each Lender, pay to the Agent for the benefit of the Syndicated Facility Lenders and the Operating Facility Lender, as the case may be, a standby fee in Canadian Dollars from time to time equal to the Basis Points set forth in the Pricing Table, calculated on the basis of a 365 or 366 day calendar year, as applicable, multiplied by (a) the Syndicated Facility Commitment Amount of the Syndicated Facility Lenders, less the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount of the Syndicated Facility attributable to each Syndicated Facility Lender, and (b) the Operating Facility Commitment Amount of the Operating Facility Lender, less the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount of the Operating Facility attributable to the Operating Facility Lender. The standby fees will be calculated daily and will be payable quarterly in arrears on the third Banking Day of each Fiscal Quarter for the previous Fiscal Quarter.
- 12.3 Expenses.** The Borrower will pay or reimburse the Agent and the Lenders, as applicable, for all reasonable out-of-pocket expenses, including legal fees and disbursements (on a solicitor and his own client full indemnity basis) and enforcement costs, incurred by the Agent and the Lenders, as applicable, in connection with the creation, negotiation, preparation, execution, maintenance, syndication, publication, management, collection and amendment of the Documents and the Credit Facilities and the enforcement of their rights and remedies thereunder or relating thereto, as applicable. The Borrower shall only be obligated to pay the legal fees of one law firm and such other counsel outside of Alberta as agreed to by the Borrower, acting reasonably, in the documentation, administration and extension of the Credit Facilities.

## **ARTICLE 13 REPRESENTATIONS AND WARRANTIES OF THE BORROWER**

- 13.1 Representations and Warranties.** The Borrower hereby represents and warrants to the Agent and the Lenders that:
- (a) **Formation, Organization and Power.** Each Loan Party has been duly created, and is validly existing under the Laws of the jurisdiction of its creation, and is duly registered to carry on business in each jurisdiction in which the nature of any material business carried on by it or the character of any material property owned or leased by it makes such registration necessary, and the Borrower and each other Loan Party has full power and capacity to enter into and perform its obligations under the Documents to which it is a party, and to carry on its business as currently conducted by it.

- (b) Authorization and Status of Agreements. Each Document to which any Loan Party is a party delivered pursuant hereto has been duly authorized, executed and delivered by it and does not conflict with or contravene or constitute a default, under:
- (i) its constating documents, by-laws, any resolution of the Directors or partners or any shareholders' or partnership agreement in respect thereof;
  - (ii) any agreement or document to which it is a party or by which any of its property is bound (including, without limitation, the Material Contracts), the contravention of which would reasonably be expected to have a Material Adverse Effect; or
  - (iii) any applicable Law.
- (c) Enforceability. Each of the Documents and Material Contracts constitutes a valid and binding obligation of each Loan Party that is a party thereto, and is enforceable against such Loan Party in accordance with the terms thereof, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, reorganization, or similar statutes affecting the enforcement of creditors' rights generally and by general principles of equity.
- (d) Litigation. Other than as previously disclosed to the Agent and Lenders in writing, there are no actions, suits or proceedings at Law or before or by any Governmental Authority existing or pending, or to the Borrower's knowledge threatened, to which any Loan Party is, or to the Borrower's knowledge is threatened to be made, a party and in respect of which there is a reasonable possibility of an adverse determination where the claimed amounts are in aggregate greater than the Threshold Amount.
- (e) Environmental Law. Each Loan Party: (i) has obtained all material permits, licenses and other authorizations which are required under Environmental Law; and (ii) is in compliance in all material respects with Environmental Law and with the terms and conditions of all such permits, licenses and authorizations.
- (f) Environmental Condition of Property. The property or any part thereof owned, operated or controlled by each Loan Party, either directly or indirectly:
- (i) is not, to the knowledge of the Borrower, the subject of any outstanding claim, charge or order from an Governmental Authority alleging violation of Environmental Law or, if subject to any such claim, charge or order, the applicable Loan Party is taking all such remedial, corrective or other action required under the claim, charge or order or such claim, charge or order is being contested by a Permitted Contest; and
  - (ii) complies in all respects with respect to each of its use and operation, with Environmental Law and with the terms and conditions of all permits, licenses and other authorizations which are required to be obtained under applicable Environmental Law;

except to the extent that any such claim, charge order or non-compliance would not reasonably be expected to result in a claim, loss or other liability in excess of the Threshold Amount.

- (g) Title to Properties. Each Loan Party has good and valid title to its material property, subject only to Permitted Encumbrances and to minor defects of title which in the aggregate do not affect its rights of ownership therein or the value thereof in any material respect. Each Loan Party is entitled to charge or pledge its interests in its property in favour of the Agent and the Lenders as provided in this Agreement without the need to obtain any consent of or release from any other Person which has not been obtained and such property is not held in trust by any Loan Party for any Person other than a Loan Party.
- (h) Financial Condition – Audited Statements. The most recent audited consolidated financial statements of the Borrower heretofore or contemporaneously delivered to the Agent and the Lenders were prepared in accordance with GAAP and such financial statements present fairly in all material respects the Borrower's consolidated financial position as at the date thereof. Since the date of such audited financial statements, there has been no occurrence of any event, circumstance, development or other changes in fact which would, in the aggregate reasonably be expected to have a Material Adverse Effect.
- (i) Information. All factual information furnished by or on behalf of any Loan Party to the Agent or the Lenders in connection with the Loan Parties or the Credit Facilities (and in the case of third parties, to the knowledge of the Borrower) was true and accurate in all material respects at the time given and the Borrower is not aware of any omission of any material fact which renders such factual information incomplete or misleading in any material respect at the time given, other than in the case of any projections, which projections were prepared in good faith and based upon reasonable assumptions at the date of preparation.
- (j) No Breach of Orders, Licences or Statutes. No Loan Party is in breach of:
  - (i) any material order, approval or mandatory requirement or directive of any Governmental Authority;
  - (ii) any material governmental licence or permit; or
  - (iii) any applicable Law;in each case, in any material respect.
- (k) Pension. No Loan Party is party to or bound by any Pension Plan.
- (l) No Default. No Default or Event of Default has occurred and is continuing.
- (m) Insurance. Each Loan Party has in full force and effect such policies of insurance in such amounts issued by such insurers of recognized standing covering the property of the Loan Parties as required by Section 14.1(k).
- (n) Approvals. All material regulatory and other approvals, consents, permits and licenses necessary for each Loan Party to carry on its business, as currently carried on, and all approvals, consents, permits and licenses necessary for each Loan Party to enter into the Documents to which it is a party and perform its obligations thereunder have, in each case, been obtained and are in good standing in all material respects.

- (o) Payment of Taxes. Each Loan Party has filed all tax returns which are required to be filed and have paid all material Taxes (including interest and penalties) which are due and payable, unless such payment is subject to a Permitted Contest.
- (p) Remittances. All of the material remittances required to be made by each Loan Party to the applicable federal, provincial or municipal governments have been made, are currently up to date and there are no outstanding arrears, unless such arrears are subject to a Permitted Contest.
- (q) Subsidiaries. As at the date hereof, the Borrower has no Subsidiaries other than as set out in Schedule G and the jurisdictions of formation, the location of their respective businesses and assets, the trade names of each, if any, used in such locations as set forth in Schedule G. As at the date hereof, the legal and beneficial owners of the issued and outstanding Voting Securities of each Loan Party (other than the Borrower) and its Subsidiaries are as set out in Schedule G.
- (r) Liens. No Loan Party has any Liens on its property, other than Permitted Encumbrances, nor will the entering into and performance by any Loan Party of the Documents create a Lien, other than a Permitted Encumbrance, under:
  - (i) any agreement or document to which it is a party or by which any of its property is bound (including, without limitation, the Material Contracts); or
  - (ii) any applicable Law.
- (s) Indebtedness. No Loan Party has created, incurred, assumed, suffered to exist, or entered into any contract, instrument or undertaking pursuant to which, any Loan Party is now or will hereafter become liable for any Indebtedness other than Permitted Indebtedness.
- (t) No Material Adverse Effect. No event or circumstance has occurred and is continuing which has had or would reasonably be expected to have a Material Adverse Effect.
- (u) Operation of Business and Properties. All property owned or operated by the Loan Parties has been and will continue to be operated and maintained, as the case may be, in a good and workmanlike manner in accordance with sound industry practice and in accordance with all applicable Laws, in each case, in all material respects.
- (v) Material Contract Breach. No event has occurred and is continuing which constitutes a material default or breach by a Loan Party under any Material Contract.
- (w) List of Material Contracts. Schedule I accurately lists all Material Contracts in existence as of the date hereof.
- (x) Anti-Corruption Laws and Sanctions.
  - (i) No part of the proceeds of any Advance will be used, directly or, to the knowledge of the Borrower or any Subsidiary thereof after due inquiry, indirectly, to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person in any manner that would result in any violation by any Person (including any Lender and the Agent) of (A) any Sanctions or (B) applicable regulations, rules and executive orders administered by any Sanctions Authority.

- (ii) None of the Borrower nor any of its Subsidiaries (A) is, or will become a Sanctioned Person or (B) knowingly, after due inquiry, engages or will engage in any dealings or transactions, or is or will be otherwise knowingly, after due inquiry, associated, with any Sanctioned Person that would result in any violation of (x) any Sanctions or (y) applicable regulations, rules and executive orders administered by any Sanctions Authority.
- (iii) Each of the Borrower and its Subsidiaries is, and has conducted its business, in compliance in all respects with all Sanctions and all applicable regulations, rules and executive orders administered by any Sanctions Authority.
- (iv) To its knowledge, after due inquiry, each of the Borrower and its Subsidiaries is, and has conducted its business, in compliance in all material respects with all Anti-Money Laundering/ Anti-Terrorist Financing Laws.
- (v) The Borrower and its Subsidiaries, to the Borrower's knowledge after due inquiry, are not the subject of any investigation, inquiry or enforcement proceedings by any Governmental Authority regarding any offense or alleged offense under any Anti-Corruption Laws or Anti-Money Laundering/ Anti-Terrorist Financing Laws in which there is a reasonable possibility of an adverse decision and, to the Borrower's knowledge after due inquiry, no such investigation, inquiry or proceeding is pending or has been threatened.
- (vi) Each of the Borrower and its Subsidiaries is, and has conducted its business, in compliance in all material respects with all Anti-Corruption Laws. No part of the proceeds of any Advance has been used or will be used, directly or, to the knowledge of the Borrower or any Subsidiary thereof after due inquiry, 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 a governmental capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any Anti-Corruption Laws.
- (vii) The Borrower and its Subsidiaries have policies and procedures in place to ensure that each of the foregoing representations and warranties in this Section 13.1(x) are true and correct at all times.
- (y) Interest Act (Canada). The Borrower and its Subsidiaries are each able to calculate the yearly rate or percentage of interest payable under any Document based on the methodology set out herein and under the other Documents, including Section 3.8, Article 7 and Section 19.10 hereof and the constituent definitions herein and under the other Documents relating to interest and other amounts payable hereunder and thereunder.
- (z) Finance Lease Obligations and Purchase Money Obligations. Schedule M hereto accurately lists and describes all Finance Lease Obligations and Purchase Money Obligations of the Loan Parties as of the Closing Date.
- (aa) Asset Dispositions. Other than dispositions permitted pursuant to paragraph (a) of the definition of Permitted Dispositions, as of the Closing Date, the aggregate fair market

value of all sales or dispositions of assets by the Loan Parties to third parties from and including January 1, 2022 is \$5,682,000.

- (bb) Limitation on Payments Threshold. As of the Closing Date, the Borrower and its Subsidiaries have utilized Cdn.\$10,584,000 of the Cdn.\$30,000,000 threshold amount set forth in Section 14.3(w).
- (cc) Closing Model. As of the Closing Date, the "2022 06 26 TWM - Corporate Model – March 31 Base Case" delivered to the Agent and the Lenders on June 27, 2022 (the "**Closing Model**") presents the data contained therein based upon good faith projections in a comprehensive and clear manner, including giving explicit reference to all material liabilities (contingent or otherwise), indebtedness, joint venture and profit sharing arrangements applicable to each of the items set out therein (including any amounts payable to [Redacted] and any of its affiliates).

**13.2 Acknowledgement.** The Borrower acknowledges that the Agent and the Lenders are relying upon the representations and warranties in this Article 13 in making the Credit Facilities available to the Borrower and that the representations and warranties contained in Section 13.1, except for any representation and warranty made solely at the date hereof, will be deemed to be restated in every respect effective on the date each and every Advance is made except for Advances which are Rollovers or Conversions in which case only Section 13.1(l) will be deemed to be restated.

**13.3 Survival and Inclusion.** The representations and warranties in this Article 13 shall survive until this Agreement has been terminated. All statements, representations and warranties contained in any Compliance Certificate and in the other Documents or in any instruments delivered by or on behalf of any Loan Party pursuant to this Agreement or the other Documents shall constitute statements, representations and warranties made by the Borrower to the Agent and the Lenders under this Agreement.

## **ARTICLE 14 COVENANTS OF THE BORROWER**

**14.1 Affirmative Covenants.** While any Loan Obligations under either Credit Facility are outstanding or any Accommodation under either Credit Facility remains available:

- (a) Punctual Payment. The Borrower will pay or cause to be paid all Loan Obligations and other amounts payable under the Documents punctually when due.
- (b) Use of Credit Facilities. The Borrower will use the Credit Facilities only in accordance with Section 3.6.
- (c) Legal Existence. Except as permitted by Section 14.3(d), the Borrower will do or will cause to be done all things necessary to preserve and keep in full force and effect each Loan Party's existence in good standing under the Laws of its jurisdiction of creation.
- (d) Status. The Borrower will maintain its status as an issuer in good standing with all applicable Governmental Authorities to permit it at all times to remain listed on a recognized North American stock exchange and will remain so listed.
- (e) Wholly-Owned Status. Each Loan Party, other than the Borrower, will be a direct or indirect wholly-owned Subsidiary of the Borrower and to the extent any such Loan Party is indirectly owned, all such ownership interests will be held by Loan Parties.

- (f) Material Adverse Claims. The Borrower will, and will cause each other Loan Party to, except for Permitted Encumbrances, do all things necessary to defend, protect and maintain its property and the Security (and the priority thereof) from all material adverse claims including where the failure to do so in the opinion of the Lenders, acting reasonably, threatens the intended priority or validity of the Security as herein provided.
- (g) Maintain Title to Properties. The Borrower will, and will cause each other Loan Party to, maintain good and valid title to its material property, subject only to Permitted Encumbrances and to minor defects of title which in the aggregate do not affect their rights of ownership therein or the value thereof in any material way.
- (h) Operation of Properties. The Borrower will, and will cause each other Loan Party to, maintain and operate its respective property in accordance with sound industry practice and in accordance with applicable Law in all material respects.
- (i) Performance of Agreements. The Borrower will, and will cause each other Loan Party to, perform its obligations under and comply with the terms of the Documents, the Material LCFS Contracts to which it is a party, the Material Contracts and all other material agreements relating to its properties, in each case, in all material respects, including payment of rentals, royalties, Taxes or other charges in respect thereof which are necessary to maintain all such agreements in good standing.
- (j) Comply with Law and Maintain Permits. The Borrower will, and will cause each other Loan Party to, comply in all material respects with applicable Laws and obtain and maintain all material permits, licenses, consents and approvals necessary to the ownership of their material property and to the conduct of their business in each jurisdiction where it carries on material business or owns material property, including those issued or granted by Governmental Authorities. The Borrower will also, and will cause each other Loan Party to, comply in all material respects with applicable Environmental Laws and obtain and maintain all material permits, licenses, consents and approvals necessary to the ownership of their material property and to the conduct of their business in each jurisdiction where it carries on material business or owns material property, including those issued or granted by Governmental Authorities.
- (k) Insurance. The Borrower will, and will cause each other Loan Party to, maintain adequate insurance in respect of its material property, including all plant and equipment, as is customary in the case of businesses of established reputation engaged in the same or similar businesses and to the extent available on commercially reasonable terms, with reputable insurance companies and will provide the Agent with copies of all insurance policies or certificates relating thereto if so requested.
- (l) Subsidiary Guarantees and Security. Subject to Sections 4.6, 4.11 and 4.12, within 10 Banking Days of creating or acquiring any Subsidiary, the Borrower will cause such Subsidiary to provide a guarantee and the other Security listed in Section 4.1, in form and substance acceptable to the Agent, acting reasonably, together with such other supporting documentation and legal opinions as the Agent may reasonably require; provided that, for certainty, WCSB and LCFS (and their respective Subsidiaries) shall not be required to provide any such guarantee or Security. The Borrower will notify the Agent upon the creation or acquisition of any new Subsidiary promptly upon the creation or acquisition thereof, and in any event, no later than 10 Banking Days after any such creation or acquisition.

- (m) Inspection of Property; Books and Records; Discussions. The Borrower will, and will cause each other Loan Party to, maintain books and records of account in accordance with GAAP and applicable Law; and permit representatives of the Agent at the Agent's expense no more than once a year while no Default or Event of Default exists and at any time at the Borrower's expense while a Default or Event of Default exists to visit and inspect any property of any of the Borrower or any Subsidiary thereof and to examine and make abstracts from any books and records of the Borrower or any Subsidiary thereof at any reasonable time during normal business hours and upon reasonable request and notice, and subject to compliance with the Borrower's health and safety requirements, and to discuss the business, property, condition (financial or otherwise) and prospects of the Borrower or any other Loan Party with their senior officers and (in the presence of such representatives, if any, as it may designate) with its independent chartered accountants.
- (n) Payment of Royalties, Taxes, Withholdings, etc. The Borrower shall, and shall cause each other Loan Party to, from time to time pay or cause to be paid all material royalties, rents, Taxes, rates, levies or assessments, ordinary or extraordinary, governmental fees or dues, and to make and remit all withholdings, lawfully levied, assessed or imposed upon any Loan Party or any of the assets of any Loan Party, as and when the same become due and payable, except when and so long as the validity of any such royalties, rents, Taxes, rates, levies, assessments, fees, dues or withholdings is being contested by such Loan Party by a Permitted Contest, and to duly file on a timely basis all tax returns required to be filed.
- (o) Remittances. The Borrower will, and will cause each other Loan Party to, make all of the material remittances required to be made by each Loan Party to the applicable federal, provincial or municipal governments and keep such remittances up to date, except to the extent such remittances are being contested by a Permitted Contest.
- (p) Protection of Security. The Borrower will, and will cause each other Loan Party that provides Security to the extent required hereunder to, do all things reasonably requested by the Agent to protect and maintain the Security and the priority thereof in relation to other Persons.
- (q) Environmental Audit. If the Agent, acting reasonably, determines that any Loan Party's obligations or other liabilities in respect of matters dealing with the protection or contamination of the Environment or the maintenance of health and safety standards, whether contingent or actual, have exceeded or would reasonably be expected to exceed the Threshold Amount then, at the request of the Agent, acting reasonably, the Borrower will, and will cause each other Loan Party and their Subsidiaries to, assist the Agent in conducting an environmental audit of the property which is the subject matter of such contingent or actual obligations or liabilities, by an independent consultant selected by the Agent. The reasonable costs of such audit will be for the account of the Borrower. Should the result of such audit indicate that any Loan Party is in breach, or with the passage of time will be in breach, of any Environmental Law, the breach of which would reasonably be expected to result in obligations or other liabilities exceeding the Threshold Amount, and without in any way prejudicing or suspending any of the rights and remedies of the Agent and the Lenders under the Documents, the Borrower will forthwith commence and diligently proceed to rectify or cause to be rectified such breach or potential breach, as the case may be, and will keep the Lenders fully advised of the actions it intends to take and has taken to rectify such breach or potential breach and the progress it is making in rectifying same. The Agent will be permitted to retain, for the account of the Borrower (to the extent such account is reasonable), the services

of a consultant to monitor the applicable Loan Party's compliance with this Section 14.1(q).

- (r) Payment of Preferred Claims. The Borrower shall, and shall cause each other Loan Party to, from time to time pay when due or cause to be paid when due all amounts related to wages, workers' compensation obligations, pension fund obligations and any other amount which would or would reasonably be expected to result in a lien, charge, security interest or similar encumbrance against the assets of the Borrower or such other Loan Party arising under statute or regulation, except when and so long as the validity of any such amounts or other obligations is being contested by the Borrower or any other Loan Party by a Permitted Contest.
  - (s) Property Loss Event. If any Loan Party suffers a Property Loss Event with respect to any property of any Loan Party which results in the receipt of property insurance proceeds (the "**Loss Amounts**"):
    - (i) equal to or in excess of the Threshold Amount, the Borrower shall use such Loss Amounts, firstly, to repay the Syndicated Facility on a permanent basis, and secondly, to repay the Operating Facility on a permanent basis, in each case, unless the Lenders otherwise consent; or
    - (ii) less than the Threshold Amount, the Borrower shall use such Loss Amounts to repair, rebuild or replace such property.
- For purposes of the calculation of Consolidated EBITDA, any such Property Loss Event will be deemed to be a disposition made on and as of the first day of the relevant calculation period in which the Property Loss Event occurred if the Loss Amounts are not reinvested. If the Syndicated Facility is fully repaid after a Property Loss Event, the requirement to repay in this Section 14.1(s) shall be deemed to be satisfied in respect of such Property Loss Event.
- (t) Anti-Money Laundering/Anti-Terrorist Financing Laws; Sanctions; Anti-Corruption Laws Representations Continue to be True. The Borrower shall, and shall cause its Subsidiaries to, conduct its business operations such that, and have policies and procedures in place to ensure that, the representations and warranties in Section 13.1(x) are true and correct at all times that this Agreement is in effect (and not just at, and as of, the times such representations and warranties are made or deemed to be made).
  - (u) Maintain Limited Partner Status. For so long as the Borrower or any other Loan Party is a partner of Dimsdale LP, the Borrower shall, and shall cause each other applicable Loan Party, to maintain its respective status as a limited partner of Dimsdale LP and not become, or be deemed under applicable law to become, a general partner of Dimsdale LP.
  - (v) [Redacted].
  - (w) [Redacted].
  - (x) Operatorship of the LCFS Project. The Borrower shall, at all times, be and remain the manager and operator of the LCFS Project pursuant to the applicable Material LCFS Contracts.

(y) [Redacted]

**14.2 Reporting Covenants.**

- (a) Financial Statements. The Borrower will furnish to the Agent a copy of: (i) the Borrower's quarterly unaudited consolidated financial statements on or prior to 60 days after the end of each of the first three Fiscal Quarters of each Fiscal Year; and (ii) the Borrower's annual audited consolidated financial statements on or prior to 120 days after the end of each Fiscal Year provided that: (A) in addition to the foregoing, the Borrower shall also provide, concurrent with the delivery of the unaudited and audited consolidated financial statements required pursuant to this Section, quarterly unaudited and annual audited financial statements for the applicable period which exclude LCFS (other than the investment therein) and (B) if the Borrower ceases to account for its interests in the Dimsdale Entities (or any of them) using the equity method of accounting, then in addition to the foregoing, the Borrower shall also provide, concurrent with the delivery of the unaudited and audited consolidated financial statements required pursuant to this Section, management-prepared financial statements for the applicable period which exclude the applicable Dimsdale Entities.
- (b) Quarterly Compliance Certificate. Within: (i) 60 days after the end of each of the first three Fiscal Quarters of each Fiscal Year; and (ii) 120 days after the end of each Fiscal Year, the Borrower will furnish to the Agent a Compliance Certificate.
- (c) Projections, Forecasts and Budgets. As soon as available and in any event not later than 120 days after the end of each Fiscal Year, the Borrower will furnish to the Agent the most recent board of Directors approved forecasts of the Borrower in respect of its business operations on a consolidated basis (other than in respect of WCSB and the Dimsdale Entities) and a statement of all of the material assumptions on which such forecasts are based, including annual cash flow projections, operating budgets and Capital Expenditure budgets.
- (d) Financial Instruments. Unless detailed in the financial statements furnished pursuant to Section 14.2(a), concurrently with furnishing such financial statements, the Borrower will furnish to the Agent a report on the status of all outstanding Financial Instruments, such report to be in a form and containing such information as may be required by the Lenders, acting reasonably, which shall in any event, (A) detail all hedging activity occurring during such Fiscal Quarter or the last Fiscal Quarter in such Fiscal Year, as applicable, and (B) detail the position and market value of all Financial Instruments in effect as at the end of such Fiscal Quarter or Fiscal Year, as applicable.
- (e) Notice of Default, Event of Default or Material Adverse Effect. The Borrower will notify the Agent of the occurrence of any Default or Event of Default or any other event which would reasonably be expected to result in a Material Adverse Effect as soon as reasonably possible upon the Borrower becoming aware thereof and specify in such notice the nature of the event and, if curable, the steps taken or proposed to be taken to remedy or eliminate the same.
- (f) Notice of Legal Proceedings. The Borrower will, as soon as reasonably possible upon the Borrower becoming aware thereof, notify the Agent of the commencement of any legal or administrative proceedings or any insurance claims against any Loan Party which, if adversely determined against such Loan Party, would reasonably be expected to create an obligation or liability in excess of the Threshold Amount.

- (g) Notice of Change of Control. The Borrower will, as soon as reasonably possible upon acquiring actual knowledge thereof, notify the Agent of any Change of Control or pending Change of Control.
- (h) Notice of Environmental Damage. The Borrower will, as soon as reasonably possible upon acquiring actual knowledge thereof, notify the Agent of the discovery of any Contaminant or of any Release of a Contaminant into the Environment from or upon the land or property owned (either individually or jointly), operated or controlled by any Loan Party which would reasonably be expected to create an obligation or liability in excess of the Threshold Amount.
- (i) Notices and Filings. The Borrower will, on a timely basis, furnish to the Agent all prospectuses, material change reports (except those filed on a confidential basis, but only for so long as such confidentiality remains in effect) and material press releases filed by any Loan Party with securities commissions having jurisdiction and other documents distributed by the Borrower to its shareholders.
- (j) Dividend and Hedging Policies. The Borrower will furnish to the Agent, the Borrower's dividend and hedging policies and any material changes thereto, in each case promptly after the approval thereof by the Borrower's board of Directors.
- (k) Material Contracts. The Borrower will promptly:
  - (i) notify the Agent of any material amendment, termination, material breach, material default or non-renewal of any Material Contract upon becoming aware thereof;
  - (ii) deliver to the Agent copies of any material notices received under or in connection with any Material Contract which would reasonably be expected to materially and adversely affect the rights of the Agent and the Lenders under the Documents; and
  - (iii) notify the Agent of any new Material Contracts not listed in Schedule I and provide the Agent with certified copies thereof.
- (l) Insurance. The Borrower will promptly notify the Agent in writing of any insurance claims relating to its property, assets or undertaking in excess of the Threshold Amount.
- (m) Notices in Respect of Junior Debt Documents. The Borrower will furnish to the Agent:
  - (i) as soon as reasonably possible, but in any event no later than three (3) Banking Days after the Borrower becoming aware of a default or event of default under any Junior Debt Document, a written notice describing in detail such default or event of default and specifying the steps, if any, being taken or proposed to be taken to remedy or eliminate the same;
  - (ii) as soon as reasonably possible, but in any event no later than three (3) Banking Days after the giving or receipt by the Borrower of the same, a copy of any notice given or received by the Borrower in respect of any repayment, prepayment, redemption or purchase by the Borrower of any Permitted Junior Debt; and

- (iii) except for amendments, supplements or modifications which do not require the consent of the Lenders pursuant to Section 14.3(n)(ii), not less than 10 Banking Days' prior written notice of any proposed alteration, amendment, modification or supplement to, or restatement of, any Junior Debt Document (or any waiver or consent to like effect), which notice shall include a copy of such proposed alteration, amendment, modification, supplement, restatement, waiver or consent.
- (n) Environmental Certificate. Within 120 days after the end of each Fiscal Year, the Borrower will furnish to the Agent, an Environmental Certificate.
- (o) *[Redacted]*
- (p) LCFS. The Borrower will furnish to the Agent:
  - (i) a copy of the annual and quarterly financial statements for LCFS which are substantially equivalent to the reporting requirements in Section 14.2(a);
  - (ii) promptly and, in any event, within 10 Banking Days after the execution thereof, and subject to Section 14.3(o), a true and complete copy of each material amendment, supplement or restatement to the Material LCFS Contracts;
  - (iii) promptly upon becoming aware of the same and, in any event, within 2 Banking Days, written notice of (A) any default or event of default by, or any failure to perform its obligations by, any party under the Material LCFS Contracts, and (B) any steps to terminate, forfeit or surrender any of the Material LCFS Contracts; and
  - (iv) promptly and, in any event, within 2 Banking Days after receipt by the Borrower, a copy of any notice of any default or event of default under any Material LCFS Contracts received by the Borrower pursuant to a Material LCFS Contract.
- (q) *[Redacted]*
- (r) Variance Report Testing. Concurrent with the delivery of each Compliance Certificate, the Borrower shall deliver to the Agent and the Lenders (in form and substance satisfactory to the Agent and a Special Majority of Lenders) a capital spending and acquisitions summary for the previous quarter, which shall include the details of any variance from the projections set forth in the Capital Spending Budget and Plan for such period (each such summary, a "**Variance Report**").
- (s) Other Information. The Borrower will provide to the Agent such other documentation and information concerning its business operations as may be requested by the Agent or any Lender (through the Agent), acting reasonably.
- (t) Alternative Delivery Provisions. The requirement to deliver the financial statements, notices, certificates, reports, documentation and other information in the foregoing provisions of this Section 14.2 may be satisfied by (1) sending the same to the Agent by electronic mail, so long as the Agent acknowledges receipt of such financial statements upon the delivery thereof or (2) posting such information on www.sedar.com or on an Intralinks or DebtDomain website to which the Agent and Lenders have access, as applicable, and, if not posted on www.sedar.com, forthwith advising the Agent that

such periodic reports and filings have been so posted and the details of the website on which the same have been posted.

- (u) Notices in respect of EDC Guarantee LC Facility Documents. The Borrower will:
- (i) as soon as reasonably possible, and in any event within 3 Banking Days of the occurrence of the same notify the Agent in writing: (A) if at any time EDC (x) notifies the Borrower that the contract insurance & bonding program for the Borrower has been terminated or (y) fails to grant bonding support in respect of a request under the EDC Guaranteed LC Facility; and (B) if, by the date that is 60 days prior to the expiry date of any EDC Guaranteed LC which may be automatically renewed, EDC has not issued (or re-issued) an account performance security guarantee in respect thereof which would cover the entirety of the automatically renewed term thereof;
  - (ii) furnish to the Agent, as soon as reasonably possible, but in any event no later than 3 Banking Days after the Borrower becoming aware of a default, event of default or other similar circumstance under any EDC Guaranteed LC Facility Document, a written notice describing in detail such default, event of default or other similar circumstance and specifying the steps, if any, being taken or proposed to be taken to remedy or eliminate the same;
  - (iii) furnish to the Agent, as soon as reasonably possible, but in any event no later than 3 Banking Days after the giving or receipt by the Borrower of the same, a copy of any material notice given or received by the Borrower pursuant to or in connection with any EDC Guaranteed LC Facility Document; and
  - (iv) as soon as reasonably possible, a copy of any alteration, amendment, modification or supplement to, or restatement of any EDC Guaranteed LC Facility Document (or, in each case, any waiver or consent of like effect).

**14.3 Negative Covenants.** While any Loan Obligations under either Credit Facility are outstanding or any Accommodation under either Credit Facility remains available:

- (a) Negative Pledge. The Borrower shall not, nor shall it permit any other Loan Party to, create, issue, incur, assume or permit to exist any Liens on any of its property, undertakings or assets other than Permitted Encumbrances.
- (b) Limitation on Distributions. Other than Distributions between Loan Parties, the Borrower will not, and will not permit any other Loan Party to, make any Distribution unless:
  - (i) no Default, Event of Default or Material Adverse Effect exists at such time and no Default, Event of Default or Material Adverse Effect would reasonably be expected to result therefrom;
  - (ii) the *pro forma* Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio after making any such Distribution would be less than [Redacted]:1 and the Borrower shall have delivered a pro forma Compliance Certificate to the Agent demonstrating the same (in form and substance satisfactory to the Agent);

- (iii) the *pro forma* aggregate principal amount outstanding under the Credit Facilities immediately following the making of such Distribution does not exceed [Redacted]% of the total Commitment Amount; and
- (iv) the date of such Distribution is more than 12 months prior to the Final Maturity Date.

Notwithstanding the foregoing, the Borrower shall be permitted to make ordinary course Distributions of the type contemplated in paragraph (a) of the definition of "Distributions" in an aggregate amount not exceeding \$[Redacted] per common share of the Borrower issued and outstanding per Fiscal Year without compliance with subparagraphs (ii) through (iv) above; provided that any Distributions under this last paragraph of Section 14.3(b) (such Distributions are referred to herein as, "**Existing Distributions**") shall be subject to the additional restrictions set forth in Section 14.3(w) and for purposes of the calculation in both (ii) and (iii) above, the Credit Facilities will be deemed to be drawn in an additional aggregate principal amount equal to the LCFS Disposition Adjustment.

- (c) Limitation on Financial Instruments. The Borrower will not, and will not permit any other Loan Party to, enter into or maintain any Currency Hedging Agreement, Commodity Swap or Interest Hedging Agreement and any other derivative agreement or other similar agreement or arrangements (collectively, the "**Financial Instruments**"), unless:
  - (i) such Financial Instrument is entered into only in the ordinary course of business and solely for hedging purposes and not for speculative purposes; and
  - (ii) such Financial Instrument is entered into in accordance with the then current hedging policies approved by the board of Directors of the Borrower,

provided that, notwithstanding the foregoing, no Excluded Subsidiary shall be permitted to enter into any Financial Instrument and further provided that the Borrower will not, and will not permit any other Loan Party to, extend or renew any existing Financial Instruments that are entered into with counterparties that are not Swap Lenders or Hedging Affiliates.

- (d) Mergers, Amalgamation and Consolidations. The Borrower will not, and will not permit any other Loan Party to merge, amalgamate or consolidate with another Person other than a Loan Party, provided that, if the Borrower is involved in such a transaction, the resulting entity will be the Borrower hereunder and an entity constituted under the laws of Canada or a Province or Territory thereof, with operations in Canada.
- (e) No Dissolution. Subject to Section 14.3(d), the Borrower shall not, nor shall it permit any other Loan Party to, liquidate, dissolve or wind up or take any steps or proceedings in connection therewith except, in the case of a Loan Party, where the successor thereto or transferee thereof is the Borrower or another Loan Party, provided that, if the Borrower is involved in such a transaction, the resulting entity will be the Borrower hereunder and an entity constituted under the laws of Canada or a Province or Territory thereof, with operations in Canada.
- (f) Limitation on Indebtedness. The Borrower shall not have or incur, or permit any other Loan Party to have or incur, any Indebtedness other than Permitted Indebtedness; provided that, notwithstanding the foregoing or anything else to the contrary in this

Agreement, at no time shall the principal amount of the total senior secured Indebtedness of the Loan Parties (for certainty, including the Credit Facilities and any other Indebtedness ranking equal thereto, but excluding Permitted Junior Debt, Finance Leases and Purchase Money Liens and for certainty, excluding any obligations owing from time to time on any EDC Guaranteed LC Facility and EDC Indemnity Agreement and any obligations under Financial Instruments) exceed the aggregate principal amount of the Credit Facilities. In addition, if the total Commitment Amount (and any other Indebtedness ranking equal thereto, but excluding Finance Leases and Purchase Money Liens and for certainty, excluding any obligations owing from time to time on any EDC Guaranteed LC Facility and EDC Indemnity Agreement and any obligations under Financial Instruments) together with any Permitted Junior Debt ("**Total Availability**") would otherwise exceed Cdn. \$[Redacted] in the aggregate at any time, then the Credit Facilities will be reduced and cancelled on a dollar for dollar basis concurrent with any such closing of a Permitted Junior Debt issuance until the Total Availability is no more than Cdn. \$[Redacted].

- (g) Asset Dispositions. Subject to Section 14.3(u), other than Permitted Dispositions, the Borrower will not, and will not permit any other Loan Party to, directly or indirectly, make any sale, exchange, lease, transfer or other disposition of any of its assets or properties (including, for certainty, the sale of the Voting Securities or other equity interests held by any Loan Party in another Loan Party or any other Person (including, for certainty, LCFS)) to any Person. Notwithstanding the foregoing, during the continuance of a Default or Event of Default, the Loan Parties will not make any Permitted Dispositions except for those described in paragraph (a) in the definition thereof set forth in Schedule A.
- (h) Change in Business, Name, Location or Fiscal Year. The Borrower will not, and will not permit any other Loan Party to: (i) materially change the nature of their business or operations from, or carry on business other than, midstream oil and gas business, including the business of extracting, purchasing, selling, processing, storing and transporting oil and natural gas liquids (and businesses or activities related, complementary, synergistic or ancillary to any of the foregoing) (collectively, "**Midstream Business**"); or (ii) change its name, trade name or locations of business from those set forth in Schedule G without giving the Agent no less than 15 days prior notice thereof; or (iii) change its Fiscal Year end.
- (i) Capital Contributions/Financial Assistance/Ownership Interests. Subject to Section 14.3(u), the Borrower will not, and will not permit any other Loan Party to, make any contributions of capital or any other forms of equity investment in any Person or provide any Financial Assistance to any Person except:
  - (i) investments in or Financial Assistance between Loan Parties;
  - (ii) Financial Assistance of the type set out in paragraph (i) of the definition of "Permitted Indebtedness";
  - (iii) investments or Financial Assistance not exceeding the Threshold Amount in the aggregate in any 12 calendar month period;
  - (iv) [Redacted];
  - (v) a guarantee made by the Borrower in favour of the lenders under the Dimsdale Project Financing (or their agent) with such guarantee being limited in recourse

to the Borrower's present and future shares of Dimsdale GP and partnership units of Dimsdale LP and the Retained Working Interest;

- (vi) Financial Assistance constituted by the [Redacted] Indemnity Agreement, provided it is at all times subject to the [Redacted] NIL;
- (vii) investments made as part of any acquisition for all or substantially all of the assets or Voting Securities of any proposed acquisition target by a Loan Party; and
- (viii) investments in or Financial Assistance between any Loan Party and LCFS or its Subsidiaries to the extent permitted by Section 14.3(u)(iii),

provided that, in each case other than paragraph (viii) above, no Default, Event of Default or Material Adverse Effect exists or would result therefrom, and provided that, in the case of (vii) above, (A) the Agent has been granted liens over the applicable assets of the acquired entity or the successor entity after the closing of such transaction, (B) the Loan Parties are in pro forma compliance with the financial covenants listed in Section 14.4, (C) such transaction is consensual and, in the case of a stock acquisition, approved by the board of Directors of the applicable proposed acquisition target, (D) the entity or assets that are the subject of such acquisition are in the business of the Loan Parties or a business reasonably related, ancillary, incidental or complementary thereto, and (E) for transactions greater than Cdn.\$50,000,000 where the pro forma Consolidated Debt to Consolidated Adjusted EBITDA Ratio after giving effect to any such transaction is greater than or equal to [Redacted]:1, Majority Lender consent is obtained. Notwithstanding any provision to the contrary herein, the Borrower will not, and will not permit any other Loan Party to, make any contributions of capital or any other forms of equity investment in, provide any Financial Assistance to, or otherwise hold an ownership interest in, any entity conducting or carrying on business, the nature of which is not Midstream Business (other than the ownership of WCSB, the Dimsdale Entities and LCFS by the Loan Parties in compliance with the terms hereof and, for certainty, the contribution, assignment and transfer by (x) the Borrower to Tidewater Acquisition, and (y) Tidewater Acquisition to LCFS, of the LCFS Assets, and the fulfillment of its contractual obligations in accordance with the Material LCFS Contracts as permitted pursuant to Section 14.3(u)(iii)),

Notwithstanding anything to the contrary in this Section 14.3(i), no Loan Party shall be permitted to provide Financial Assistance to any Person in respect of any Convertible Debentures.

- (j) Transactions with Affiliates. Subject to Section 14.3(u), the Borrower will not, and will not permit any other Loan Party to, except as otherwise specifically permitted hereunder, enter into any transaction, including the purchase, sale or exchange of any property or the rendering of any services, with any of its Affiliates, or with any of its or their Directors or officers, or enter into, assume or suffer to exist any employment, consulting or analogous agreement or arrangement with any such shareholder or Affiliate or with any of its Directors or officers, except a transaction or agreement or arrangement which is upon fair and reasonable terms not materially less favourable to the applicable Loan Party than it would obtain in a comparable arms-length transaction; provided that such restriction will not apply to any transaction between the Loan Parties (other than any Excluded Subsidiary); and provided further that, for certainty, transactions and arrangements pursuant to any Material LCFS Contract which was

effective on or before August 18, 2021 will be deemed to comply with this Section 14.3(j).

- (k) Changes to Constating Documents. The Borrower will not, and will not permit any other Loan Party to, amend the terms of its constating documents or its by-laws, any applicable partnership agreement or any similar document or instrument if, in each case, to do so would reasonably be expected to materially and adversely affect the rights of the Agent and the Lenders under the Documents.
- (l) Material Contracts. The Borrower will not, and will not permit any other Loan Party to, (i) amend or otherwise modify any Material Contract if to do so would reasonably be expected to materially and adversely affect the rights of the Agent and the Lenders under the Documents, or (ii) terminate any Material Contract unless (A) 30 days prior notice thereof is provided to the Agent; and (B) the same is replaced within 15 days by one or more agreements on terms (taken as a whole) not materially and adversely prejudicial to the rights of the Agent and the Lenders under the Documents; and (C) such termination would otherwise not be materially and adversely prejudicial to the rights of the Agent and the Lenders under the Documents.
- (m) Excess Cash Balances. The Borrower shall not, and shall not permit any Subsidiary thereof to, accumulate, hold or otherwise retain Excess Cash. Without limiting the generality of the foregoing, if on any day the Borrower and its Subsidiaries have any Excess Cash, then, within 3 Banking Days, the Borrower shall repay or cause to be repaid Advances outstanding under the Credit Facilities in an amount equal to the lesser of (i) the amount of such Excess Cash on the date of such repayment; and (ii) the Aggregate Principal Amount under the Credit Facilities (excluding therefrom (A) any Bankers Acceptance, BA Equivalent Loan or SOFR Loans which are not pre-payable without payment of breakage costs or cash collateralization until their respective maturity dates or expiry of SOFR Periods, as the case may be, and (B) Letters of Credit, other than Letters of Credit that have been drawn and not reimbursed in accordance with Section 10.5) outstanding on the date of such repayment.
- (n) Junior Debt. The Borrower will not, and will not permit any other Loan Party to:
  - (i) repurchase or prepay the principal amount of any Permitted Junior Debt:
    - (A) other than to the extent such repurchase or prepayment is funded from the proceeds of Permitted Junior Debt or a Permitted Junior Debt Refinancing;
    - (B) other than to the extent such repurchase or prepayment is funded from (x) the net cash proceeds from equity issued by the Borrower or any other Loan Party, and (y) if the outstanding principal amount of the Credit Facilities (excluding any undrawn Letters of Credit which have been fully cash collateralized) is nil, the cash flow from the Loan Parties; or
    - (C) unless, if not otherwise permitted under clauses (A) and (B) above, (i) the *pro forma* Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio after giving effect to any such repurchase or prepayment is less than [Redacted]:1 and the Borrower shall have delivered a *pro forma* Compliance Certificate to the Agent demonstrating the same (in form and substance satisfactory to the

Agent), (ii) the *pro forma* aggregate principal amount outstanding under the Credit Facilities immediately following any such repurchase or prepayment does not exceed [Redacted]% of the total Commitment Amount, and (iii) the date of such repurchase or prepayment is more than 12 months prior to the Final Maturity Date; provided that any repurchase or repayment under this clause (C) shall be subject to the additional restrictions set forth in Section 14.3(w), and for purposes of the calculation in both (i) and (ii) above, the Credit Facilities will be deemed to be drawn in an additional aggregate principal amount equal to the LCFS Disposition Adjustment.

provided further that, in each case, no Default or Event of Default is continuing at the time of such repurchase or prepayment or would reasonably be expected to result therefrom; and

- (ii) amend, supplement or modify (as applicable) any provision of the Junior Debt Documents (or provide any waiver or consent to like effect) other than such amendments, supplements or modifications which are permitted without the approval of the applicable Junior Creditors; provided that, for certainty, any amendment of the Junior Debt Documents which wholly consists of the provision of an additional guarantee or security in respect of the Junior Debt Documents from a Loan Party which has provided or concurrently provides a guarantee or security of, or in respect of, the Obligations will be permitted.
- (o) Amendment to the Dimsdale Documents. The Borrower will not, and will not permit any other Loan Party or Dimsdale Holdings to, amend any terms or conditions of the Dimsdale Documents in a manner that would reasonably be expected to materially and adversely affect the rights of the Agent and the Lenders under the Documents without the prior written consent of the Agent and the Majority Lenders. Notwithstanding the foregoing, and for greater certainty, the Borrower may assign its interests in and to the Dimsdale LPA and the Dimsdale USA to Dimsdale Holdings in connection with the transfer and assignment by the Borrower of all of its right, title and interest in and to any ownership interests in Dimsdale LP and Dimsdale GP to Dimsdale Holdings.
- (p) [Redacted]
- (q) Amendment to Material LCFS Contracts. The Borrower will not, and will not permit any other Loan Party or LCFS to, amend any terms or conditions of the Material LCFS Contracts in a manner that would reasonably be expected to materially and adversely affect the rights of the Agent and the Lenders under the Documents without the prior written consent of the Agent and the Majority Lenders, provided that the Borrower shall deliver all documentation evidencing such amendments to the Material LCFS Contracts to the Agent and the Lenders within 10 Banking Days.
- (r) Reduction of Ownership Interest in Dimsdale Entities. The Borrower will not permit its direct or indirect ownership interest in Dimsdale GP and Dimsdale LP to be less than 50% of the aggregate issued Voting Securities issued by either such Dimsdale Entity and will not permit its direct or indirect ownership interest in Dimsdale Holdings to be less than [Redacted]% of the aggregate issued Voting Securities of Dimsdale Holdings.
- (s) Reduction of Ownership Interest in LCFS. The Borrower will not permit its direct or indirect ownership in LCFS to be less than 50% of the aggregate outstanding Voting Securities issued by LCFS, without the consent of the Special Majority of Lenders.

- (t) [Redacted]
- (u) Exceptions. Notwithstanding Sections 14.3(g), 14.3(i) and 14.3(j), and notwithstanding the definition of the defined term "Permitted Dispositions", the definition of the defined term "Permitted Indebtedness" or anything else to the contrary in any of the Documents, the Borrower shall not, and shall not permit any other Loan Party to:
- (i) make a contribution of capital or other form of equity investment to, provide any Financial Assistance to, or borrow from or otherwise become indebted to, WCSB, or enter into any transaction (including any purchase, sale or exchange of property, but excluding any transaction involving the provision of services) with WCSB, in each case, other than (i) pursuant to the WCSB Transactions, and (ii) any subsequent transactions of a similar nature where the ownership interest of the Borrower in WCSB is changed and which comply with the terms of this Agreement;
  - (ii) make a contribution of capital or other form of equity investment to, provide any Financial Assistance to, enter into any transaction (including any purchase, sale or exchange of property or the rendering of any services) with, Dimsdale LP or Dimsdale GP, in each case other than (A) the contribution, assignment and transfer by the Borrower of the Dimsdale Assets to Dimsdale LP (and/or, if applicable, to Dimsdale GP), (B) the transfer and assignment by the Borrower of all of its right, title and interest in and to Dimsdale LP and Dimsdale GP to Dimsdale Holdings, (C) the operation of the Dimsdale Project by the Borrower, as operator, pursuant to the Dimsdale Operating Agreement, (D) pursuant to the Trust Agreement, (E) in connection with the Retained Working Interest, (F) as may be permitted by Section 14.3(i) of this Agreement, and (G) any transaction or agreement or arrangement which is upon fair and reasonable terms not materially less favourable (taken as a whole) to the applicable Loan Party than it would obtain in comparable arms-length transactions; or
  - (iii) make a contribution of capital or other form of equity investment to, provide any Financial Assistance to, enter into any transaction (including any purchase, sale or exchange of property) with, LCFS, in each case other than: (A) the transfer and contribution by (x) the Borrower to Tidewater Acquisition, and (y) Tidewater Acquisition to LCFS, of the LCFS Assets pursuant to the Renewables Asset Sale Agreements and (B) as may be required to fulfill its specified contractual obligations in accordance with the Material LCFS Contracts.
- (v) Convertible Debentures. The Borrower will not, and will not permit any other Loan Party to:
- (i) issue the New Convertible Debentures until all of the New Convertible Debenture Conditions have been satisfied (or waived in writing by all of the Lenders); or
  - (ii) repurchase or prepay the principal amount of any Convertible Debentures, whether by way of redemption, retraction or otherwise, or purchase for cash any of the Convertible Debentures from any holder thereof before the date on which such Convertible Debentures are due:

- (A) other than to the extent such repurchase or prepayment is funded from the proceeds of a Permitted Convertible Debenture Refinancing;
- (B) other than to the extent such repurchase or prepayment is funded from (x) the net cash proceeds from equity issued by the Borrower or any other Loan Party, and (y) if the outstanding principal amount of the Credit Facilities (excluding any undrawn Letters of Credit which have been fully cash collateralized) is nil, the cash flow from the Loan Parties; or
- (C) unless, if not otherwise permitted under clauses (A) and (B) above, (I) the pro forma Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio after giving effect to any such repurchase or prepayment is less than [Redacted]:1 and the Borrower shall have delivered a pro forma Compliance Certificate to the Agent demonstrating the same (in form and substance satisfactory to the Agent), (II) the pro forma aggregate principal amount outstanding under the Credit Facilities immediately following any such repurchase or prepayment does not exceed [Redacted]% of the total Commitment Amount, and (III) the date of such repurchase or prepayment is more than 12 months prior to the Final Maturity Date; provided that any repurchase or repayment under this clause (C) shall be subject to the additional restrictions set forth in Section 14.3(w), and for purposes of the calculation in both (i) and (ii) above, the Credit Facilities will be deemed to be drawn in an additional aggregate principal amount equal to the LCFS Disposition Adjustment.

provided further that, in each case, no Default or Event of Default is continuing at the time of such repurchase or prepayment or would reasonably be expected to result therefrom. For certainty, nothing herein shall prohibit the conversion of obligations, liabilities and indebtedness under Convertible Debentures into equity of the Borrower or such other Loan Party which has issued such Convertible Debentures in accordance with the terms thereof.

- (w) Limitation on Payments. The Borrower shall not, and shall not permit its Subsidiaries to, make Existing Distributions, Purchase Option Payments or make any cash payments of principal of Permitted Junior Debt or Convertible Debentures if: (i) the amount of such payments together with the amount of all other payments under Section 14.3(b) in any Fiscal Year (and including, for certainty, the aggregate amount of Existing Distributions) would exceed an aggregate amount of Cdn.\$[Redacted] (or such higher amount as may be agreed to by all of the Lenders), other than as permitted under Sections 14.3(n)(i)(A), 14.3(n)(i)(B), 14.3(v)(ii)(A) and 14.3(v)(ii)(B), or (ii) the pro forma availability under the Credit Facilities shall be less than 30% of the Commitment Amount immediately after taking into account the aggregate impact of i) any such payment and ii) deeming the Credit Facilities to be drawn in an additional aggregate principal amount equal to the LCFS Disposition Adjustment. For certainty, these limitations do not apply to the repayment and cancellation of the [Redacted] Obligations.
- (x) Husky Account. The Borrower shall not deposit any cash, funds or other proceeds into the Husky Account (as defined in the [Redacted] NIL), or any substitute, replacement or successor accounts, other than the Husky Proceeds (as defined in the [Redacted] NIL) and shall deposit all Husky Proceeds (as defined in the [Redacted] NIL) into the

Husky Account (as defined in the [Redacted] NIL), or any substitute, replacement or successor accounts.

- (y) Limitation on Acquisitions and Capital Spending. As of the date of each Variance Report, the aggregate cumulative variances in capital spending of the Loan Parties, including the net impact of any acquisitions of properties or assets by the Loan Parties, from the projections set forth in the Capital Spending Budget and Plan as at the Closing Date, shall not be in excess of [Redacted]%, unless either waived or consented to by a Special Majority of Lenders in writing; provided that acquisitions or capital spending which are funded by net cash proceeds from common equity issued by the Borrower or any other Loan Party specifically for such purpose shall not be used in determining the amount of any variance in capital spending of the Loan Parties, and for certainty, any proceeds from the disposition of LCFS Voting Securities and all proceeds of the Unit Offering and Private Placement do not constitute the foregoing.
- (z) Purchase Option Payments. The Borrower will not, and will not permit any other Loan Party to make any Purchase Option Payment:
- (i) other than to the extent such Purchase Option Payment is funded from the proceeds of Permitted Junior Debt;
  - (ii) other than to the extent such Purchase Option Payment is funded from (x) the net cash proceeds from equity issued by the Borrower or any other Loan Party, and (y) if the outstanding principal amount of the Credit Facilities (excluding any undrawn Letters of Credit which have been fully cash collateralized) is nil, the cash flow from the Loan Parties; or
  - (iii) unless, if not otherwise permitted under clause (i) or (ii), (A) the pro forma Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio after giving effect to any such Purchase Option Payment is less than [Redacted]:1 and the Borrower shall have delivered a pro forma Compliance Certificate to the Agent demonstrating the same (in form and substance satisfactory to the Agent), (B) the pro forma aggregate principal amount outstanding under the Credit Facilities immediately following any such Purchase Option Payment does not exceed [Redacted]% of the total Commitment Amount, and (C) the date of such Purchase Option Payment is more than 12 months prior to the Final Maturity Date; provided that any repurchase or repayment under this clause (iii) shall be subject to the additional restrictions set forth in Section 14.3(w), and for purposes of the calculation in both (i) and (ii) above, the Credit Facilities will be deemed to be drawn in an additional aggregate principal amount equal to the LCFS Disposition Adjustment.

provided further that, no Default or Event of Default is continuing at the time of such Purchase Option Payment or would reasonably be expected to result therefrom. Notwithstanding the foregoing, the Borrower shall be permitted to make Exempt Purchase Option Payments without compliance with subparagraphs (A) through (C) above; provided that no Default, Event of Default or Material Adverse Effect exists at such time and no Default, Event of Default or Material Adverse Effect would reasonably be expected to result therefrom and that such payments shall be subject to the additional restrictions set forth in Section 14.3(w).

(aa) Amendments to Purchase Option Payment Documents. The Borrower will not, and will not permit any other Loan Party to amend, supplement or modify (as applicable) any provision of the Purchase Option Payment Documents (or provide any waiver or consent to like effect).

(bb) Pipestone Gas Plant. The Borrower shall not:

- (i) make any sale, exchange, lease, transfer or other disposition of the Pipestone Gas Plant and shall not permit its direct ownership interest in the Pipestone Gas Plant to be less than 100%, or
- (ii) proceed with future phases of the Pipestone Gas Plant or make or declare a final investment decision (or analogous binding decision) in respect of future phases of the Pipestone Gas Plant,

in each case, without the consent of a Special Majority of Lenders.

(cc) EDC Guaranteed LC Facility Documents. Notwithstanding the terms of any EDC Guaranteed LC Facility Document:

- (i) the Borrower shall not, and shall not permit any Subsidiary to, without the prior written consent of all of the Lenders:
  - (A) make, any payment or repayment of any indebtedness, liabilities or other obligations owing under, pursuant or relating to the EDC Guaranteed LC Facility or the EDC Indemnity Agreement (or any portion thereof), including payment of interest, if a Default or Event of Default exists or would reasonably be expected to result therefrom at the time of any such payment or repayment; or
  - (B) make any payment, on, or in respect of, any indebtedness, liabilities or obligations of the Borrower or any other Loan Party or any of their Subsidiaries to EDC under, pursuant or relating to the EDC Indemnity Agreement (or any portion thereof) with proceeds of an Advance under the Credit Facilities;
- (ii) the Borrower shall not request any Advance for the purpose of, or use the proceeds of any Advance to, directly or indirectly, replacing or refinancing any EDC Guaranteed LC (for certainty, including pursuant to the use of any Advance to provide cash collateral to the EDC Guaranteed LC Facility Provider or any other person, the provision of any "back-to-back" letter of credit as security for any EDC Guaranteed LC or to obtain any Letter of Credit for the replacement or refinancing of any EDC Guaranteed LC or otherwise), in each case, without the prior written consent of all of the Lenders. In addition to and without derogating from any provision herein or in any other Document to the contrary, and for greater certainty, to the extent the EDC Indemnity Agreement is terminated (whether by the Borrower, by EDC or otherwise), all of the Lenders, collectively and each in their sole discretion, shall have the right to determine whether or not any EDC Guaranteed LCs may be deemed to be outstanding under the Credit Facilities; and
- (iii) the Borrower shall not, and shall not permit any Subsidiary to, amend, supplement or modify (as applicable) any provision of any of the EDC

Guaranteed LC Facility Documents (or provide any waiver or consent to like effect) other than such amendments, supplements or modifications that are of an administrative nature.

**14.4 Financial Covenants.** While any Loan Obligations under either Credit Facility are outstanding or any Accommodation under either Credit Facility remains available, the Borrower covenants with the Agent and the Lenders that:

- (a) Consolidated EBITDA to Interest Coverage Ratio. As at the end of each Fiscal Quarter, the Consolidated EBITDA to Interest Coverage Ratio will not be less than 2.50:1.
- (b) Consolidated Debt to Consolidated Adjusted EBITDA Ratio. As at the end of each Fiscal Quarter, the Consolidated Debt to Consolidated Adjusted EBITDA Ratio will not be greater than 4.50:1.
- (c) Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio. As at the end of each Fiscal Quarter, the Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio will not be greater than 3.50:1.
- (d) Minimum Availability. Without the written consent of a Special Majority of Lenders, at all times (including on the Closing Date), the availability under the Syndicated Facility shall not be less than Cdn. \$50,000,000.

**14.5 Most Favoured Lenders.**

- (a) If at any time the Junior Debt Documents include:
  - (i) any one or more covenants or events of default that are not provided for in the Documents taking into account the different relevant circumstances between (A) the Junior Debt Documents and the Junior Creditors and (B) the Documents and the Lenders; or
  - (ii) any one or more covenants or events of default that are more restrictive, taken individually or as a whole, than the same or similar covenants or events of default provided in this Agreement or the other Documents taking into account the different relevant circumstances between (A) the Junior Debt Documents and the Junior Creditors and (B) the Documents and the Lenders;

(in each case, a "**More Restrictive Term**"),

then: (A) such More Restrictive Term shall upon notice from the Agent be incorporated by reference in this Agreement as if set forth fully herein, *mutatis mutandis*, and no such provision may thereafter be waived, amended or modified under this Agreement except pursuant to the provisions of Section 18.16, and (B) the Borrower shall promptly, and in any event within ten (10) days after entering into any More Restrictive Term so advise the Agent in writing and thereafter, upon the request of the Majority Lenders, the Majority Lenders shall enter into an amendment to this Agreement evidencing the incorporation of such More Restrictive Term, it being agreed that any failure to make such request or to enter into any such amendment shall in no way qualify or limit the incorporation by reference described in clause (A) of this paragraph.

- (b) Notwithstanding Section 14.5(a), if at any time, so long as no Default or Event of Default shall have occurred and be continuing, and no "default" or "event of default" has

occurred and is continuing under any Junior Debt Document (as such terms or equivalents are defined in the Junior Debt Documents, as applicable), any Junior Debt Document amends, suspends or removes any More Restrictive Term then upon notice thereof by the Borrower to the Agent, the terms of this Agreement shall, without any further action on the part of the Borrower or the Agent, be deemed to be amended automatically to suspend the application of such More Restrictive Term for so long as there continues to be no such equivalent More Restrictive Term in effect under such Junior Debt Document; provided that, if any fee or other payment is paid as consideration for such amendment, suspension or removal of a More Restrictive Term, then the Borrower shall pay the same fee or other payment to the Agent for the account of the Lenders to be shared on the basis of each Lender's Rateable Portion.

- (c) Notwithstanding Section 14.5(a), the provisions of any Junior Debt Document that (i) establish any interest rate, fees or other amounts payable in respect of any Permitted Junior Debt, (ii) provide for any make-whole payments to be paid by the Borrower in connection with an early repayment or pre-payment of any Permitted Junior Debt, or (iii) impose a limit on the amount of Indebtedness that may be incurred under this Agreement, shall, in each case, not be subject to the requirements of the first paragraph of this Section 14.5.

## **ARTICLE 15 EVENTS OF DEFAULT**

**15.1 Event of Default.** Each of the following events will constitute an Event of Default:

- (a) Failure to Pay. If:
  - (i) the Borrower makes default in the due and punctual payment of any principal amount owing under the Documents as and when the same becomes due and payable, whether at maturity or otherwise; or
  - (ii) the Borrower makes default in the due and punctual payment of interest or fees owing under the Documents or amounts under the Bank Product Documents, as and when the same become due and payable, whether at maturity or otherwise and such default continues for a period of 3 Banking Days after written notice thereof is given to the Borrower by the Agent.
- (b) Incorrect Representations. If (i) any representation and warranty made by any Loan Party in any Document or deemed to have been repeated as herein provided proves to have been incorrect when so made (or in the case of third parties, to the knowledge of the Borrower was incorrect when so made); (ii) any certification or information provided in accordance with Section 14.2 proves to have been incorrect when so made (or in the case of third parties, to the knowledge of the Borrower was incorrect when so made), or (iii) the Borrower was aware of any omission of any material fact which rendered any representation and warranty incomplete or misleading in any material way at the time given; and in each case, the underlying facts, if capable of being remedied such that the representation and warranty if made at such time would be correct, are not so remedied within 30 days after notice of such incorrectness is given to the Borrower or the Borrower otherwise becomes aware thereof, whichever is earlier (but only if and for so long as the remedying thereof was and continues to be diligently and in good faith pursued and no Material Adverse Effect has occurred or is imminent as a result of such facts).

- (c) Breach of Certain Covenants. The Borrower fails to observe or perform any covenant in Sections 14.1(e), 14.1(t), 14.1(u), 14.1(x), 14.3 or 14.4.
- (d) Breach of Covenants. Except for an Event of Default set out in Section 15.1(a), 15.1(c) or elsewhere in this Section 15.1, if a Loan Party defaults in the performance or observance of any covenant, obligation or condition to be observed or performed by it pursuant to any of the Documents, and such default continues for a period of 30 days after notice thereof is given to the Borrower by the Agent or the Borrower otherwise becomes aware thereof, whichever is earlier (but only if and for so long as the remedying thereof was and continues to be diligently and in good faith pursued and no Material Adverse Effect has occurred or is imminent as a result of such default).
- (e) Insolvency. If a judgment, decree or order of a court of competent jurisdiction is entered against a Loan Party: (i) adjudging it to be bankrupt or insolvent, or approving a petition seeking its reorganization or winding-up under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any other bankruptcy, insolvency or analogous Law; or (ii) appointing a receiver, trustee, liquidator, or other Person with like powers, over all, or substantially all, of its property; or (iii) ordering the involuntary winding up or liquidation of its affairs; or (iv) appointing any receiver or other Person with like powers over all, or substantially all, of its property, unless, in any such case, such judgment, petition, order or appointment is stayed and of no effect against the rights of the Lenders within 30 days of its entry.
- (f) Winding-Up. If: (i) an order or a resolution is passed for the dissolution, winding-up, reorganization or liquidation of a Loan Party, pursuant to applicable Law, including the *Business Corporations Act* (Alberta) (except as permitted by Section 14.3(d)); or (ii) any Loan Party institutes proceedings to be adjudicated bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any other bankruptcy, insolvency or analogous Law; or (iii) any Loan Party consents to the filing of any petition under any such Law or to the appointment of a receiver, or other Person with like powers, over all, or substantially all, of any of their property; or (iv) any Loan Party makes a general assignment for the benefit of creditors, or becomes unable to pay its debts generally as they become due; or (v) any Loan Party takes or consents to any action in furtherance of any of the aforesaid purposes.
- (g) Other Debt. A Loan Party (i) fails to make any payment of principal, interest or other amount in regard to any Convertible Debentures or Indebtedness (other than Indebtedness pursuant to a Swap Document with a Lender or under the EDC Indemnity Agreement), which for the purpose of this Section 15.1(g) includes obligations and liabilities under any Financial Instrument that is not a Swap Document and under the Bank Product Documents, whatsoever owed by it after the expiry of any applicable grace or cure period in respect thereof, to any Person other than the Agent or any Lender under the Documents, which in the aggregate exceeds the Threshold Amount, or (ii) defaults in the observance or performance of any non-monetary obligation, covenant or condition to be observed or performed by it pursuant to any agreement to which it is a party or by which any of its property is bound such that the counterparty thereto is permitted to accelerate the maturity of the Convertible Debentures or the Indebtedness thereunder, in each case, where the aggregate amount which would as a result thereof be required to be paid thereunder is in excess of the Threshold Amount.
- (h) Adverse Proceedings. The occurrence of any action, suit or proceeding against or affecting a Loan Party before any court or before any Governmental Authority which, if

adversely determined against such Loan Party, would reasonably be expected to have a Material Adverse Effect, unless the action, suit, or proceedings is being contested diligently and in good faith and, in circumstances where a lower court or tribunal has rendered a decision adverse to it, such Loan Party is appealing such decision, and has provided a reserve in respect thereof if and to the extent required in accordance with GAAP.

- (i) Material Lien. The property of a Loan Party having a fair market value in excess of the Threshold Amount, in the aggregate, shall be seized (including by way of execution, attachment, garnishment or distraint) or any Lien thereon shall be enforced, or such property shall become subject to any charging order or equitable execution of a court, or any writ of enforcement, writ of execution or distress warrant with respect to obligations in excess of the Threshold Amount, in the aggregate, shall exist in respect of any one or more Loan Parties, or such property, or any sheriff, civil enforcement agent or other Person shall become lawfully entitled to seize or distrain upon such property under the *Civil Enforcement Act* (Alberta), the *Workers' Compensation Act* (Alberta), the *Personal Property Security Act* (Alberta) or any other applicable Laws whereunder similar remedies are provided, and in any case such seizure, execution, attachment, garnishment, distraint, charging order or equitable execution, or other seizure or right, shall continue in effect and not be released or discharged for more than 30 days.
- (j) Judgment. A judgment or judgments are obtained against any Loan Party for an amount in excess of the Threshold Amount, in the aggregate, which remains unsatisfied and undischarged for a period of 30 days during which such judgment or judgments shall not be on appeal or execution thereof shall not be effectively stayed.
- (k) Swap Documents. The occurrence of an event of default or other termination event under any Swap Document with respect to net obligations payable by the applicable Loan Party thereunder in excess of the Threshold Amount, in the aggregate, or any Loan Party fails to make any payment as required following a demand, an event of default or other termination event, in each case which continues for 3 Banking Days after the expiry of any applicable grace period thereunder and notice of such occurrence is given to the Borrower and to the Agent.
- (l) Cessation of Business. Except as permitted by Section 14.3(d), a Loan Party ceases or proposes to cease carrying on business, or a substantial part thereof, or makes or threatens to make a sale of all or substantially all of its property.
- (m) Enforceability of Documents. Any material provision of any Document shall at any time cease to be in full force and effect, be declared to be void or voidable or shall be repudiated, or the validity or enforceability thereof shall at any time be contested by any Loan Party or if any Lien constituted pursuant to the Security ceases to have the priority contemplated in the Documents and in each case (other than any contest by any Loan Party) the same is not as soon as practicable effectively rectified or replaced by such Loan Party.
- (n) Qualified Auditor Report. The audited financial statements that are required to be delivered to the Agent pursuant to Section 14.2(a) contain a qualification that is not acceptable to the Majority Lenders, acting reasonably, and, if unacceptable, such qualification is not rectified or otherwise dealt with to the satisfaction of the Majority Lenders within a period of 30 days after delivery of such financial statements.

- (o) Change of Control. A Change of Control occurs and is not consented to by the Majority Lenders.
- (p) Material Contracts.
  - (i) An event of default or other similar condition or event (however described) occurs under any Material Contract (A) in respect of a Loan Party and is continuing after the expiry of any grace period thereunder, if the same would reasonably be expected to result in the exercise of any material remedies or (B) in respect of a counterparty to a Loan Party and is continuing after the expiry of any grace period thereunder, if the same would reasonably be expected to have a Material Adverse Effect; or
  - (ii) any Material Contract is terminated by any party thereto (other than a Loan Party) in advance of its intended expiry or termination date (and the same is not replaced within 30 days or becomes unenforceable) and in each case the same would reasonably be expected to have a Material Adverse Effect.
- (q) Material Adverse Effect. If there is, in the opinion of the Agent or the Lenders, acting reasonably, any other event not described in this Section 15.1 above, which has had or would reasonably be expected to have a Material Adverse Effect.
- (r) Permitted Junior Debt. An event of default or other similar condition or event (however described) in respect of the Borrower or any other Loan Party (or any combination thereof) occurs or exists under a Junior Debt Document after the expiry of any applicable grace or cure period in respect thereof.
- (s) Failure to Pay under EDC Indemnity Agreement. if the Borrower fails to make payment of principal, interest or other amounts owing under the EDC Indemnity Agreement in an aggregate amount exceeding Cdn.\$500,000 after the expiry of any applicable grace period in respect thereof.

**15.2 Remedies.** Upon the occurrence of an Event of Default which has not been waived, the Agent (on the direction of the Majority Lenders, or in the case of an Event of Default under Sections 15.1(e) and 15.1(f), automatically), shall forthwith terminate any further obligation to make Advances and declare all Loan Obligations owing under the Credit Facilities together with unpaid accrued interest thereon and any other amounts owing under the Documents, contingent or otherwise, to be immediately due and payable (an "**Acceleration**"), whereupon the Borrower will be obligated without any further grace period to forthwith pay such amounts and the Agent and the Lenders may exercise any and all rights, remedies, powers and privileges afforded by applicable Law or under any and all other instruments, documents and agreements made to assure payment and performance of the obligations of the Loan Parties under the Documents.

**15.3 Acceleration of Obligations.**

- (a) If a Swap Lender has delivered a Swap Document Demand for Payment to the Borrower or a Subsidiary, then it shall promptly notify the Agent and other Lenders thereof.
- (b) If an Acceleration has occurred, then, to the extent that it is not already the case, all Obligations shall be immediately due and payable and each Swap Lender, Bank Product Provider and the Agent shall (and shall be entitled to) promptly, and in any event within 3 Banking Days of receipt of notice of the foregoing, deliver (or make) such

other demands for payment and notices as may be necessary to ensure that all Obligations are thereafter due and payable under the applicable Lender Secured Document(s).

- (c) Each agreement, indenture, instrument or other document evidencing or relating to Bank Product Obligations or Hedging Obligations shall, notwithstanding any provision thereof to the contrary, be deemed to be hereby amended to allow and permit the applicable Swap Lender or Bank Product Provider, as the case may be, which is a party thereto to comply with or enforce the provisions of this Section 15.3.

**15.4 Waivers.** An Event of Default which relates to a breach of a provision of this Agreement which may only be waived by all Lenders may only be waived in writing by all of the Lenders.

**15.5 Attorney in Fact.** The Borrower hereby irrevocably constitutes and appoints the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name, from time to time in the Agent's discretion, for the purpose of carrying out the terms of the Documents, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of the Documents and which the Borrower being required to take or execute has failed to take or execute; provided that this power of attorney will not be effective until the occurrence and during the continuance of any Event of Default. The Borrower hereby ratifies all that said attorneys will lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and will be irrevocable until all of the Obligations have been unconditionally and irrevocably paid and performed in full. The Borrower also authorizes the Agent, at any time and from time to time, to execute any endorsements, assignments or other instruments of conveyance or transfer pursuant to the Security. If requested by the Agent, the Borrower will cause each other Loan Party to constitute and appoint the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact in accordance with the foregoing provisions of this Section 15.5.

**15.6 Set-off.** The Borrower agrees that, upon the occurrence of an Event of Default, in addition to and without limitation of any right of set-off, bankers' lien, counterclaim or other right or remedy that the Agent and the Lenders may otherwise have, the Agent and each Lender will be entitled, at its option, to offset any and all balances and deposits held by it for the account of the Borrower at any of its offices or branches, in any currency, against any and all amounts owed by the Borrower to the Agent or such Lender hereunder (regardless of whether any such balances are then due or payable to the Borrower), including all claims of any nature or description arising out of or connected with this Agreement, including contingent obligations of the Lenders in respect of unmatured Bankers' Acceptances, in which case the Agent or such Lender will promptly notify the Borrower thereof after the occurrence thereof; provided that the Agent's or such Lender's failure to give any such notice will not affect the validity thereof. Nothing contained in the Documents will require the Agent or a Lender to exercise any right, or will affect the right of the Agent or a Lender to exercise and retain the benefits of exercising any right, with respect to any Indebtedness or other obligation of the Borrower existing otherwise than pursuant to the Documents.

**15.7 Application of Proceeds.** Except as otherwise agreed to by all of the Lenders in their sole discretion or as otherwise expressly provided for herein, all (i) payments made by or on behalf of a Loan Party under the Lender Secured Documents, subsequent to the Adjustment Time, and (ii) proceeds resulting from any realization or enforcement of the Security, including by way of foreclosure, will be applied and distributed by the Agent or any nominee thereof in the following manner:

- (a) first, in full and final payment of any amounts due and payable by way of recoverable expenses, including all out-of-pocket realization and enforcement costs and all legal costs and disbursements (on a solicitor and his own client full indemnity basis);
- (b) second, in full and final payment of all accrued and unpaid interest, BA Stamping Fees, Letter of Credit Fees, agency fees and standby fees based on each Lender's Rateable Portion;
- (c) third, in full and final payment of the other Obligations, pro rated in accordance with the provisions hereof; and
- (d) finally, if there are any amounts remaining and subject to applicable Law, to the appropriate Loan Party.

**15.8 Calculation as at the Adjustment Time.** For the purposes of this Agreement, if a Swap Document Demand for Payment has been delivered, then any amount which is payable by the Borrower or a Subsidiary under the applicable Swap Document in settlement of obligations arising thereunder as a result of the early termination of such Swap Document shall be deemed to have become payable at the time of delivery of such Swap Document Demand for Payment notwithstanding that the amount payable by the Borrower or such Subsidiary is to be subsequently calculated and notice thereof given to the Borrower or such Subsidiary in accordance with such Swap Document.

**15.9 Adjustments Among Lenders.**

- (a) Notwithstanding anything herein or in any other Document to the contrary, following an Acceleration:
  - (i) each Lender agrees that it shall, at any time or from time to time thereafter at the request of the Agent as required by any Lender, (A) purchase at par on a non-recourse basis a participation in the outstanding Advances (including Letters of Credit) owing to each other Lender under the Credit Facilities and (B) effect such other transactions and make such other adjustments as are necessary or appropriate, in order that the Aggregate Principal Amount owing to each of the Lenders under the Credit Facilities, as adjusted pursuant to this Section 15.9, shall be in the same proportion as each Lender's Individual Commitment Amount was to the Commitment Amount of all Lenders immediately prior to the Acceleration; and
  - (ii) any payment made by or on behalf of the Borrower or any other Loan Party under or pursuant to the Documents, any proceeds from the exercise of any rights and remedies of the Agent and the Lenders under the Documents and any distribution or payment received by the Agent or the Lenders with respect to the Borrower or any other Loan Party in the event of any bankruptcy, insolvency, winding-up, liquidation, arrangement, compromise or composition, shall be applied against the Aggregate Principal Amount in a manner so that, to the extent possible, the Aggregate Principal Amount owing to each of the Lenders under the Credit Facilities will be in the same proportion as each Lender's Individual Commitment Amount was to the Commitment Amount of all Lenders immediately prior to the Acceleration.
- (b) Each Lender shall, at any time and from time to time at the request of the Agent as required by any Lender, execute and deliver such agreements, instruments and other

documents and take such other steps and actions as may be required to confirm, evidence or give effect to the foregoing.

- (c) For certainty, (i) the Lenders shall be obligated to purchase participations and to effect the transactions and adjustments contemplated by this Section 15.9 and (ii) the other provisions hereof shall operate and apply, in each case, irrespective of whether any condition in Article 2 or Article 6 is met.

## **ARTICLE 16 CONFIDENTIALITY**

**16.1 Non-Disclosure.** All information received by the Agent and the Lenders from or in respect of any Loan Party the confidential nature of which is made known or ought to have been known to the Party receiving such information, other than information that is required to be disclosed by applicable Law (including, for certainty, information required to be disclosed in connection with any legal proceedings, including proceedings relating to the Documents) or to any Governmental Authority of competent jurisdiction, including any central bank or other banking regulatory authority and any official bank examiners or regulators, will be held by the Parties in the strictest confidence and will not be disclosed to any Person, except as provided in Sections 16.2 and 16.3.

**16.2 Exceptions.** Section 16.1 does not apply to information:

- (a) of a Party where that Party consents in writing to its disclosure;
- (b) which becomes part of the public domain;
- (c) received from a third party without restriction on further disclosure and without breach of Section 16.1;
- (d) developed independently without breach of Section 16.1; or
- (e) to the extent required to be disclosed by order or direction of a court or Governmental Authority of competent jurisdiction.

**16.3 Permitted Disclosures by the Agent or the Lenders.** Information received by the Agent or a Lender may be disclosed to their respective Affiliates, Swap Lenders, the Agent or any other Lender, including any financial institution which desires to become a Lender hereunder, any actual or prospective counterparty (or its advisors) to any securitization, swap or derivative transaction relating to the Borrower, any Subsidiaries thereof, and the Obligations and to their respective employees, auditors, accountants, legal counsel, geologists, engineers and other consultants and financial advisors retained by such Persons on a need to know basis and subject to the obligation to maintain confidentiality.

**16.4 Survival.** The obligations of the Parties under this Article 16 will survive the termination of this Agreement.

## **ARTICLE 17 ASSIGNMENT**

**17.1 Assignment of Interests.** Except as expressly permitted under Section 14.3(d) and this Article 17, this Agreement and the rights and obligations hereunder will not be assignable, in whole or in part, by the Borrower without the prior written consent of all of the Lenders.

- 17.2 Assignment by the Lenders.** Subject to the consent of the Borrower (such consent not to be unreasonably withheld or delayed); provided that at and after the time of the assignment, the Borrower will not be under any obligation to pay by way of withholding tax or otherwise any greater amount (other than any increase by operation of the definition of "**BA Discount Rate**") than it would have been obliged to pay if the Lender had not made an assignment, each Lender will have the right to sell or assign, (i) in the case of the Syndicated Facility, in minimum portions of the lesser of all of such Lender's Individual Syndicated Facility Commitment Amount and Cdn.\$5,000,000 (with such Lender, where such sale or assignment is not of all of such Lender's Individual Syndicated Facility Commitment Amount under the Syndicated Facility, retaining an Individual Syndicated Facility Commitment Amount under the Syndicated Facility of at least Cdn.\$5,000,000), such Lender's Individual Syndicated Facility Commitment Amount, and (ii) in the case of the Operating Facility, the Operating Facility Lender's Operating Facility Commitment Amount, in each case, to one or more Lenders acceptable to the Agent, acting reasonably, provided that any assignment of the Operating Facility Commitment Amount must be an assignment of no less than 100% of the Operating Facility Commitment Amount. Each such assigning Lender shall also assign its *pro rata* interest in the Credit Facility in which it is a Lender upon each assignment. An assignment fee of Cdn.\$5,000 for each such assignment (other than to an Affiliate of a Lender or to another Lender) will be payable to the Agent by the assigning Lender. In the event of such sale or assignment, the Borrower, the Agent and the other Lenders will execute and deliver all such agreements, documents and instruments as the Agent or Lender may reasonably request to effect and recognize such sale or assignment, including an Assignment. Notwithstanding the foregoing, no consent of the Borrower will be required if an assignment occurs during an Event of Default which is continuing.
- 17.3 Effect of Assignment.** To the extent that any Lender sells or assigns any portion of its Individual Syndicated Facility Commitment Amount or Operating Facility Commitment Amount pursuant to Section 17.2 and such new Lender or new Lenders, as the case may be, has executed and delivered to the Borrower and the Agent an Assignment, such Lender will be relieved and forever discharged of any and all of its covenants and obligations under the Documents in respect of that portion of its Individual Syndicated Facility Commitment Amount or Operating Facility Commitment Amount so sold or assigned from and after the date of such Assignment and the Borrower's recourse under the Documents in respect of such portion so sold or assigned from and after the date of the Assignment for matters arising thereunder from and after the date of the Assignment will be to such new Lender or new Lenders only, as the case may be, and their successors and permitted assigns.
- 17.4 Participations.** Any Lender may at any time sell to one or more financial institutions or other Persons (each of such financial institutions and other Persons being herein called a "**Participant**") participating interests in any of the Advances, commitments, or other interests of such Lender hereunder, provided, however, that:
- (a) no participation contemplated in this Section 17.4 will relieve such Lender from its commitments or its other obligations hereunder or under any other Document;
  - (b) such Lender will remain solely responsible for the performance of its commitments and such other obligations as if such participation had not taken place;
  - (c) the Agent will continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and each of the other Documents;

- (d) no Participant will have any rights (through a right of consent or approval or otherwise) to require such Lender to take or refrain from taking any action hereunder or under any other Document;
- (e) the Borrower will not be required to pay any amount hereunder that is greater than the amount which it would have been required to pay had no participating interest been sold; and
- (f) in the case of any outstanding Bankers' Acceptances, the Participants execute an indemnity agreement in respect of such Bankers' Acceptances.

## **ARTICLE 18 ADMINISTRATION OF THE CREDIT FACILITIES**

### **18.1 Authorization and Action.**

- (a) Authorization and Action. Each Lender hereby irrevocably appoints and authorizes the Agent to be its agent in its name and on its behalf and to exercise such rights or powers granted to the Agent or the Lenders under the Documents to the extent specifically provided therein and on the terms thereof, together with such powers and authority as are reasonably incidental thereto. As to any matters not expressly provided for by the Documents, the Agent will not be required to exercise any discretion or take any action, but will be required to act or to refrain from acting (and will be fully indemnified and protected by the Lenders to the greatest extent permitted by Law in so acting or refraining from acting) upon the instructions of the Majority Lenders, and such instructions will be binding upon all Lenders, provided however that the Agent will not be required to take any action which, in the opinion of the Agent, might expose the Agent to liability in such capacity, which could result in the Agent incurring any costs and expenses, or which is contrary to the spirit and intent of this Agreement.
- (b) Lenders' Determination. Where the provisions of this Agreement provide that any waiver of or any amendment to any provision of the Documents may be made or any action, consent or other determination in connection with the Documents may be taken or given, with the consent or agreement of the Lenders or the Majority Lenders (in accordance with Section 18.16), then any such waiver, amendment, action, consent or determination so made, so taken or so given with the consent or agreement of the Lenders or the Majority Lenders will be binding on all of the Lenders and all of the Lenders will cooperate in all ways necessary or desirable to implement and effect such waiver, amendment, action, consent or determination.
- (c) Deemed Non-Consent. If the Agent delivers a notice to a Lender requesting advice from such Lender as to whether it consents or objects to any matter in connection with the Documents, then, except as otherwise expressly provided herein, if such Lender does not deliver to the Agent its written consent or objection to such matter within the time period referenced in such notice, or if no such period is referenced, within 7 Banking Days of the delivery of such notice by the Agent to such Lender, such Lender will be deemed not to have consented thereto upon the expiry of such period.
- (d) Release and Discharge of Security. Each Lender hereby irrevocably authorizes the Agent to execute and deliver such releases and no-interest letters as may be required in connection with any disposition of assets by one or more Loan Parties in respect of which the Agent has received an officer's certificate of the Borrower certifying that such disposition is permitted hereunder, together with any other information from the

Borrower reasonably required by the Agent, if any, to satisfy itself that any such disposition is permitted hereunder.

- (e) Each Lender acknowledges their receipt and review of the LCFS Intercreditor Agreement and directs the Agent to execute the same in its capacity as Agent for the Lenders and that upon execution it binds each Lender from time to time.

## **18.2 Procedure for Making Advances.**

- (a) Pro Rata Advances. Subject to Sections 3.4 and 9.4(e), all Advances under each Credit Facility will be made in accordance with each Lender's Rateable Portion of such Advance under such Credit Facility.
- (b) Instructions from Borrower. The Lenders, through the Agent, will make Advances under each Credit Facility available to the Borrower as required hereunder by debiting the account of the Agent to which each Lender's Rateable Portion in respect of each Credit Facility of such Advances has been credited in accordance with Section 5.6 (or causing such account to be debited) and, in the absence of other arrangements agreed to by the Agent and the Borrower in writing, by transferring (or causing to be transferred) like funds in accordance with the instructions of the Borrower as set forth in the Notice of Borrowing, Notice of Rollover or Notice of Conversion, as the case may be, in respect of each Advance under each Credit Facility, provided that the obligation of the Agent hereunder will be limited to taking such steps as are in keeping with its normal banking practice and which are commercially reasonable in the circumstances to implement such instructions, and the Agent will not be liable for any damages, claims or costs which may be suffered by the Borrower or any of the Lenders and occasioned by the failure of such funds to reach their designated destination, unless such failure is due to the gross negligence or wilful misconduct of the Agent.
- (c) Assumption Respecting Availability. Unless the Agent has been notified by a Lender within 1 Banking Day prior to an anticipated Advance under a Credit Facility that such Lender will not make available to the Agent such Lender's Rateable Portion of such Advance, the Agent may assume, without any enquiry required on its part, that such Lender has made or will make such portion of the Advance available to the Agent on the date such Advance is to take place, in accordance with the provisions hereof and the Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent such Lender will not have so made its Rateable Portion of an Advance under the applicable Credit Facility available to the Agent, such Lender agrees to pay to the Agent, forthwith on demand, such Lender's Rateable Portion of the Advance and all reasonable costs and expenses incurred by the Agent in connection therewith together with interest thereon (at the rate payable thereunder by the Borrower in respect of such Advance) for each day from the date such amount is made available to the Borrower until the date such amount is paid to the Agent, provided however, that if such Lender fails to so pay, the Borrower covenants and agrees that without prejudice to any rights the Borrower may have against such Lender, the Borrower will repay the amount of such Lender's Rateable Portion of the Advance (without duplication) to the Agent for the account of the Agent after receipt of the certificate referred to below and forthwith after demand therefor by the Agent. The amount payable to the Agent pursuant hereto will be as set forth in a certificate delivered by the Agent to such non-paying Lender and the Borrower (which certificate will contain reasonable details of how the amount payable is calculated) and

will be conclusive and binding, for all purposes, in the absence of manifest error. If such Lender makes the payment to the Agent as required herein, the amount so paid will constitute such Lender's Rateable Portion of the Advance under the applicable Credit Facility for purposes of this Agreement. The failure of any Lender to make its Rateable Portion of the Advance will not relieve any other Lender of its obligation, if any, hereunder to make its Rateable Portion of the Advance on the date that such Advance is to take place, but no Lender will be responsible for the failure of any other Lender to provide its Rateable Portion of any Advance under the applicable Credit Facility.

**18.3 Remittance of Payments.** Forthwith after receipt of any payment by the Borrower hereunder and subject to Section 15.6, the Agent, if and to the extent a Lender is entitled thereto, will remit to such Lender its Rateable Portion of such payment, provided that, if the Agent, on the assumption that it will receive on any particular date a payment of principal, interest or fees hereunder, remits to a Lender its Rateable Portion of such payment and the Borrower fails to make such payment, each such Lender agrees to repay to the Agent forthwith on demand such Lender's Rateable Portion of any such payment, together with all reasonable costs and expenses incurred by the Agent in connection therewith and interest thereon at the rate and calculated in the manner customarily applicable to interbank payments for each day from the date such amount is remitted to such Lender. The exact amount of the repayment required to be made by a Lender pursuant hereto will be set forth in a certificate delivered by the Agent to such Lender, which certificate will be conclusive and binding for all purposes in the absence of manifest error.

**18.4 Redistribution of Payment.** Each Lender agrees that, subject to Section 15.6:

- (a) If it exercises any right of counter-claim, set off, bankers' lien or similar right with respect to any property of any Loan Party or if under applicable Law it receives a secured claim, the security for which is a debt owed by it to the Loan Party, it will apportion the amount thereof proportionately between:
  - (i) amounts outstanding at the time owed by the Loan Party to such Lender under this Agreement, which amounts will be applied in accordance with this Section 18.4; and
  - (ii) amounts otherwise owed to it by a Loan Party,

provided that (x) any cash collateral account held by such Lender as collateral for a letter of credit or bankers' acceptance (including a Bankers' Acceptance) issued or accepted by such Lender on behalf of a Loan Party may be applied by such Lender to such amounts owed by such Loan Party to such Lender pursuant to such letter of credit or in respect of any such bankers' acceptance without apportionment, and (y) these provisions do not apply to:

- (A) a right or claim which arises or exists in respect of a loan or other debt in respect of which the relevant Lender holds a Lien which is a Permitted Encumbrance;
- (B) cash collateral provided, or the exercise of rights of counterclaim, set-off or banker's lien or similar rights, in respect of Bank Products for the Loan Parties;

- (C) any reduction in amounts owing by a Swap Lender to a Loan Party upon the termination of Swap Documents entered into with the relevant Swap Lender; or
  - (D) any payment to which a Lender is entitled as a result of any credit default swap, credit derivative or other form of credit protection obtained by such Lender.
- (b) If it receives, through the exercise of a right or the receipt of a secured claim described in Section 18.4(a) or otherwise, payment of a proportion of the aggregate amount of principal, interest and fees due to it hereunder which is greater than the proportion received by any other Lender in respect of the aggregate amount of principal, interest and fees due in respect of the applicable Credit Facility (having regard to the respective proportionate amounts advanced as Advances by each of the Lenders under the applicable Credit Facility), the Lender receiving such proportionately greater payment will purchase a participation (which will be deemed to have been done simultaneously with receipt of such payment) in that portion of the applicable Credit Facility of the other Lenders so that their respective receipts will be *pro rata* to their respective Rateable Portions, provided however that, if all or part of such proportionately greater payment received by such purchasing Lender is otherwise recovered by it, such purchase will be rescinded and the purchase price for such participation will be returned to the extent of such recovery, but without interest. Such Lender will exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this Section 18.4 to share in the benefits of any recovery on such secured claims.
- (c) If it does any act or thing permitted by Section 18.4(a) or 18.4(b), it will promptly provide full particulars thereof to the Agent.
- (d) Except as permitted under Section 18.4(a) or 18.4(b), no Lender will be entitled to exercise any right of counter-claim, set off, bankers' lien or similar right without the prior written consent of the other Lenders.

**18.5 Duties and Obligations.** The Agent or any of its directors, officers, agents or employees (and, for purposes hereof, the Agent will be deemed to be contracting as agent for and on behalf of such Persons) will not be liable to any Lender for any action taken or omitted to be taken by it under or in connection with the Documents, except for its own gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Agent:

- (a) may assume that there has been no assignment or transfer by the Lenders of their rights under the Documents, unless and until the Agent receives a duly executed Assignment from such Lender;
- (b) may consult with counsel (including Borrower's Counsel), independent public accountants and other experts selected by it and will not be liable for any action taken or omitted to be taken in good faith by it in accordance with or reliance upon the advice of such counsel, accountants or experts;
- (c) will incur no liability under or in respect of the Documents by acting upon any notice, consent, certificate or other instrument or writing believed by it to be genuine and signed or sent by the apparently proper Person or by acting upon any representation or warranty of any Loan Party made or deemed to be made hereunder;

- (d) may assume that no Default or Event of Default has occurred and is continuing unless it has actual knowledge to the contrary; and
- (e) may rely, as to any matter of fact which might reasonably be expected to be within the knowledge of any Person, upon a certificate signed by or on behalf of such Person.

Further, the Agent: (i) does not make any warranty or representation to any Lender nor will it be responsible to any Lender for the accuracy or completeness of the data made available to any of the Lenders in connection with any Credit Facility, or for any statements, warranties or representations (whether written or oral) made in connection with any Credit Facility; (ii) will not have any duty to ascertain or to enquire as to the performance or observance of any of the terms, covenants or conditions of the Documents on the part of any Loan Party or to inspect the property (including books and records) of any Loan Party; and (iii) will not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of the Documents or any other instrument or document furnished pursuant hereto or thereto.

**18.6 Prompt Notice to the Lenders.** Notwithstanding any other provision herein, the Agent agrees to provide to the Lenders, with copies where appropriate, all information, notices and reports required to be given to the Agent by the Borrower hereunder, promptly upon receipt of same, excepting therefrom information and notices relating solely to the role of the Agent hereunder.

**18.7 Agent and Agent Authority.** With respect to its Rateable Portion of each Credit Facility and the Advances made by it as a Lender thereunder, as applicable, the Agent will have the same rights and powers under the Documents as any other Lender and may exercise the same as though it were not the Agent. The Agent may accept deposits from, lend money to, and generally engage in any kind of business with any Loan Party, any of their Subsidiaries, their respective shareholders or unitholders or any Person owned or controlled by any of them and any Person which may do business with any of them, all as if the Agent was not serving as Agent, and without any duty or obligation to account therefor to the Lenders.

**18.8 Lenders' Credit Decisions.** It is understood and agreed by each Lender that it has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigations into the financial condition, creditworthiness, condition, affairs, status and nature of the Loan Parties. Accordingly, each Lender confirms with the Agent that it has not relied, and will not hereafter rely, on the Agent (a) to check or inquire on its behalf into the adequacy, accuracy or completeness of any information provided by the Loan Parties or any other Person under or in connection with the Credit Facilities (whether or not such information has been or is hereafter distributed to such Lender by the Agent) or (b) to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of any Loan Party. Each Lender acknowledges that copies of the Documents have been made available to it for review and each Lender acknowledges that it is satisfied with the form and substance of the Documents. A Lender will not make any independent arrangement with any Loan Party for the satisfaction of any Loan Obligations owing to it under the Documents without the written consent of the other Lenders.

**18.9 Indemnification.** The Lenders hereby agree to indemnify the Agent and its directors, officers, agents and employees (to the extent not reimbursed by the Borrower) in accordance with their respective Rateable Portions, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent or its directors, officers, agents and employees in any way relating to or arising out of the Documents or any action taken or omitted by the Agent under or in respect of the Documents

in its capacity as Agent, provided that no Lender will be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, each Lender agrees to reimburse the Agent promptly upon demand for its Rateable Portion of any reasonable out-of-pocket expenses (including legal fees, on a solicitor and his own client full indemnity basis) incurred by the Agent in connection with the preservation of any right of the Agent or the Lenders under, or the enforcement of, or legal advice in respect of rights or responsibilities under, the Documents, to the extent that the Agent is not reimbursed for such expenses by the Borrower. This indemnity will survive the termination of the other provisions of this Agreement as a separate and continuing covenant of the Lenders.

- 18.10 Successor Agent.** The Agent may, as hereinafter provided, resign at any time by giving 30 days' notice (the "**Resignation Notice**") thereof to the Lenders and the Borrower. The remaining Lenders, with the consent of the Borrower, such consent not to be unreasonably withheld, will forthwith upon receipt of the Resignation Notice unanimously appoint a Lender as successor agent (the "**Successor Agent**") to assume the duties hereunder of the resigning Agent. Upon the acceptance of any appointment as agent hereunder by a Successor Agent, such Successor Agent will thereupon succeed to and become vested with all the rights, powers, privileges and duties as agent under the Documents of the resigning Agent. Upon such acceptance, the resigning Agent will be discharged from its further duties and obligations as agent under the Documents, but any such resignation will not affect such resigning Agent's obligations hereunder as a Lender, including for its Rateable Portion of the Commitment Amount. After the resignation of the Agent as agent hereunder, the provisions of this Article 18 will continue to enure to its benefit as to any actions taken or omitted to be taken by it while it was the agent of the Lenders hereunder. Notwithstanding the foregoing, if the remaining Lenders fail to appoint a Successor Agent within 30 days of receipt of the Resignation Notice, the resigning Agent may and with the approval of the Borrower prior to an Event of Default, such approval not to be unreasonably withheld, appoint a Successor Agent from among the Lenders, provided that consent of such Successor Agent has been obtained.
- 18.11 Taking and Enforcement of Remedies.** Except as otherwise provided herein, each Lender hereby acknowledges that, to the extent permitted by applicable Law, rights and remedies provided under the Documents to the Lenders are for the benefit of the Lenders collectively and not severally and further acknowledges that its rights and remedies thereunder are to be exercised not severally but collectively through the Agent upon the decision of the Lenders (with the required majority or unanimity as herein provided), regardless of whether acceleration of Loan Obligations hereunder was made, and accordingly, notwithstanding any of the provisions contained herein, each of the Lenders hereby covenants and agrees that it will not be entitled to take any action with respect to the Credit Facilities, including any acceleration of Loan Obligations thereunder, but that any such action will be taken only by the Agent with the prior written direction of the Lenders (with the required majority or unanimity as herein provided). Notwithstanding the foregoing, in the absence of written instructions from the Lenders, and where in the sole opinion of the Agent the exigencies of the situation warrant such action, the Agent may without notice to or consent of the Lenders take such action on behalf of the Lenders as it deems appropriate or desirable in the circumstances. Each of the Lenders hereby covenants and agrees that it has not heretofore and will not seek, take, accept or receive any security for any of the Loan Obligations of the Loan Parties under the Documents and will not enter into any agreement with any of the Parties relating in any manner whatsoever to the Credit Facilities, unless all of the Lenders under the Credit Facilities will at the same time obtain the benefit of any such security or agreement, as the case may be.

**18.12 Reliance Upon Agent.** The Borrower will be entitled to rely upon any certificate, notice or other document or other advice, statement or instruction provided to it by the Agent pursuant to the Documents, and the Borrower will be entitled to deal with the Agent with respect to matters under the Documents which the Agent is authorized hereunder to deal with, without any obligation whatsoever to satisfy itself as to the authority of the Agent to act on behalf of the Lenders and without any liability whatsoever to the Lenders for relying upon any certificate, notice or other document or other advice, statement or instruction provided to them by the Agent, notwithstanding any lack of authority of the Agent to provide the same.

**18.13 Agent May Perform Covenants.** If the Borrower fails to perform any covenant on its part herein contained, the Agent may give notice to the Borrower of such failure and if, within 10 days of such notice (or after the expiry of such other time or cure period as may be required in this Agreement), such covenant remains unperformed, the Agent on behalf of the Lenders may, in its sole discretion but need not, perform any such covenant capable of being performed by it and, if the covenant requires the payment or expenditure of money, the Agent may make such payment or expenditure and all sums so expended will be forthwith payable by the Borrower to the Agent on behalf of the Lenders and will bear interest at the Canadian Prime Rate plus the applicable margin for Canadian Prime Rate Loans plus 2%.

**18.14 No Liability of Agent.** The Agent, in its capacity as agent of the Lenders under the Documents, will have no responsibility or liability to the Borrower or the Lenders on account of the failure of any Lender to perform its obligations hereunder, or to any Lender on account of the failure of the Borrower to perform its obligations under the Documents.

**18.15 Nature of Obligations under this Agreement.**

- (a) Obligations Separate. The obligations of each Lender and the Agent under this Agreement are separate. The failure of any Lender to carry out its obligations hereunder will not relieve the other Lenders, the Agent or the Borrower of any of their respective obligations hereunder.
- (b) No Liability for Failure by Other Lenders. Neither the Agent nor any Lender will be liable or otherwise responsible for the obligations of any other Lender hereunder.

**18.16 Lender Consent.**

- (a) Unanimity. Notwithstanding anything herein to the contrary and without limiting in any way the context of any provision in this Agreement requiring the consent, approval, action or agreement of all Lenders, the following matters will require the consent, approval action or agreement, as the context requires, of all Lenders:
  - (i) the reduction or forgiveness of any Loan Obligations payable by any Loan Party under the Credit Facilities or under any of the Documents;
  - (ii) the postponement of any maturity date of any Loan Obligations of any Loan Party to the Lenders or under any of the Documents, other than as provided for in this Agreement;
  - (iii) the release or discharge of the Security, or any part thereof, unless otherwise expressly permitted or provided for in this Agreement, or any change in the ranking or priority of the Security;
  - (iv) any change in the nature of Advances;

- (v) any amendment or waiver to Sections 2.1, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 4.2, 4.8, 5.7, 6.1, 11.4, 12.2, 14.1(a), 14.1(b), 14.1(x), 14.2(m), 14.3(b), 14.3(f), 14.3(g), 14.3(m), 14.3(n), 14.3(r), 14.3(v), 14.3(w), 14.3(z), 14.3(aa), 14.3(bb), 14.5, 15.1(r), 15.3, 15.6, 15.7, 15.9, 18.17 or to this Section 18.16(a) or Section 18.16(b);
- (vi) any decrease in the applicable margins set out in Section 3.8;
- (vii) any increase in the Syndicated Facility Commitment Amount or Operating Facility Commitment Amount;
- (viii) any change to the definition of "Consolidated Debt", "Consolidated First Lien Senior Debt", "Daily Simple SOFR Adjustment", "Excess Cash", "Majority Lenders", "Permitted Disposition", "Permitted Encumbrances", "Permitted Junior Debt", "Permitted Junior Debt Refinancing", "Required Lenders", "[Redacted] Call Option Amount", "SOFR Period", "Special Majority of Lenders" or "Term SOFR Adjustment"; and
- (ix) any proviso of any other Document requiring the consent, approval, action or agreement of each of the Lenders or all of the Lenders,

provided that (A) any change to Article 10 will require the consent of the Operating Facility Lender and the Agent, (B) any change to Article 19 will require the consent of the Agent, (C) any change to the Individual Syndicated Facility Commitment Amount, the Operating Facility Commitment Amount or the MasterCard Facility can only be made with the consent of the applicable Lender; (D) any change which only affects one of the Syndicated Facility Lenders, the Operating Facility Lender, or the Agent, respectively, shall only require the consent of the affected Persons.

- (b) Special Majority of Lenders. Notwithstanding anything herein to the contrary and without limiting in any way the context of any provision in this Agreement requiring the consent, approval, action or agreement of the Special Majority of Lenders, any amendment to or waiver of the covenants set forth in Section 14.3(s), 14.3(y) or 14.4(d) shall require the consent of the Special Majority of Lenders.
- (c) Majority Consent. Subject to Section 18.16(a), any waiver of or any amendment to any provision of the Documents and any action, consent or other determination in connection with the Documents will bind all of the Lenders if such waiver, amendment, action, consent or other determination is agreed to in writing by the Majority Lenders. It is the intent of the parties to this Agreement that the Lenders which are also Junior Creditors (or Affiliates of Junior Creditors) shall never constitute, in the aggregate, Lenders holding voting rights effective for any Individual Commitment Amounts exceeding 33⅓% of the total Commitment Amount.

**18.17 Departing Lenders.** If a Lender: (a) is a Defaulting Lender; (b) seeks Additional Compensation in accordance with Article 11; (c) refuses to give timely consent to an amendment, modification or waiver of this Agreement that, pursuant to Section 18.16(a), requires consent of all the Lenders (and the consent of the Majority Lenders has been given with respect thereto) (a "**Non-Consenting Lender**"); or (d) invokes Section 9.6, which continues for at least 30 days, unless all Lenders are invoking the same (collectively, the "**Departing Lenders**"), then the Borrower may:

- (a) replace the Departing Lender with another financial institution acceptable to the Agent, acting reasonably, who purchases at par the Aggregate Principal Amount of a Credit Facility owing to the Departing Lender and such Lender's entire Individual Syndicated Facility Commitment Amount and Operating Facility Commitment Amount (as applicable) and assumes the Departing Lender's Individual Syndicated Facility Commitment Amount and Operating Facility Commitment Amount (as applicable) and all other obligations of the Departing Lender hereunder, provided that prior to or concurrently with such replacement:
- (i) the Departing Lender shall have received payment in full of all principal, interest, fees and other amounts through such date of replacement and a release from any further obligations to make Advances under the Documents after the date of such replacement;
  - (ii) the assignment fee required to be paid by Section 17.2 shall have been paid to the Agent;
  - (iii) all of the requirements for such assignment contained in Section 17.2 shall have been satisfied, including, without limitation, the consent of the Agent and the Operating Facility Lender and the receipt by the Agent of such agreements, documents and instruments as the Agent may reasonably require; and
  - (iv) in the case of a Departing Lender who is a Non-Consenting Lender, each assignee consents, at the time of such assignment, to each matter in respect of which such Non-Consenting Lender was a Non-Consenting Lender and the Borrower also requires each other Lender that is a Non-Consenting Lender to assign the Aggregate Principal Amount owing to it under each Credit Facility and its Individual Syndicated Facility Commitment Amount and Operating Facility Commitment Amount; or
- (b) provided that no Default or Event of Default has occurred or is continuing, elect to terminate the Departing Lender's Individual Syndicated Facility Commitment Amount and Operating Facility Commitment Amount, in which case the Syndicated Facility Commitment Amount and Operating Facility Commitment Amount shall be reduced by an amount equal to the amount of any Individual Commitment Amount so cancelled, provided that prior to or concurrently with such cancellation the Departing Lender shall have received payment in full of all principal, interest, fees and other amounts through such date of cancellation (including breakage and other costs in accordance with Section 8.2, the provision of Escrow Funds to the Agent on behalf of such Lender in respect of outstanding Bankers' Acceptances accepted by such Lender and, in the case of the Operating Facility Lender, cash collateralization in full of any contingent obligations in respect of any outstanding Letters of Credit and a release from any further obligations to make Advances under the Documents after such termination); or
- (c) exercise any combination of the rights under (a) and (b) above; provided that in each case, each Departing Lender is treated rateably with the other Departing Lenders, if any,

provided that, if the result of any of the foregoing would be that the Lenders who are also Junior Creditors or Affiliates of Junior Creditors would hold, in aggregate, more than 33⅓% of the total Commitment Amount, going forward any Lender who is also a Junior Creditor or an Affiliate of a Junior Creditor will not be required for the determination of "Majority Lenders",

and, for certainty, the Commitment Amount of such Lender under the Syndicated Facility or the Operating Facility shall be excluded for the purposes of determining the Majority Lenders.

**18.18 Erroneous Payments by the Agent.**

- (a) If the Agent notifies a Lender, Swap Lender or any Lender or any Affiliate in its capacity as provider of Bank Products (collectively, the "**Secured Parties**" and each a "**Secured Party**"), or any Person who has received funds on behalf of a Lender or other Secured Party (any such Lender, other Secured Party or other recipient, a "**Payment Recipient**") that the Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding subparagraph (b)) that any funds received by such Payment Recipient from the Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, other Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "**Erroneous Payment**") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Agent, and such Lender or other Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Banking Days thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Agent to any Payment Recipient under this Section 18.18(a) shall be conclusive, absent manifest error.
- (b) Without limiting immediately preceding Section 18.18(a), each Lender or other Secured Party, or any Person who has received funds on behalf of a Lender or other Secured Party hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Agent (or any of its Affiliates), or (z) that such Lender or other Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:
- (i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and
- (ii) such Lender or other Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events,

within five Banking Days of its knowledge of such error) notify the Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Agent pursuant to this Section 18.18(b).

- (c) Each Lender or other Secured Party hereby authorizes the Agent to set-off, net and apply any and all amounts at any time owing to such Lender or other Secured Party under any Lender Secured Document or otherwise payable or distributable by the Agent to such Lender or other Secured Party from any source, against any amount due to the Agent under immediately preceding Section 18.18(a) or under the indemnification provisions of this Agreement.
- (d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Agent for any reason, after demand therefor by the Agent in accordance with immediately preceding Section 18.18(a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an **"Erroneous Payment Return Deficiency"**), upon the Agent's notice to such Lender at any time, (i) such Lender shall be deemed to have assigned its Accommodations (but not any of its Individual Commitment Amounts) under any of the applicable Credit Facilities with respect to which such Erroneous Payment was made (the **"Erroneous Payment Impacted Facilities"**) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Agent may specify) (such assignment of the Accommodations (but not any of its Individual Commitment Amounts) of the Erroneous Payment Impacted Facilities, the **"Erroneous Payment Deficiency Assignment"**) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment with respect to such Erroneous Payment Deficiency Assignment, (ii) the Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Agent as the assignee Lender shall become a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and any of its Individual Commitment Amounts which shall survive as to such assigning Lender and (iv) the Agent may reflect in its records its ownership interest in the Advances subject to the Erroneous Payment Deficiency Assignment. The Agent may, in its discretion, sell any Advances acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Advance (or portion thereof), and the Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Individual Commitment Amount of any Lender under any of the Credit Facilities and such Individual Commitment Amount under such Credit Facilities shall remain available in accordance with the terms of this Agreement. In addition, each Party hereto agrees that, except to the extent that the Agent has sold an Advance (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Agent may be equitably subrogated, the Agent shall be contractually subrogated to all the rights and interests of the applicable Lender or other Secured Party under the applicable Lender Secured Documents with

respect to each Erroneous Payment Return Deficiency (the "**Erroneous Payment Subrogation Rights**").

- (e) The Parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment.
- (f) To the extent permitted by applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.
- (g) Each Party's obligations, agreements and waivers under this Section 18.18 shall survive the resignation or replacement of the Agent, any transfer of rights or obligations by, or the replacement of, a Lender or the termination of the Commitment Amounts and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Lender Secured Document.
- (h) Except pursuant to an Erroneous Payment Deficiency Assignment or the exercise of any Erroneous Payments Subrogation Rights (or any equivalent equitable subrogation rights), the Borrower shall not have any liability to the Agent for any Erroneous Payment or any interest, loss, cost or damages related thereto or arising therefrom under any provision of this Agreement or any other Lender Secured Document or under any legal principle or theory, whether arising by law or in equity.

## **ARTICLE 19 MISCELLANEOUS**

**19.1 Notices.** Unless otherwise provided in the Documents, any notice, consent, determination, demand or other communication required or permitted to be given or made thereunder, will be in writing and will be sufficiently given or made if:

- (a) left at the relevant address set forth below; or
- (b) telecopied or sent by other means of recorded electronic communication; and

if to NBC, as Agent, addressed to NBC at:

for purposes of all notices of utilization, conversion, renewal or repayment:

**NATIONAL BANK OF CANADA**  
Corporate Customer Services – Syndication and Agency Group  
[Redacted]

for purposes of the delivery of the financial information:

**NATIONAL BANK OF CANADA**

Corporate Customer Service – Syndication and Agency Group  
[Redacted]

for all other purposes:

**NATIONAL BANK FINANCIAL MARKETS**

Loan Structuring & Syndication – Corporate & Investment Banking Group  
[Redacted]

if to NBC, as Operating Facility Lender, addressed to NBC at:

**NATIONAL BANK OF CANADA**

Corporate Customer Service – Syndication and Agency Group  
[Redacted]

if to any Loan Party, addressed to such Loan Party at:

**TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.**

Suite 900, 222 - 3rd Ave. SW  
Calgary, Alberta T2P 0B4

Attention: Chief Financial Officer  
Telecopier: (587) 475-0210

- (c) The Parties each covenant to accept service of judicial proceedings arising under the Documents at its respective address set forth herein.
  - (d) Any notice or other communication given or made in accordance with this Section 19.1 will be deemed to have been received on the day of delivery if delivered as aforesaid or on the day of receipt of same by telecopy or other recorded means of electronic communication, as the case may be, provided such day is a Banking Day and that such notice is received prior to 12:00 noon local time and, if such day is not a Banking Day or if notice is received after 12:00 noon local time, on the first Banking Day thereafter.
  - (e) Each Party may change its address and telecopier number for purposes of this Section 19.1 by notice given in the manner provided in this Section 19.1 to the other Parties.
  - (f) Any notice given under any of the Documents to the Agent will be deemed to also be given to and received by the Agent in its capacity as Lender.
- 19.2 Telephone Instructions.** Any verbal instructions given by the Borrower in relation to this Agreement will be at the risk of the Borrower and neither the Agent nor the Lenders will have any liability for any error or omission in such verbal instructions or in the interpretation or execution thereof by the Agent or a Lender, as the case may be, provided that the Agent or Lender, as the case may be, acted without gross negligence in the circumstances. The Agent will notify the Borrower of any conflict or inconsistency between any written confirmation of such verbal instructions received from the Borrower and the said verbal advice as soon as practicable after the conflict or inconsistency becomes apparent to the Agent.
- 19.3 No Partnership, Joint Venture or Agency.** Except as expressly provided for herein, the Parties agree that nothing contained in this Agreement nor the conduct of any Party will in any manner whatsoever constitute or be intended to constitute any Party as the agent or representative or fiduciary of any other Party nor constitute or be intended to constitute a

partnership or joint venture among the Parties or any of them, but rather each Party will be separately responsible, liable and accountable for its own obligations under the Documents, or any conduct arising therefrom and for all claims, demands, actions and causes of action arising therefrom. The Parties agree that no Party will have the authority or represent that it has, or hold itself out as having, the authority to act for or assume any obligation or responsibility on behalf of any other Party, save and except as may be expressly provided for in this Agreement.

**19.4 Judgment Currency.** If, for the purposes of obtaining judgment in any court or any other related purpose hereunder, 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 applicable will be the Spot Rate on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable by the purchaser in connection with such purchase. Each Party (the "**First Party**") agrees that its obligation in respect of any Original Currency due from it to another Party hereunder will, notwithstanding any judgment or payment in the Second Currency, be discharged only to the extent that on the Banking Day following the receipt of any sum so paid in the Second Currency, the other Parties may, in accordance with normal banking procedures, purchase in the Toronto Ontario 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 is less than the amount originally due in the Original Currency, the First Party agrees that the deficiency will be a separate and continuing obligation of it, independent from its obligations under this Agreement, and will constitute in favour of the other Parties a cause of action which will continue in full force and effect notwithstanding any such judgment, or order to the contrary, and the First Party agrees, notwithstanding any such payment or judgment, to indemnify the other Parties against any such loss or deficiency. The Borrower acknowledges and agrees that any Indebtedness, obligations or liabilities it may incur or suffer under this Section 19.4 will form part of the Loan Obligations and be secured by the Security.

**19.5 Environmental Indemnity.** The Borrower hereby indemnifies and holds harmless each of the Agent and the Lenders, including their respective directors, officers, employees and agents (collectively, the "**Indemnified Parties**"), for any costs, losses, damages, expenses, judgments, suits, claims, awards, fines, sanctions and liabilities whatsoever (in this Section 19.5 collectively a "**Claim**") suffered or incurred by an Indemnified Party, arising out of, or in respect of:

- (a) the Release of any Contaminant into the Environment from or into any property, owned, operated or controlled, directly or indirectly, by any Loan Party or otherwise in which any Loan Party has an interest; and
- (b) the remedial action, if any, required to be taken by the Agent or the Lenders in respect of any such Release,

except in such cases where and to the extent that such Claims arise from the gross negligence or wilful misconduct of any of the Indemnified Parties. This indemnity will survive repayment or cancellation of the Credit Facilities or any part thereof, including any termination of the other provisions of this Agreement. Other than for costs and expenses incurred by the Indemnified Parties for investigating, defending or denying a Claim or preparing any necessary environmental assessment report or other reports in connection with any Claim (the reasonable costs thereof to be paid forthwith by the Borrower on demand therefor), the Indemnified Parties will not request indemnification from the Borrower unless an Indemnified Party is required by Law, based on the advice of such Indemnified Party's counsel, to honour a Claim or any part thereof. During the continuation of an Event of Default, the Indemnified

Parties will be entitled, but not obligated, to negotiate any settlement of a Claim in consultation with the Borrower, and any such settlement will be binding on the Parties.

- 19.6 General Indemnity.** In addition to any liability of the Borrower to the Lenders under any other provision hereof, the Borrower will and does hereby indemnify each Indemnified Party and hold each Indemnified Party harmless against any losses, claims, costs, damages or liabilities (including reasonable out-of-pocket expenses and reasonable legal fees on a solicitor and his own client full indemnity basis) incurred by the same as a result of or in connection with: (a) any cost or expense incurred by reason of the liquidation or re-deployment in whole or in part of deposits or other funds required by any Lender to fund any Bankers' Acceptance or to fund or maintain any Advance as a result of the Borrower's failure to complete a Drawdown or to make any payment, repayment or prepayment on the date required hereunder or specified by it in any notice given hereunder; (b) subject to permitted or deemed Rollovers and Conversions, the Borrower's failure to provide for the payment to the Agent for the account of the Lenders of the full principal amount of each Bankers' Acceptance on its Maturity Date; (c) the Borrower's failure to pay any other amount, including any interest or fees, due hereunder on its due date after the expiration of any applicable grace or notice periods; (d) the prepayment of any outstanding Bankers' Acceptance before the Maturity Date of such Bankers' Acceptance; (e) the Borrower's repayment or prepayment of a SOFR Loan otherwise than on the last day of its SOFR Period; (f) the Borrower's failure to give any notice required to be given by it to the Agent or the Lenders hereunder; (g) the failure of any Loan Party to make any other payment due hereunder or under any of the other Documents; (h) the inaccuracy of any Loan Party's representations and warranties contained in any Document; (i) any failure of any Loan Party to observe or fulfil its covenants under any Document; (j) the occurrence of any other Default or Event of Default; (k) any use of the proceeds of the Credit Facilities; or (l) without limiting the foregoing, any inaccuracy or incompleteness of the Borrower's representation and warranty contained in Section 13.1(y) hereof; provided that this Section 19.6 will not apply to any losses, claims, costs, damages or liabilities that arise by reason of the gross negligence or wilful misconduct of the Indemnified Party claiming indemnity hereunder. The provisions of this Section 19.6 shall survive repayment of the Loan Obligations of the Borrower under the Documents.
- 19.7 Further Assurances.** The Borrower will, from time to time forthwith at the Agent's request and at the Borrower's own cost and expense (to the extent reasonable), do, make, execute and deliver, or cause to be done, made, executed and delivered, all such further documents, financing statements, financing change statements, assignments, acts, matters and things which may be reasonably required by the Agent with respect to the Credit Facilities, the Security or any part thereof and to give effect to any provision of the Documents.
- 19.8 Waiver of Law.** To the extent legally permitted, the Borrower hereby irrevocably and absolutely waives the provisions of any applicable Law which may be inconsistent at any time with, or which may delay or limit in any way, the enforcement of the Documents in accordance with their terms.
- 19.9 Attornment and Waiver of Jury Trial.** The Parties hereto do hereby irrevocably:
- (a) submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta for all matters arising out of or relating to the Documents or any of the transactions contemplated thereby; and
  - (b) to the extent legally permitted, waive any right they may have to, or to apply for, trial by jury in connection with any matter, action, proceeding, claim or counterclaim arising out of or relating to the Documents or any of the transactions contemplated thereby.

**19.10 Interest on Payments in Arrears.**

- (a) Except as otherwise provided in this Agreement, interest will be paid by the Parties as follows:
  - (i) on amounts for which any Party has actually incurred an out-of-pocket expense and for which another Party has an obligation under the Documents to reimburse such amounts to the Party incurring the expenses, interest will be payable on such amount at the Canadian Prime Rate plus the applicable margin for Canadian Prime Rate Loans plus [Redacted] Basis Points from and including the day on which the amount was incurred to but excluding the day on which the amount is reimbursed if, commencing on the date which is 3 Banking Days following a demand for payment of the amount in accordance with the terms of the Documents, such expense has not been paid; and
  - (ii) on amounts payable by one Party to another Party under the Documents where such payment is in default but the non-payment of such amount has not required an actual out-of-pocket expense by the Party to whom such payment is due, at the Canadian Prime Rate plus the applicable margin for Canadian Prime Rate Loans plus [Redacted] Basis Points from and including the day on which the payment was due to, but excluding the day on which the payment is made whether before or after judgment, but if such payment is a reimbursement by the Lenders to the Borrower for overpayment by it to the Lenders or is in respect of an inadvertent underpayment by the Agent, the Lenders or the Borrower to another Party (based on information provided by such other Party), such interest will only be calculated from the date which is 3 Banking Days following a demand for payment by the Party entitled to it.
- (b) All interest referred to in this Section 19.10 will be simple interest calculated daily on the basis of a 365 or 366 day year, as applicable. For the purposes of the *Interest Act* (Canada), the annual rates of interest to which such rates are equivalent are the rates so determined multiplied by the actual number of days in a period of one year commencing on the first day of the period for which such interest is payable and divided by 365 or 366, as applicable.

**19.11 Payments Due on Banking Day.** Whenever any payment hereunder will be due on a day other than a Banking Day, such payment will be made on the next succeeding Banking Day, and such extension of time will in such case be included in the computation of payment of interest thereunder.

**19.12 Anti-Money Laundering Legislation.**

- (a) The Borrower acknowledges that, pursuant to the requirements of Anti-Money Laundering/ Anti-Terrorist Financing Laws and "know your client" Laws, whether within Canada or elsewhere (collectively, including any guidelines or orders thereunder, "**AML Legislation**"), the Lenders and the Agent may be required to obtain, verify and record information regarding the Loan Parties, their respective directors, authorized signing officers, direct or indirect shareholders or unitholders or other Persons in control of any Loan Party and the transactions contemplated hereby. The Borrower shall promptly: (i) provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or the Agent, or any prospective assignee of a Lender or the Agent, in order to comply with any applicable AML

Legislation, whether now or hereafter in existence; and (ii) notify the recipient of any such information of any changes thereto.

- (b) If, upon the written request of any Lender, the Agent has ascertained the identity of the Borrower or any Loan Party or any authorized signatories of the Borrower or any Loan Party for the purposes of applicable AML Legislation on such Lender's behalf, then the Agent:
  - (i) shall be deemed to have done so as an agent for such Lender, and this Agreement shall constitute a "written agreement" in such regard between such Lender and the Agent within the meaning of applicable AML Legislation; and
  - (ii) shall provide to such Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.
- (c) Notwithstanding the preceding sentence, each of the Lenders agrees that the Agent has no obligation to ascertain the identity of the Borrower, or any Loan Party or any authorized signatories of the Borrower or any Loan Party, on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Borrower or any Loan Party or any such authorized signatory in doing so.

**19.13 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.**

Notwithstanding anything to the contrary in any Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable 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 the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected 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 Affected Financial Institution, its Lender Parent undertaking, 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 Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

**19.14 Whole Agreement.** This Agreement and the other Documents constitute the entire agreement between the Agent and the Lenders on one hand and the Borrower on the other hand, and cancels and supersedes any other agreements, undertakings, declarations, representations and warranties, written or verbal among all such Parties in respect of the subject matter of this Agreement.

- 19.15 Electronic Execution of Documents.** The words "execution", "signed", "signature" and words of like import on any document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for by any law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar federal or provincial laws based on the *Uniform Electronic Commerce Act* of the Uniform Law Conference of Canada or its *Uniform Electronic Evidence Act*, as the case may be.
- 19.16 Counterparts.** The Documents may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of manually executed counterpart of this Agreement.
- 19.17 Electronic Imaging.** Each party hereto agrees that, at any time, the Agent and each Lender may convert paper records of this Agreement, the other Documents and all other documentation delivered to the Agent hereunder in such capacity (each, a "**Paper Record**") into electronic images (each, an "**Electronic Image**") as part of the Agent's or Lender's, as applicable, normal business practices. Each party hereto agrees that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

*[The remainder of this page has intentionally been left blank.]*

**THIS AGREEMENT** has been executed effective the date first written above.

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD., as Borrower**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**NATIONAL BANK OF CANADA, as Agent**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**NATIONAL BANK OF CANADA, as Lender**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Redacted], as Lender**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE A  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**DEFINITIONS**

**"2019 Convertible Debentures"** means the convertible unsecured subordinated debentures issued pursuant to the 2019 Indenture.

**"2019 Indenture"** means the trust indenture made as of August 8, 2019 between the Borrower and TSX Trust Company, as in effect on the date hereof.

**"Acceleration"** has the meaning attributed to it in Section 15.2.

**"Accommodation"** means an accommodation referred to in Section 3.7.

**"Accounting Change"** has the meaning attributed to it in Section 1.16.

**"Additional Compensation"** has the meaning attributed to it in Section 11.1(a).

**"Adjusted Daily Simple SOFR"** means, for any day, the sum of Daily Simple SOFR and the Daily Simple SOFR Adjustment for such day, rounded to 5 decimal places, provided that if the Adjusted Daily Simple SOFR so determined is less than the Floor, then the Daily Simple SOFR for such day will be deemed to be the Floor.

**"Adjusted Term SOFR"** means, for any SOFR Period, the sum of Term SOFR and the Term SOFR Adjustment for such period, rounded to 5 decimal places, provided that if the Adjusted Term SOFR so determined is less than the Floor, then the Adjusted Term SOFR for such period will be deemed to be the Floor.

**"Adjustment Time"** means the time of occurrence of the last event necessary (including the occurrence of an Acceleration or delivery of a Swap Document Demand for Payment) to ensure that all Obligations are thereafter due and payable.

**"Advance"** means, with respect to a Drawdown, Rollover or Conversion:

- (a) in respect of Accommodations other than Bankers' Acceptances or Letters of Credit, the disbursement or credit of funds to, or to the credit of, the Borrower;
- (b) in respect of Bankers' Acceptances, the acceptance by the Lenders of drafts issued under this Agreement by the Borrower and, where the Lenders are purchasing such drafts, the disbursement of the Net Proceeds to the Borrower as provided hereunder; or
- (c) in respect of Letters of Credit, the issuance of Letters of Credit.

**"Affected Financial Institution"** means (a) any EEA Financial Institution or (b) any UK Financial Institution.

**"Affiliate"** has the meaning attributed to it in the *Securities Act* (Alberta).

**"After-Acquired Property"** has the meaning attributed to it in Section 4.5.

**"Agent"** means initially NBC or any successor to NBC appointed as agent pursuant to Section 18.10.

**"Aggregate Principal Amount"** means when the context requires, (a) the aggregate of the amount of principal outstanding from time to time under the Syndicated Facility, including the face amount of all unmatured Bankers' Acceptances issued thereunder, (b) the aggregate of the amount of principal outstanding from time to time under the Operating Facility, including the undrawn amount of outstanding Letters of Credit and the face amount of all unmatured Bankers' Acceptances issued thereunder, or (c) the aggregate of the amount of principal outstanding from time to time under the Credit Facilities, including the face amount of all unmatured Bankers' Acceptances issued thereunder and the undrawn amount of outstanding Letters of Credit issued thereunder.

**"Agreement"** or **"this Agreement"** means this third amended and restated credit agreement in writing dated effective as of August 16, 2022 between the Borrower, the Lenders and the Agent entitled "Third Amended and Restated Credit Agreement" inclusive of all Schedules, including this Schedule A, as amended, confirmed, replaced or restated from time to time and **"hereto"**, **"hereof"**, **"herein"**, **"hereby"** and **"hereunder"**, and similar expressions mean and refer to this Agreement and, unless the context otherwise requires, not to any particular Article, Section, paragraph or other subdivision thereof.

**"AML Legislation"** has the meaning attributed to it in Section 19.12.

**"Anti-Corruption Laws"** means all laws concerning or relating to bribery or public corruption, including the Corruption of *Foreign Public Officials Act* (Canada), the UK Bribery Act and the FCPA and any similar laws currently in force or hereafter enacted (and including any regulations, rules, guidelines or orders thereunder) and, in any case, which are applicable to the Borrower or any Subsidiary thereof, any Lender or Affiliate thereof, or the Agent.

**"Anti-Money Laundering/ Anti-Terrorist Financing Laws"** means all laws concerning or relating to money laundering or terrorist financing, including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the *Bank Secrecy Act*, 31 U.S.C. sections 5301 et seq., the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* of 2001, Pub. L. 107-56 (a/k/a the USA Patriot Act), *Laundering of Monetary Instruments*, 18 U.S.C. section 1956, *Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity*, 18 U.S.C. section 1957, the *Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations*, 31 C.F.R. Chapter X (Parts 1000 et. seq.) and any similar laws currently in force or hereafter enacted (and including any regulations, rules, guidelines or orders thereunder) and, in any case, which are applicable to the Borrower or any Subsidiary thereof, any Lender or Affiliate thereof, or the Agent.

**"Assignment"** means an agreement whereby a financial institution becomes a Lender substantially in the form of Schedule H, with the blanks completed.

**"[Redacted]"** means [Redacted] and its successors and permitted assigns.

**"Available Tenor"** means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (i) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an interest period or (ii) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.

**"BA Discount Rate"** means:

- (a) In relation to a Bankers' Acceptance accepted by a Schedule I Lender, [Redacted] or [Redacted], the CDOR Rate; and

- (b) in relation to a Bankers' Acceptance accepted by a Schedule II Lender or by a Schedule III Lender, the lesser of:
  - (i) the discount rate then applicable to Bankers' Acceptances as quoted by such non-Schedule I Lenders; and
  - (ii) the CDOR Rate plus 10 Basis Points per annum,provided that if both such rates are equal, then the "BA Discount Rate" applicable thereto shall be the rate specified in (i) above; and
- (c) in relation to a BA Equivalent Loan:
  - (i) made by a Schedule I Lender, [Redacted] or [Redacted], the rate determined in accordance with subparagraph (a) of this definition;
  - (ii) made by a Schedule II Lender or by a Schedule III Lender, the rate determined in accordance with subparagraph (b) of this definition; and
  - (iii) made by any other Lender, the CDOR Rate plus 10 Basis Points per annum.

**"BA Equivalent Loan"** means Canadian Dollar Accommodations made pursuant to Section 9.3.

**"BA Stamping Fee"** has the meaning attributed to it in Section 3.8(a)(iii).

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

**"Bail-In Legislation"** means:

- (a) 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, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule; and
- (b) with respect to the United Kingdom, Part I of the *United Kingdom Banking Act 2009* (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their respective Affiliates (other than through liquidation, administration or other insolvency proceedings).

**"Bank Act (Canada)"** means the *Bank Act*, S.C. 1991, c. 46 including the regulations made and, from time to time, in force under that Act.

**"Bank Product Documents"** means all agreements or arrangements (including guarantees) from time to time entered into or made by any one or more of the Borrower or any other Loan Party in connection with Bank Products.

**"Bank Products"** means any facilities (including the MasterCard Facility) or services related to cash management, including treasury, depository, credit or debit card, purchase card, electronic funds transfer, cash pooling and other cash management arrangements and commercial credit card and merchant card services provided to the Borrower or any other Loan Party by the Agent, any Lender or any Affiliate thereof (each, a **"Bank Product Provider"**).

**"Bank Product Obligations"** means, at any time and from time to time, all of the obligations, liabilities and indebtedness (present or future, absolute or contingent, matured or not) of the Borrower and the other Loan Parties to the Agent, any Lender or any Affiliate thereof under, pursuant or relating to the Bank Products and the Bank Product Documents (including the MasterCard Obligations), including all principal, interest, fees, legal and other costs, charges and expenses, and other amounts payable by the Borrower and the other Loan Parties under such Bank Products and Bank Product Documents.

**"Bank Product Provider"** has the meaning attributed to it in the definition of "Bank Products".

**"Bankers' Acceptance"** means depository bills as defined in the *Depository Bills and Notes Act* (Canada) in Canadian Dollars that are signed by the Borrower, made payable to CDS and accepted by a Lender pursuant to this Agreement.

**"Banking Day"** means any day, other than a Saturday or Sunday, on which financial institutions are open for domestic and foreign exchange business in Calgary, Alberta, Montreal, Quebec, Toronto, Ontario and, for transactions involving U.S. Dollars, New York, New York; provided that, for purposes of SOFR Loans and the determination of Term SOFR, a Banking Day also excludes a non-"U.S. Government Securities Business Day", namely a day on which the Securities Industry and Financial Markets Association in the United States recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

**"Bankruptcy and Insolvency Act (Canada)"** means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, including the regulations made and, from time to time, in force under that Act.

**"Basis Point"** or **"bps"** means one one-hundredth of 1%.

**"Benchmark"** means, initially, Term SOFR; provided that if a replacement of the Benchmark has occurred pursuant to Section 8.3, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" will include, as applicable, the published component used in the calculation thereof.

**"Benchmark Advance"** has the meaning attributed to it in Section 8.3(f).

**"Benchmark Replacement"** means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Agent for the applicable Benchmark Transition Event:

- (a) Adjusted Daily Simple SOFR; or
- (b) the sum of (i) the alternate benchmark rate and (ii) an adjustment (which may be a positive or negative value or zero), in each case, that has been selected by the Agent and the Borrower as the replacement for such Available Tenor of such Benchmark giving due consideration to any evolving or then-prevailing market convention, including any applicable recommendations made by the Relevant Governmental Body, for U.S. Dollar-denominated syndicated credit facilities at such time,

provided that, if the Benchmark Replacement as determined pursuant to this definition would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Documents.

**"Benchmark Replacement Conforming Changes"** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "U.S. Base Rate," the definition of "Banking Day," timing and frequency of determining rates and

making payments of interest, timing of borrowing requests or prepayment, conversion or renewal notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Agent (or the Operating Facility Lender in the case of the Operating Facility) decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Agent (or the Operating Facility Lender in the case of the Operating Facility) in a manner substantially consistent with market practice (or, if the Agent (or the Operating Facility Lender in the case of the Operating Facility) decides that adoption of any portion of such market practice is not administratively feasible or if the Agent (or the Operating Facility Lender in the case of the Operating Facility) determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Agent (or the Operating Facility Lender in the case of the Operating Facility) decides is reasonably necessary in connection with the administration of this Agreement and the other Documents).

**"Benchmark Transition Event"** means, with respect to any then-current Benchmark the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark, the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, announcing or stating that:

- (a) such administrator has ceased or will cease on a specified date to provide all Available Tenors of such Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark; or
- (b) all Available Tenors of such Benchmark are or will no longer be representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored.

**"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.

**"Borrower"** means Tidewater Midstream and Infrastructure Ltd. and its successors and permitted assigns.

**"Borrower's Account"** means one or more current accounts maintained by the Borrower at a branch of the Agent or such other account as may be agreed to by the Agent and the Borrower.

**"Borrower's Counsel"** means Norton Rose Fulbright Canada LLP or another firm of barristers and solicitors in an appropriate jurisdiction retained by the Loan Parties and acceptable to the Agent, acting reasonably.

**"Business Corporations Act (Alberta)"** means the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, including the regulations made, from time to time, under that Act.

**"Canadian Dollar Exchange Equivalent"** means with reference to Canadian Dollars, the amount thereof expressed in Canadian Dollars, and with reference to any amount (the **"Original Amount"**) expressed in another currency (the **"Original Currency"**), the amount expressed in Canadian Dollars on the date when such amount is being determined as herein provided, required to purchase the Original Amount of the Original Currency at the Spot Rate.

**"Canadian Dollars"** or **"Canadian \$"** or **"Cdn.\$"** or **"\$"** each means such currency of Canada which, as at the time of payment or determination, is legal tender in Canada for the payment of public or private debts.

**"Canadian Prime Rate"** means the variable rate of interest quoted by the Agent from time to time as the reference rate of interest which it employs to determine the interest rate it will charge for demand loans in Canadian Dollars to its customers in Canada and which it designates as its prime rate, provided that if such rate of interest is less than the CDOR Rate applicable to 1 month Bankers' Acceptances plus [Redacted] Basis Points per annum (the **"Floor Rate"**), then the Canadian Prime Rate will equal the Floor Rate.

**"Canadian Prime Rate Loan"** means an Advance in Canadian Dollars which bears interest at a rate based on the Canadian Prime Rate.

**"Capital Adequacy Guidelines"** means the capital adequacy guidelines from time to time specified by the Office of the Superintendent of Financial Institutions and published by it as guidelines for banks in Canada.

**"Capital Expenditures"** means, with respect to any Person for any period, all expenditures (whether paid in cash or accrued as a liability, including the portion of Finance Lease Obligations originally incurred during such period) of such Person during such period that, in conformity with GAAP, are included in "capital expenditures", "additions to property, plant or equipment" or comparable items, but excluding (a) expenditures for the restoration, repair or replacement of any fixed or capital asset that was destroyed or damaged, in whole or in part, in an amount not exceeding any insurance proceeds received in connection with such destruction or damage, and (b) increases in capital assets resulting from expenditures in respect of fixed or capital assets made by a Person other than such first Person so long as such first Person has no obligation to reimburse such other Person for such expenditures.

**"Capital Spending Budget and Plan"** means the capital spending budget and plan dated effective June 30, 2022 for the period from the third Fiscal Quarter of 2022 through to and including the third Fiscal Quarter of 2024 satisfactory in form and substance to the Agent and all of the Lenders, as amended and supplemented from time to time with the unanimous approval of the Lenders.

**"Cash Equivalents"** means, as to any Person:

- (a) Canadian Dollars or United States Dollars;
- (b) securities issued by or directly and fully guaranteed or insured by the federal governments of Canada or the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the federal governments of Canada or the United States is pledged in support of those securities) having maturities of not more than 365 days from the date of acquisition;
- (c) certificates of deposit, guaranteed investment certificates and eurodollar time deposits with maturities of 365 days or less from the date of acquisition, bankers' acceptances or bearer deposit notes with maturities not exceeding 365 days and overnight bank deposits, in each case, with the Agent, any Lender or with any United States commercial bank or any Canadian chartered bank (or comparable financial institution, including [Redacted]) having capital and surplus in excess of Cdn.\$500,000,000 and a senior unsecured rating of "A-" or better by S&P and "A3" or better by Moody's;

- (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in subparagraphs (b) and (c) above entered into with any financial institution meeting the qualifications specified in subparagraph (c) above;
- (e) commercial paper rated at least P-1 by Moody's or A-1 by S&P or at least R-1 by DBRS and in each case maturing within 365 days after the date of acquisition; and
- (f) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in subparagraphs (a) through (e) of this definition.

**"CDOR Discontinuation Date"** has the meaning attributed to it in Section 9.7.

**"CDOR Rate"** means the arithmetic average of the yields to maturity for bankers' acceptances accepted by each Schedule I Lender quoted on the "Refinitiv Screen Canadian Dollar Offered Rate (CDOR) Page" of Reuters Monitor Money Rates Service (or any successor thereto or Affiliate thereof), at approximately 10:00 a.m., (Toronto time) on the applicable date on which an Advance shall take place, for bankers' acceptances having a term similar to the term requested for each Bankers' Acceptance issued pursuant to the applicable Advance; provided, however, that if such a rate does not appear on such "Refinitiv Screen Canadian Dollar Offered Rate (CDOR) Page" as contemplated, then the CDOR Rate, on any day, shall be the arithmetic average of the discount rates (expressed to 5 decimal places) quoted by the Agent which would be applicable in respect of a purchase by the Schedule I Lenders of bankers' acceptances issued on such day (determined as of approximately 10:00 a.m., Toronto time) on the applicable date on which an Advance shall take place, in a comparable amount and having a term equal or comparable to those proposed to be issued by the Borrower; further provided that, if the CDOR Rate as determined above is less than zero, then the CDOR Rate shall be deemed to be zero for the purposes of this Agreement.

**"CDS"** has the meaning attributed to it in Section 9.2(c).

**"Change of Control"** means if, after the Closing Date, any Person acquires, directly or indirectly, alone or in concert (within the meaning of the *Securities Act* (Alberta)) with other Persons, over a period of time or at any one time, Voting Securities in the capital of the Borrower aggregating in excess of 30% of all of the then issued and outstanding Voting Securities of the Borrower or otherwise acquires the power to elect a majority of the board of directors of the Borrower (regardless of whether such Person or Persons are owned or controlled by the same Persons which owned or controlled such Voting Securities of the Borrower).

**"Claim"** has the meaning attributed to it in Section 19.5.

**"Closing Certificate"** means the officer's certificate of a Loan Party (other than the Excluded Subsidiaries) in a form acceptable to the Lenders, acting reasonably.

**"Closing Date"** means, subject to Section 2.1, August 16, 2022 or such later date as may be agreed upon in writing between the Borrower and the Agent.

**"Closing Date Compliance Certificate"** has the meaning ascribed to it in Section 2.1(a)(iii).

**"Closing Model"** has the meaning ascribed to it in Section 13.1(cc).

**"Closing Opinion"** means the opinions of the Borrower's Counsel, addressed to the Agent, its legal counsel, the Lenders and the Swap Lenders, together with their successors and assigns, as agreed to by the Agent and its legal counsel, each acting reasonably.

**"Co-Lead Arrangers"** means, collectively, National Bank Financial Markets, [Redacted] and [Redacted] in such capacity, and **"Co-Lead Arranger"** means any one of them.

**"Commercial Operation Date"** means the date on which a Material Project is substantially complete, commercially operational and revenue producing under its long term revenue contracts.

**"Commitment Amount"** means the aggregate of the Syndicated Facility Commitment Amount and the Operating Facility Commitment Amount.

**"Commodity Swap"** means any agreement for the making or taking of delivery of any commodity (including, without limitation, Petroleum Substances but excluding agreements for the sale of Petroleum Substances in the ordinary course of business which are terminable on less than 31 days' notice without penalty or costs), any commodity swap agreement, floor, cap or collar agreement or commodity future or option or other similar agreements or arrangements, or any combination thereof, entered into by a Loan Party, the purpose and effect of which is to mitigate or eliminate such Loan Party's exposure to fluctuations in commodity prices, including such agreements relating to physical transactions.

**"Companies' Creditors Arrangement Act (Canada)"** means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, including the regulations made and, from time to time, in force under that Act.

**"Compliance Certificate"** means the certificate of the Borrower substantially in the form of Schedule C, with the blanks completed.

**"Consolidated Adjusted EBITDA"** means Consolidated EBITDA, for any period of measurement, plus the amount of any applicable Material Project EBITDA Adjustments and Scheduled Refinery Maintenance Adjustments for such period.

**"Consolidated Assets"** means, on any date of determination, the assets of the Borrower determined on a consolidated basis (other than in respect of WCSB, LCFS and the Dimsdale Entities) in accordance with GAAP.

**"Consolidated Debt"** means, in respect of the Borrower, all indebtedness, liabilities and obligations in respect of amounts borrowed which, in accordance with GAAP, on a consolidated basis (other than in respect of WCSB, the Dimsdale Entities, LCFS and their respective Subsidiaries), would be recorded in the Borrower's consolidated financial statements (including the notes thereto), less unrestricted and unencumbered cash and Cash Equivalents of the Loan Parties in excess of Cdn.\$1,000,000, and in any event including, without duplication:

- (a) the stated amount of letters of credit supporting obligations which would otherwise constitute Consolidated Debt within the meaning of this definition or any other letters of credit if drawn and not reimbursed;
- (b) obligations under any bankers' acceptances;
- (c) net amounts that are then due and owing under any Financial Instrument;
- (d) obligations secured by any purchase money security interest (but excluding operating leases);
- (e) Finance Lease Obligations;

- (f) sale-leaseback payment obligations;
- (g) Indebtedness secured by any Lien existing on property owned, whether or not the obligations secured thereby will have been assumed;
- (h) the redemption amount of any capital where the holder of such capital has the option to require the redemption of such capital for cash or property and payment of the redemption amounts;
- (i) guarantees in respect of Indebtedness of another Person, including the types of obligations described in (a) through (h) above;
- (j) any Financial Assistance provided by a Loan Party to LCFS or its Subsidiaries; and
- (k) the [Redacted] Call Option Amount,

but shall exclude Convertible Debentures and all indebtedness, liabilities and obligations under the EDC Guaranteed LC Facility and the EDC Indemnity Agreement (but only to the extent that EDC has not paid or received a demand to pay under the guarantee referred to therein); provided that all indebtedness, liabilities and obligations arising under or in connection with such Convertible Debentures and the Convertible Debenture Documents governing same remain fully postponed and subordinated to the Obligations in the manner outlined in the definition of Convertible Debentures.

**"Consolidated Debt to Consolidated Adjusted EBITDA Ratio"** means, as at the end of any Fiscal Quarter, the ratio of Consolidated Debt (including, for certainty, the [Redacted] Call Option Amount) as at the last day of such Fiscal Quarter to Consolidated Adjusted EBITDA for the 12 months ending on the last day of such Fiscal Quarter.

**"Consolidated EBITDA"** means, for any fiscal period and as determined in accordance with GAAP on a consolidated basis (other than in respect of WCSB) in respect of the Borrower, without duplication:

- (a) all Net Income for such period; plus
- (b) Interest Expense to the extent deducted in determining such Net Income; plus
- (c) all amounts deducted in the calculation of such Net Income in respect of the provision for income taxes; plus
- (d) all amounts deducted in the calculation of such Net Income in respect of non-cash items, including depreciation and amortization (other than depreciation related to any asset being leased under a lease of property which would have been classified as an operating lease under GAAP as in effect prior to December 31, 2018), accretion, future taxes, non-cash losses resulting from foreign currency obligations (in accordance with GAAP), non-cash losses resulting from the mark to market of outstanding Financial Instruments (in accordance with GAAP), stock-based compensation and the write down or impairment of assets; plus
- (e) all amounts deducted in the calculation of Net Income in respect of losses from asset sales; plus

- (f) losses attributable to extraordinary and non-recurring losses of the Borrower and its Subsidiaries, in each case to the extent deducted in the calculation of such Net Income;

less (on a consolidated basis (other than in respect of WCSB), without duplication):

- (g) earnings attributable to extraordinary and non-recurring earnings and gains of the Borrower and its Subsidiaries, in each case to the extent included in the calculation of such Net Income;
- (h) to the extent included in such Net Income, gains from asset sales;
- (i) all cash payments during such period relating to non-cash charges which were added back in determining Consolidated EBITDA in any prior period; and
- (j) to the extent included in such Net Income, any other non-cash items increasing such Net Income for such period including non-cash gains resulting from the mark to market of outstanding Financial Instruments (in accordance with GAAP);

provided that:

- (A) if any acquisition from a third party (other than a Loan Party) is made by a Loan Party (whether by amalgamation, asset or share acquisition or otherwise) for net consideration in excess of \$[Redacted] at any time during the relevant period of calculation, such acquisition shall be deemed to have been made on and as of the first day of such calculation period;
- (B) if any disposition to a third party (other than a Loan Party) is made by a Loan Party (whether by asset or share disposition or otherwise) for net consideration in excess of \$[Redacted] at any time during the relevant period of calculation, or the assets cease to be owned by a Loan Party, such disposition shall be deemed to have been made on and as of the first day of such calculation period;
- (C) in the case of the Dimsdale Entities, only the portion of the Dimsdale Entities' earnings distributed in cash to a Loan Party shall be included in the calculation of Consolidated EBITDA;
- (D) in the case of LCFS, only the portion of LCFS' earnings distributed in cash to a Loan Party shall be included in the calculation of Consolidated EBITDA; and
- (E) no amount of WCSB's earnings, including earnings that are distributed to a Loan Party, shall be included in the calculation of Consolidated EBITDA.

**"Consolidated EBITDA to Interest Coverage Ratio"** means, as at the end of any Fiscal Quarter, the ratio of (i) Consolidated EBITDA, to (ii) Interest Expense, in each case, for the 12 months ending on the last day of such Fiscal Quarter.

**"Consolidated First Lien Senior Debt"** means Consolidated Debt secured by a Lien, excluding all Permitted Junior Debt secured by a Lien.

**"Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio"** means, as at the end of any Fiscal Quarter, the ratio of Consolidated First Lien Senior Debt (including, for certainty, the

[Redacted] Call Option Amount) as at the last day of such Fiscal Quarter to Consolidated Adjusted EBITDA for the 12 months ending on the last day of such Fiscal Quarter.

**"Consolidated Tangible Assets"** means, with respect to the Borrower, Consolidated Assets less:

- (a) any value attributed to intangible assets (such as, but not limited to, goodwill, patents, trademarks, intellectual property, organization expenses, trade names, deferred costs and deferred charges); and
- (b) minority interests,

in either case, as shown on the consolidated balance sheet of the Borrower and determined in accordance with GAAP.

**"Contaminants"** means those substances, pollutants, wastes and special wastes which are defined as contaminants, hazardous, toxic, or a threat to public health or to the Environment under any applicable Environmental Law, including any radioactive materials, urea formaldehyde foam insulation, asbestos or polychlorinated biphenyls (PCBs).

**"Contributing Lender"** has the meaning ascribed thereto in Section 5.7.

**"Conversion"** means in relation to an Advance, a conversion of an Advance into another type of Advance made pursuant to this Agreement.

**"Converted Shares"** means the Deposited Shares which have been delivered to the holders of the New Convertible Debentures in connection with the conversion of such New Convertible Debentures.

**"Convertible Debenture Documents"** means, collectively, in respect of any series or issue of Convertible Debentures, the trust indenture or other document or agreement governing such Convertible Debentures, the relevant Convertible Debentures and all other material agreements, instruments or other documents evidencing, governing or relating to such Convertible Debentures.

**"Convertible Debentures"** means any subordinated convertible debentures issued, created, incurred or assumed by the Borrower (including, for certainty, the 2019 Convertible Debentures and the New Convertible Debentures) which have all of the following characteristics:

- (a) the obligations under, pursuant or relating to such debentures and the indenture or agreement governing such debentures shall be unsecured obligations of the Borrower, and no Subsidiary thereof shall have provided a guarantee or any financial assistance or any security in respect of any of such obligations;
- (b) the aggregate principal amount of all such debentures (including, for certainty, the aggregate principal amount of the 2019 Convertible Debentures and the New Convertible Debentures) shall not, at any time, exceed, prior to the repayment of the 2019 Convertible Debentures, Cdn.\$175,000,000 and thereafter, Cdn.\$100,000,000;
- (c) an initial final maturity or due date in respect of repayment of principal extending beyond the latest Final Maturity Date of any Lender under this Agreement then in effect at the time such debentures are issued, created, incurred or assumed;
- (d) no scheduled or mandatory payment, redemption or repurchase of principal thereunder (other than (i) acceleration following an event of default in regard thereto, (ii) payments which can be satisfied by the delivery of common shares in the capital of

the Borrower as contemplated in clause (h) below, (iii) redemption in accordance with the terms of the debentures as set out in the indenture or other agreement governing the debentures, (iv) on a change of control of the Borrower where a Change of Control also occurs by reason of the definition thereof in this Agreement or upon the sale or other transfer of all or substantially all of the consolidated assets of the Borrower, or (v) pursuant to a purchase for cancellation by the Borrower in the market or by tender or private contract, subject to regulatory requirements) prior to the latest Final Maturity Date in effect at the time such debentures are issued, created, incurred or assumed;

- (e) other than payments which can be satisfied by the delivery of common shares in the capital of the Borrower as contemplated in clause (h) below, upon and during the continuance of a Default or Event of Default or acceleration of the time for repayment of any of the Obligations which has not been rescinded, (i) all amounts payable in respect of principal, premium (if any), interest or other obligations under, pursuant or relating to such debentures are subordinate and junior in right of payment to all such Obligations and (ii) no enforcement steps or enforcement proceedings may be commenced in respect of such debentures;
- (f) other than payments which can be satisfied by the delivery of common shares in the capital of the Borrower as contemplated in clause (h) below, upon any distribution of the assets of any Loan Party on any dissolution, winding up, total liquidation or reorganization of a Loan Party (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of such Person, or otherwise), all Obligations shall first be paid in full, or provisions, acceptable to the Agent, made for such payment, before any payment is made on account of principal, premium (if any), interest or other obligations payable in regard to such debentures;
- (g) the occurrence of a Default or Event of Default hereunder or the acceleration of the time for repayment of any of the Obligations or enforcement of the rights and remedies of the Agent and the Lenders hereunder or under any other Document shall not in and of themselves:
  - (i) cause a default or event of default (with the passage of time or otherwise) under such debentures or the indenture or agreement governing the same; or
  - (ii) cause or permit the obligations under such debentures to be due and payable prior to the stated maturity thereof,

provided, however, that, notwithstanding the foregoing provisions of this paragraph (g) (but, for certainty, without limiting or affecting in any manner whatsoever the other provisions of this definition), such debentures and the indenture or agreement governing the same may provide that an event of default under another indenture, agreement or instrument evidencing Indebtedness of the a Loan Party which has resulted in (A) Indebtedness thereunder in excess of the Threshold Amount being accelerated, and (B) the holders of such Indebtedness being entitled to commence, and such holders having commenced, the enforcement of the security they hold for such Indebtedness (if any) or the exercise of any other creditors' remedies to collect such Indebtedness, may constitute an "event of default" under and as defined in such debentures and the indenture or agreement governing the same;

- (h) except during an event of default under and as defined in the indenture or agreement governing such debentures and provided the Borrower is in compliance with all

applicable securities laws and such common shares are qualified for distribution as required and listed on the Toronto Stock Exchange or another national securities exchange, payments of interest or principal due and payable under such debentures can be satisfied, at the option of the Borrower, by delivering common shares of the Borrower in accordance with the indenture or agreement governing such debentures (whether such common shares of the Borrower are received by the holders of such debentures as payment or are sold by a trustee or representative under such indenture or agreement to provide cash for payment to holders of such debentures); provided that the debentures may also be convertible into common shares of the Borrower at the option of the holders thereof in accordance with the indenture or other agreement governing such debentures; and

- (i) the holders of such debentures, or an authorized trustee on their behalf, have upon request by the Agent entered into an agreement with the Borrower and the Agent that is in form and substance satisfactory to the Agent, acting reasonably, pursuant to which such holders or their agent has agreed and confirmed that the debentures are subordinated and postponed as provided for in this definition of "Convertible Debentures".

**"Co-Processing Assets Sale Agreements"** means (i) the Initial Co-Processing Assets Sale Agreement dated as of August 18, 2021 between the Borrower and Tidewater Acquisition and (ii) the Co-Processing Assets Sale Agreement dated as of August 18, 2021 between Tidewater Acquisition and LCFS.

**"Covered Entity"** means any of the following:

- (a) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 CFR § 252.82(b);
- (b) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 CFR § 47.3(b); or
- (c) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 CFR § 382.2(b).

**"Covered Party"** has the meaning attributed to it in Section 4.13(b).

**"Credit Facilities"** means, collectively, the Syndicated Facility and the Operating Facility, and **"Credit Facility"** means any of them.

**"Criminal Code (Canada)"** means the *Criminal Code*, R.S.C. 1985, c. C-46, including the regulations made and, from time to time, in force under that Act.

**"Currency Hedging Agreement"** means any currency swap agreement, cross-currency agreement, forward agreement, floor, cap or collar agreement, futures or options, insurance or other similar agreement or arrangement, or any combination thereof, entered into by any Loan Party, the purpose and effect of which is to mitigate or eliminate such Loan Party's exposure to fluctuations in currency exchange rates.

**"Daily Simple SOFR"** means, for any day, a rate per annum equal to SOFR for the day, with the conventions for this rate (which will include a lookback) being established by the Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for syndicated business loans; provided that, if the Agent decides

that any such convention is not administratively feasible for the Agent, then the Agent may establish another convention in its discretion, acting reasonably.

**"Daily Simple SOFR Adjustment"** means, with respect to Daily Simple SOFR, [Redacted]% ([Redacted] Basis Points) for a SOFR Period of one month's duration, [Redacted]% ([Redacted] Basis Points) for a SOFR Period of three months' duration, and [Redacted]% ([Redacted] Basis Points) for a SOFR Period of six months' duration.

**"DBRS"** means DBRS Limited, and its successors.

**"Default"** means any event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would constitute an Event of Default.

**"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.

**"Defaulting Lender"** means any Lender or, in the case of paragraphs (e) and (g) below, a Lender or a Lender's parent (being any Person that directly or indirectly controls a Lender where control has the same meaning as in the definition of Affiliate (a **"Lender Parent"**)):

- (a) that is a Non-Paying Lender;
- (b) that has failed to fund any payment or its portion of any Advances required to be made by it hereunder within 1 Banking Day;
- (c) that has notified the Agent or the Borrower (verbally or in writing) that it does not intend to or is unable to comply with any of its funding obligations under this Agreement or has made a public statement to that effect or to the effect that it does not intend to or is unable to fund advances generally under credit arrangements to which it is a party;
- (d) that has failed, within 3 Banking Days after request by the Agent or the Borrower, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Advances;
- (e) that becomes insolvent, has been deemed insolvent by a court of competent jurisdiction, or becomes the subject of bankruptcy or insolvency proceeding;
- (f) that is generally in default of its obligations under other existing credit or loan documentation under which it has commitments to extend credit; or
- (g) that becomes the subject of a Bail-In Action.

**"Departing Lender"** has the meaning attributed to it in Section 18.17.

**"Deposited Shares"** means the common shares of LCFS, held by the Borrower, which shall be required to be deposited with a depository agent pursuant to the New Indenture in connection with the Borrower's obligation to deliver common shares to the holders of the New Convertible Debentures in connection with the conversion of such New Convertible Debentures.

**"Depository Bills and Notes Act (Canada)"** or **"DBNA"** means the *Depository Bills and Notes Act* (Canada), S.C. 1998, c. 13, including the regulations made and, from time to time, in force under that Act.

**"Dimsdale Assets"** means the property, assets and rights which comprise the Dimsdale Project, and such other property, assets and rights which directly relate to the ownership, development, construction, and/or operation of the Dimsdale Project (and the business and affairs carried out at the Dimsdale Project), including, without limitation, the following:

- (a) the natural gas rights in the Dimsdale Paddy A pool;
- (b) the 5-36-071-07W6 multi-well battery and associated equipment, including but not limited to, the 5-36 and 12-36 compressor, two dehydrators, and inlet separator;
- (c) the 2-35-071-07W6 well, 13-25-071-07W6 well and 8-25-071-07W6 well;
- (d) pipelines from 8-25-071-07W6 to 15-30-071-07W6; 5-36-071-07W6 to 5-36-071-07W6; 8-25-071-07W6 to 05-36-071-07W6; 8-25-071-07W6 to 12-36-071-07W6; and 2-35-071-07W6 to 05-36-071-07W6;
- (e) lands legally described as the East Half of the South East Quarter of Section 25, Township 71, Range 7, West of the 6th Meridian, including all improvements and structures located thereon;
- (f) all leases, licenses, permits, reservations, contracts, agreements, books, records and documents directly relating to the Dimsdale Project, including any contract or agreement pursuant to which any interest in the Dimsdale Project is derived, any agreement for the storage of gas at the Dimsdale Project, and any contract or agreement entered into with respect to the exploitation of the rights referred to in (a) above or with respect to the business and operations of the Dimsdale Project;
- (g) all production and engineering information relating directly to the Dimsdale Project;
- (h) all subsisting rights to carry out any business or operations relating to the Dimsdale Project, and any rights to receive payment arising from such business and operations; and
- (i) the Dimsdale Project Permits.

**"Dimsdale Documents"** means, collectively, the Dimsdale PSA, the Dimsdale Equity Transfer Agreement, the Dimsdale LPA, the Dimsdale USA and, including, for certainty, any amended or successor partnership agreement, shareholders agreement or other agreement or instrument which establishes or governs any Dimsdale Entity or the business or operation thereof, in each case, as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms and the terms of this Agreement.

**"Dimsdale Entities"** means Dimsdale LP, Dimsdale GP and Dimsdale Holdings, and "Dimsdale Entity" means any of them.

**"Dimsdale Equity Transfer Agreement"** means the agreement or agreements pursuant to which the Borrower will transfer its interest in Dimsdale LP and Dimsdale GP to Dimsdale Holdings.

**"Dimsdale GP"** means Tidewater Pipestone Infrastructure Corp., being the sole general partner of Dimsdale LP, and its successors and permitted assigns.

**"Dimsdale Holdings"** means 2205894 Alberta Ltd.

**"Dimsdale Letter Agreement"** means the letter agreement dated June 22, 2022 among the Borrower and [Redacted] regarding Tidewater Pipestone Infrastructure LP and any further agreement reflecting the terms thereof (such agreement to be in form and substance satisfactory to the Lenders).

**"Dimsdale LP"** means Tidewater Pipestone Infrastructure LP, and its successors and permitted assigns.

**"Dimsdale LPA"** means the limited partnership agreement entered into between the Borrower (and as may be assigned by the Borrower to Dimsdale Holdings), Dimsdale GP and [Redacted], in respect of Dimsdale LP, as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms and the terms of this Agreement.

**"Dimsdale Operating Agreement"** means the operating agreement to be entered into between the Borrower and Dimsdale LP in respect of the operation of the Dimsdale Project, as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms.

**"Dimsdale Project"** means the 10.7 PJ greenfield natural gas storage facility and associated infrastructure located approximately 3km west of Grande Prairie, Alberta as more particularly described in the Dimsdale Gas Storage Facility Scope of Work dated June 14, 2019 prepared by the Borrower.

**"Dimsdale Project Financing"** means the definitive credit documents establishing project financing and associated credit facilities in favour of Dimsdale LP, entered into between Dimsdale LP as borrower, National Bank of Canada as administrative agent, and the financial institutions party thereto as lenders from time to time.

**"Dimsdale Project Permits"** means the permits, licences, approvals and consents set out in Schedule K.

**"Dimsdale PSA"** means, collectively, the asset contribution agreements between the Borrower and Dimsdale LP, providing for the contribution, assignment and transfer by the Borrower to Dimsdale LP of the Dimsdale Assets.

**"Dimsdale USA"** means the unanimous shareholders agreement entered into between the Borrower (and as may be assigned by the Borrower to Dimsdale Holdings), [Redacted] and Dimsdale GP in respect of Dimsdale GP as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms and the terms of this Agreement.

**"Director"** means a director of a corporation and reference to action by the directors or board of directors when used with respect to a corporation means action by the directors of such corporation as a board or, whenever duly empowered, by an executive committee or any other duly authorized committee of the board.

**"Discount Fraction"** means:

1 + (the BA Discount Rate (expressed as a decimal)  
x the number of days in the term of the Bankers'  
Acceptance divided by 365)

**"Discount Proceeds"** means the actual amount (based on the BA Discount Rate) received by the Borrower from the sale of a Bankers' Acceptance hereunder without deduction for the BA Stamping Fee and which, in the case of a purchase of Bankers' Acceptances by the Lenders, means an amount equal to the face amount of the Bankers' Acceptances multiplied by the Discount Fraction (rounded up or down to the fifth decimal place with .000005 being rounded up).

**"Distribution"** means any:

- (a) payment of any cash dividend on or in respect of any shares, units or other ownership interests of any class in the capital of a Loan Party (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (b) redemption, retraction, purchase or other acquisition or retirement, in whole or in part, of shares, units or other ownership interests of any class in the capital of a Loan Party (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (c) payment of principal, interest or other amounts in whole or in part, of any Indebtedness of a Loan Party (including any Indebtedness incurred or assumed by a Loan Party pursuant to a Finance Lease or operating lease);

to (in the case of paragraphs (a) and (c) of this definition) or by or from (in the case of paragraph (b) of this definition) any shareholder or any Affiliate of a shareholder of a Loan Party (other than a Lender), whether made or paid in or for cash, property or both, or

- (d) transfer of any property for consideration of less than fair market value by a Loan Party to any shareholder or to any Affiliate of a shareholder of a Loan Party,

provided that, no payments of interest, principal or other amounts in respect of any Convertible Debentures in accordance with the terms thereof shall be a "Distribution" for the purposes hereof.

**"Documents"** means this Agreement and any other instruments or agreements entered into by the Parties relating to the Credit Facilities, including the Security, the LCFS Intercreditor Agreement and any document or agreement resulting from the operation of Section 4.1; provided that, when the term "Documents" is used but not otherwise defined in the Security, such term shall be deemed to include all Lender Secured Documents.

**"Drawdown"** means a borrowing or credit of funds by way of Advances, other than an Advance by way of Rollover or Conversion.

**"Drawdown Date"** means the date specified in a Notice of Borrowing as the date on which a Drawdown will occur and which date will be a Banking Day, and which in the case of a SOFR Loan will be a Banking Day.

**"EDC"** means Export Development Canada and its successors.

**"EDC Guaranteed LC"** means a letter of credit in issued by the EDC Guaranteed LC Facility Provider pursuant to the EDC Guaranteed LC Facility.

**"EDC Guaranteed LC Facility"** means an unsecured demand revolving letter of credit facility entered into between the EDC Guaranteed LC Facility Provider and the Borrower on August 23, 2019 (as amended from time to time) having the following characteristics:

- (a) the maximum principal amount of such letter of credit facility shall not exceed Cdn.\$75,000,000;
- (b) the Indebtedness thereunder shall be unsecured in all events and circumstances;
- (c) the letters of credit issued thereunder and the obligations of the Borrower in respect thereof shall be guaranteed by EDC in favour of the EDC Guaranteed LC Facility Provider pursuant to an EDC Indemnity Agreement or a guarantee issued pursuant thereto; and
- (d) no Default or Event of Default is continuing at the time of the creation and establishment of the EDC Guaranteed LC Facility or would exist immediately thereafter.

**"EDC Guaranteed LC Facility Documents"** means the documentation governing the EDC Guaranteed LC Facility, each account performance security guarantee issued by EDC in connection therewith, the letter of credit applications issued thereunder, the EDC Indemnity Agreement and all other agreements, documents and instruments required to be delivered thereunder.

**"EDC Guaranteed LC Facility Provider"** means National Bank of Canada, in its capacity as lender of the EDC Guaranteed LC Facility, and includes any replacement lender thereunder.

**"EDC Indemnity Agreement"** means the bonding products and other insurance declaration and indemnity executed as of March 29, 2019 entered into by the Borrower and certain of its Subsidiaries in favour of EDC in connection with the EDC Guaranteed LC Facility having the following characteristics:

- (a) the guarantee thereunder or issued pursuant thereto from EDC in favour of the EDC Guaranteed LC Facility Provider shall be in an amount sufficient to fully guarantee all obligations of the Borrower under and pursuant to the EDC Guaranteed LC Facility up to Cdn.\$75,000,000;
- (b) the indebtedness, liabilities and obligations of the Borrower thereunder shall be unsecured in all events and circumstances (and, for certainty, EDC shall not be entitled to require cash collateral or other security from the Borrower thereunder);
- (c) no Default or Event of Default is continuing at the time of the creation and establishment of the EDC Guaranteed LC Facility or would exist immediately thereafter; and
- (d) the bonding products declaration and indemnity shall otherwise be on terms and conditions acceptable to the Agent, acting reasonably.

**"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 Lender Parent of an institution described in clause

(a) of this definition, or (c) any 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 Lender 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"** has the meaning attributed to it in Section 3.8(d).

**"Electronic Image"** has the meaning attributed to it in Section 19.17.

**"Environment"** means all components of the earth, including all layers of the atmosphere, air, land (including all underground spaces and cavities and all lands submerged under water), soil, water (including surface and underground water), organic and inorganic matter and living organisms, and the interacting natural systems that include the components referred to in this definition.

**"Environmental Certificate"** means the certificate of the Borrower substantially in the form of Schedule J.

**"Environmental Law"** means any Law relating, in whole or in part, to the protection or enhancement of the Environment, including occupational safety, product liability, public health, public safety and transportation or handling of dangerous goods.

**"Erroneous Payment"** has the meaning attributed to it in Section 18.18(a).

**"Erroneous Payment Deficiency Assignment"** has the meaning attributed to it in Section 18.18(d).

**"Erroneous Payment Impacted Facilities"** has the meaning attributed to it in Section 18.18(d).

**"Erroneous Payment Return Deficiency"** has the meaning attributed to it in Section 18.18(d).

**"Erroneous Payment Subrogation Rights"** has the meaning attributed to it in Section 18.18(d).

**"Escrow Funds"** has the meaning attributed to it in Section 9.5.

**"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"** means an event specified in Section 15.1.

**"Excess"** has the meaning attributed to it in Section 5.8.

**"Excess Cash"** means any cash or Cash Equivalents of the Borrower and its Subsidiaries that, when taken as a whole, are in excess of the Threshold Amount (or the equivalent amount thereof in any other currency) at any time; provided that "Excess Cash" shall exclude (i) any cash which is being held by the Agent as cash collateral pursuant to this Agreement, and (ii) any funds which the Lenders have previously agreed in writing shall be excluded from "Excess Cash".

**"Excluded Subsidiaries"** means, collectively, and subject to Section 4.12, Tidewater Midstream (US) Ltd. and each other Subsidiary of the Borrower from time to time which is domiciled in the United States, and **"Excluded Subsidiary"** means any one of them.

**"Executive Order"** means the executive order No. 13224 of 23 September 2011, entitled "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism."

**"Exempt Purchase Option Payments"** means any payment of or with respect to the "Purchase Price" under the Tribus Letter Agreement (up to an aggregate maximum of \$10,500,000) and any scheduled payments of or with respect to the "Amendment Fees" under the Dimsdale Letter Agreement (up to the amounts and at the times set out in the Closing Model).

**"Existing Distributions"** has the meaning ascribed to it in Section 14.3(b).

**"Extension"** has the meaning attributed to it in Section 3.2(a).

**"Extension Request"** has the meaning attributed to it in Section 3.2(a).

**"FCPA"** means the *United States Foreign Corrupt Practices Act* of 1977, including any subordinate legislation thereunder.

**"Federal Funds Rate"** means, for any day, the rate calculated by the Federal Reserve Bank of New York, based on such day's federal funds transactions by depository institutions, as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time and as published on the next succeeding Banking Day by the Federal Reserve Bank of New York as the federal funds effective rate, or, if such day is not a Banking Day, such rate for the immediately preceding Banking Day for which the same is published or, if such rate is not so published for any day that is a Banking Day, the rate for such day will be the arithmetic mean of the rates per annum for the last transaction in overnight Federal funds arranged prior to 9:00 a.m. (New York time) on that day by each of three major brokers of Federal funds transactions in New York City, selected by the Agent in its sole discretion, acting reasonably. In all cases, if the rate for such day is less than zero, such rate shall be deemed to be zero for that day for the purposes of this Agreement.

**"Federal Reserve Board"** or **"Federal"** means the Board of Governors of the Federal Reserve System of the United States of America or any successor thereof.

**"Final Maturity Date"** means August 18, 2024 (as such Final Maturity Date may be extended hereunder).

**"Finance Lease"** means, with respect to any Person, any lease relating to real or personal property which is, in accordance with GAAP, classified and accounted for as a liability on the balance sheet of such Person, excluding, in any event, leases (whether entered into before or after December 31, 2018) that would otherwise have been classified as operating leases under GAAP prior to December 31, 2018.

**"Finance Lease Obligations"** means, with respect to any Person, all obligations of such Person under any Finance Leases.

**"Financial Assistance"** means with respect of any Person and without duplication, any loan, guarantee, indemnity, assurance, acceptance, extension of credit, loan purchase, share purchase, equity or capital contribution, investment or other form of direct or indirect financial assistance or support of any other Person or any obligation (contingent or otherwise) primarily for the purpose of

enabling another Person to incur or pay any Indebtedness or Convertible Debentures or to comply with agreements relating thereto or otherwise to assure or protect creditors of the other Person against loss in respect of Indebtedness or Convertible Debentures of the other Person and includes any guarantee of or indemnity in respect of the Indebtedness or Convertible Debentures of the other Person and any absolute or contingent obligation to (directly or indirectly):

- (a) advance or supply funds for the payment or purchase of any Indebtedness or Convertible Debentures of any other Person;
- (b) purchase, sell or lease (as lessee or lessor) any property, assets, goods, services, materials or supplies primarily for the purpose of enabling any Person to make payment of Indebtedness or Convertible Debentures or to assure the holder thereof against loss;
- (c) guarantee, indemnify, hold harmless or otherwise become liable to any creditor of any other Person from or against any losses, liabilities or damages in respect of Indebtedness or Convertible Debentures;
- (d) make a payment to another for goods, property or services regardless of the non-delivery or non-furnishing thereof to a Person for the primary purpose referred to above; or
- (e) make an advance, loan or other extension of credit to or to make any subscription for equity, equity or capital contribution, or investment in or to maintain the capital, working capital, solvency or general financial condition of another Person, in each case, for the primary purpose referred to above.

The amount of any Financial Assistance is the amount of any loan or direct or indirect financial assistance or support, without duplication; or, unless the Financial Assistance is limited to a determinable amount, in which case the amount of the Financial Assistance is the determinable amount, all Indebtedness or Convertible Debentures of the obligor to which such Financial Assistance relates.

**"Financial Instruments"** has the meaning attributed to it in Section 14.3(c).

**"Financial Letters of Credit"** means a stand-by Letter of Credit if it serves as a payment guarantee of the Borrower's financial obligations and is treated as a direct credit substitute for purposes of the Capital Adequacy Guidelines.

**"First Party"** has the meaning attributed to it in Section 19.4.

**"Fiscal Quarter"** means any fiscal quarter of the Borrower.

**"Fiscal Year"** means any fiscal year of the Borrower, and is currently January 1 to December 31 of each year.

**"Floor"** means a rate of interest equal to 0% *per annum*.

**"Floor Rate"** has the meaning attributed to it in the definition of Canadian Prime Rate.

**"Former Lender"** has the meaning attributed to it in Section 4.8.

**"GAAP"** means generally accepted accounting principles which are in effect from time to time in Canada, including, for certainty, IFRS (but only to the extent IFRS is adopted by the Chartered Professional Accountants of Canada or any successor thereto ("**CPA Canada**") as generally accepted accounting principles in Canada and, then, subject to such modifications thereto as are agreed by CPA Canada). For certainty, it is acknowledged that the Borrower uses IFRS for its financial reporting.

**"Governmental Acts"** has the meaning attributed to it in Section 10.8.

**"Governmental Authority"** means any domestic or foreign, national, federal, provincial, state, municipal or other local government or regulatory body and any division, agency, ministry, commission, board or authority or any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing, and any domestic, foreign or international judicial, quasi-judicial, arbitration or administrative court, tribunal, commission, board or panel acting under the authority of any of the foregoing.

**"Hedging Obligations"** means the actual Indebtedness or obligations of any Loan Party to a Swap Lender under or pursuant to a Swap Document.

**"High Yield Notes"** means the 6.75% senior unsecured notes due 2022 in principal amount of \$125,000,000 issued pursuant to the Trust Indenture.

**"Hostile Acquisition"** means an acquisition, which is required to be reported to applicable securities regulatory authorities, of shares of a corporation where the board of directors of that corporation has not approved such acquisition nor recommended to the shareholders of the corporation that they sell their shares pursuant to the proposed acquisition or of units of a trust where the trustee or manager or administrator of that trust has not approved such acquisition nor recommended to the unitholders of the trust that they sell their units pursuant to the proposed acquisition or of units of a partnership where the board of directors of the general partner(s) thereof has not approved such acquisition nor recommended to the partners of the partnership that they sell their units pursuant to the proposed acquisition.

**"IFRS"** means International Financial Reporting Standards including International Accounting Standards and Interpretations together with their accompanying documents which are set by the International Accounting Standards Board, the independent standard-setting body of the International Accounting Standards Committee Foundation (the "**IASC Foundation**"), and the International Financial Reporting Interpretations Committee, the interpretative body of the IASC Foundation.

**"includes"** means "includes without limitation" and **"including"** means "including without limitation".

**"Indebtedness"** means, without duplication, the aggregate amount of all obligations, liabilities and indebtedness of a Person which would be classified under GAAP as indebtedness for borrowed money upon the consolidated balance sheet of such Person, including all long-term borrowings, the current portion of long-term borrowings, short-term borrowings, Finance Lease Obligations plus all monetary obligations of such Person arising in respect of a Financial Instrument that are due and owing and all monetary obligations, contingent or otherwise, of any of the foregoing arising from any guarantee made by such Person in respect of any of the foregoing; but shall exclude Convertible Debentures; provided that all indebtedness, liabilities and obligations arising under or in connection with such Convertible Debentures and the Convertible Debenture Documents governing same remain fully postponed and subordinated to the Obligations in the manner outlined in the definition of Convertible Debentures.

**"Indemnified Parties"** has the meaning attributed to it in Section 19.5.

**"Individual Commitment Amount"** means, from time to time, in respect of a Lender, that portion of the Commitment Amount which such Lender has severally agreed to make available to the Borrower in accordance with the terms and conditions of this Agreement, subject to adjustment pursuant to the terms of this Agreement.

**"Individual Syndicated Facility Commitment Amount"** means, from time to time, in respect of a Syndicated Facility Lender, that portion of the Syndicated Facility Commitment Amount which such Syndicated Facility Lender has severally agreed to make available to the Borrower in accordance with the terms and conditions of this Agreement, subject to adjustment pursuant to the terms of this Agreement.

**"Interest Act (Canada)"** means the *Interest Act*, R.S.C. 1985, c. I-15, including the regulations made and, from time to time, in force under that Act.

**"Interest Expense"** means, for any fiscal period, without duplication, interest expense of the Borrower determined on a consolidated basis (other than in respect of WCSB, the Dimsdale Entities, LCFS and their respective Subsidiaries) in accordance with GAAP, as the same would be set forth or reflected in a consolidated statement of operations of the Borrower and, in any event and without limitation, shall include:

- (a) all interest accrued or payable in respect of such period, including capitalized interest and imputed interest with respect to lease obligations included as Indebtedness;
- (b) all fees (including standby and commitment fees, acceptance fees in respect of bankers' acceptances and fees payable in respect of letters of credit, letters of guarantee and similar instruments) accrued or payable in respect of such period, prorated (as required) over such period;
- (c) any difference between the face amount and the discount proceeds of any bankers' acceptances, commercial paper and other obligations issued at a discount, prorated (as required) over such period;
- (d) the aggregate of all purchase discounts relating to the sale of accounts receivable in connection with any asset securitization program; and
- (e) all net amounts charged or credited to interest expense under any Interest Hedging Agreement in respect of such period.

**"Interest Hedging Agreement"** means any interest swap agreement, forward rate agreement, floor, cap or collar agreement, futures or options, insurance or other similar agreement or arrangement, or any combination thereof, entered into by a Loan Party, the purpose and effect of which is to mitigate or eliminate such Loan Party's exposure to fluctuations in interest rates.

**"ISP98"** means the International Standby Practices ISP98, as published by the International Chamber of Commerce and in effect from time to time.

**"Judgment Interest Act (Alberta)"** means the *Judgment Interest Act*, R.S.A. 2000, c. J-1, including the regulations made and from time to time in force under that Act.

**"Junior Credit Agreement"** means, the credit agreement dated November 1, 2019 among, *inter alios*, the Borrower, as borrower, [Redacted] and those other financial institutions which are or hereafter become lenders thereunder, as lenders, and [Redacted], as agent, as it may be amended, restated,

supplemented or otherwise modified from time to time in accordance with its terms and the terms of this Agreement.

**"Junior Creditors"** means, collectively, the lenders (including holders of any bonds, debentures, notes or other evidence of Indebtedness under any Junior Debt Document) of any Permitted Junior Debt, and any administrative or collateral agents or trustees from time to time under any Junior Debt Document, including any replacements thereof in connection with a Permitted Junior Debt Refinancing.

**"Junior Debt Documents"** means any credit agreement, indenture or other principal financing document by and between the Borrower and any Junior Creditor governing the terms and conditions of Permitted Junior Debt, as such agreement, indenture or other document may be amended, restated, supplemented or replaced from time to time as permitted hereunder.

**"Law"** means all constitutions, treaties, laws, statutes, codes, ordinances, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international, any judgments, orders, writs, injunctions, decisions, rulings, decrees and awards of any Governmental Authority, and any policies, voluntary restraints, practices or guidelines of any Governmental Authority, and including any principles of common law and equity.

**"LCFS"** means Tidewater Renewables Ltd. and its successors.

**"LCFS Agent"** has the meaning attributed to it in the definition of "LCFS Credit Agreement".

**"LCFS Assets"** means the property, assets and rights which comprise the LCFS Project, and such other property, assets and rights which directly relate to the ownership, development, construction, and/or operation of the LCFS Project (and the business and affairs carried out at the LCFS Project), including, for certainty, all property, assets and rights being sold and conveyed to LCFS pursuant to the Renewables Asset Sale Agreements.

**"LCFS Credit Agreement"** means the amended and restated credit agreement dated as of June 30, 2022 among LCFS, as borrower, NBC, as administrative agent (the "**LCFS Agent**") and the lenders party thereto, as lenders.

**"LCFS Disposition Adjustment"** means, for the 365 days following receipt of any proceeds from the disposition of Voting Securities of LCFS (other than the Deposited Shares and the Converted Shares), the net cash proceeds of any and each such disposition; for certainty, following the expiry of such 365 day period, the adjustment relative to such proceeds is zero.

**"LCFS Intercreditor Agreement"** means, in connection with this Agreement and the LCFS Credit Agreement, the amended and restated intercreditor agreement dated as of August 16, 2022 by and between, *inter alios*, the Loan Parties, LCFS, the LCFS Agent, and the Agent (on behalf of itself, the Lenders and the Swap Lenders) as further amended, restated, supplemented or replaced from time to time.

**"LCFS Project"** means, collectively, LCFS' (a) renewable diesel business and development project located at the Prince George refinery; (b) renewable hydrogen business and development project located at the Prince George refinery; and (c) renewable natural gas business and development projects, including the portion located at and near the Brazeau River complex.

**"Lender BA Suspension Notice"** has the meaning attributed to it in Section 9.6(b).

**"Lender Benchmark Suspension Notice"** has the meaning attributed to it in Section 8.3(f).

**"Lender Secured Documents"** means, collectively, the Documents, the Bank Product Documents and the Swap Documents.

**"Lenders"** means, initially, the Lenders identified in Schedule B, and thereafter, each Person which may become a Lender under this Agreement, as a lender, by executing and delivering to the Agent an Assignment, and each of their respective successors and permitted assigns, and **"Lender"** means any one of them in such capacity.

**"Lenders' Counsel"** means Blake, Cassels & Graydon LLP or another firm of barristers and solicitors retained by the Agent.

**"Letter of Credit Fee"** has the meaning attributed to it in Section 3.8(a)(v).

**"Letters of Credit"** means letters of credit or letters of guarantee in Canadian Dollars or such other currency acceptable to the Operating Facility Lender, issued under Article 10.

**"Lien"** means any mortgage, lien, pledge, charge (whether fixed or floating), security interest, conditional sale or title retention agreement (other than operating leases which are not in the nature of financing transactions), trust or deposit arrangements in the nature of a security interest or other encumbrance of any kind, contingent or absolute but excludes any contractual right of set-off created in the ordinary course of business and any writ of execution, or other similar instrument, arising from a judgment relating to the non-payment of Indebtedness.

**"Loan Obligations"** means, collectively, the aggregate amount of all obligations, liabilities and Indebtedness, contingent or otherwise, of a Loan Party to the Co-Lead Arrangers, the Agent or any Lender under the Documents.

**"Loan Parties"** means, subject to Section 4.11, the Borrower and all of the Borrower's Subsidiaries (but excluding, in any event, WCSB, the Dimsdale Entities (subject to Section 4.11), LCFS and their respective Subsidiaries), and **"Loan Party"** means any one of them.

**"Majority Lenders"** means (i) if there are two or less Lenders, all Lenders or (ii) if there are three or more Lenders, the Lenders holding, in aggregate, at least  $66\frac{2}{3}\%$  of the Commitment Amount.

**"MasterCard Facility"** means the MasterCard card products facility in the amount set out at Schedule B next to the heading entitled "MasterCard Facility" or such amount as may be agreed to between the Agent, as the applicable Bank Product Provider, and the Borrower from time to time established by the Agent in favour of the Borrower in accordance with the applicable Bank Product Documents.

**"MasterCard Obligations"** means, at any time and from time to time, all of the obligations, liabilities and indebtedness of the Borrower and the other Loan Parties to the Agent under, pursuant or relating to the MasterCard Facility and the other Bank Product Documents relating thereto.

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the financial condition of the Loan Parties taken as a whole;
- (b) the Loan Parties' collective ability to perform their respective material obligations under the Documents or the validity or enforceability of a material provision of the Documents;  
or
- (c) the property, business, operations, assets or liabilities of the Loan Parties taken as a whole.

**"Material Contracts"** means (a) each of the contracts, licences and agreements listed in Schedule I hereto, including, for certainty and without limitation, the Material LCFS Contracts, (b) any other contract, licence or agreement (i) to which any Loan Party is a party or bound, (ii) which is material to, or necessary in, the operation of the business of the Loan Parties, (iii) which the Loan Parties cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and (iv) the absence of which would have a Material Adverse Effect, and (c) any other contracts, licenses or agreements representing more than 5% of the Loan Parties' aggregate revenues.

**"Material LCFS Contracts"** means (a) each of the contracts, licences and agreements listed in Schedule L hereto, (b) any other contract, licence or agreement (i) to which LCFS or any other Loan Party (as defined in the LCFS Credit Agreement) is a party or bound, (ii) which is material to, or necessary in, the operation of the business of LCFS or any other Loan Party (as defined in the LCFS Credit Agreement), (iii) which LCFS or any other Loan Party (as defined in the LCFS Credit Agreement) cannot promptly replace by an alternative and comparable contract with comparable commercial terms, and (iv) the absence of which would have a Material Adverse Effect (as defined in the LCFS Credit Agreement), and (c) any other "Material Contract" (as such term is defined in the LCFS Credit Agreement).

**"Material Project"** means a Midstream Business project of one or more Loan Parties with respect to which such Loan Party or Loan Parties have budgeted and are expected to make Capital Expenditures in excess of Cdn.\$50,000,000.

**"Material Project EBITDA Adjustment"** means, with respect to each Material Project:

- (a) prior to the Commercial Operation Date of a Material Project (but including the Fiscal Quarter in which such Commercial Operation Date occurs), a percentage (based on the then-current completion percentage of such Material Project) of the amount designated as the projected Consolidated EBITDA attributable to such Material Project as proposed by the Borrower (such amount to be proposed by the Borrower to the Agent and the Lenders together with reasonable supporting materials reasonably requested by the Agent and the Lenders and certified by the Borrower as the amount based upon the income forecasted for the first 12 months of operation from binding, non-contingent take-or-pay contracts less appropriate direct and indirect costs to realize such income; provided that if Lenders holding more than 33 $\frac{1}{3}$ % of the aggregate commitments under the Credit Facilities provide notice to the Agent within 21 days after such proposal is submitted by the Borrower that they do not approve the proposed amount, then such amount shall be deemed to be zero), which may, at the Borrower's option, be added to Consolidated EBITDA for the Fiscal Quarter in which construction of such Material Project commences and for each Fiscal Quarter thereafter until the Commercial Operation Date of such Material Project (including the Fiscal Quarter in which such Commercial Operation Date occurs, net of any actual Consolidated EBITDA attributable to such Material Project for such period); provided that if the actual Commercial Operation Date does not occur by the scheduled Commercial Operation Date, then the foregoing amount shall be reduced, for quarters ending after the scheduled Commercial Operation Date to (but excluding) the first full quarter after its Commercial Operation Date, by the following percentage amounts depending on the period of delay (based on the period of actual delay or then-estimated delay, whichever is longer): (i) 90 days or less, 0%, (ii) longer than 90 days, but not more than 180 days, 25%, (iii) longer than 180 days but not more than 270 days, 50%, and (iv) longer than 270 days, 100%; and
- (b) beginning with the first full Fiscal Quarter following the Commercial Operation Date of a Material Project and for the two immediately following Fiscal Quarters, the amount designated as the projected Consolidated EBITDA attributable to such Material Project

as proposed by the Borrower (such amount shall be determined in the same manner as set forth in paragraph (a) above) multiplied by (i) for the measurement period ending on the last day of the first full Fiscal Quarter after the Commercial Operation Date, 3/4; (ii) for the measurement period ending on the last day of the second full Fiscal Quarter after the Commercial Operation Date, 1/2; and (iii) for the measurement period ending on the last day of the third full Fiscal Quarter after the Commercial Operation Date, 1/4, in each case, which may, at the Borrower's option, be added to Consolidated EBITDA for such Fiscal Quarters; provided that (x) not later than 15 days (or such shorter time as the Agent may agree in its sole discretion) prior to the delivery of a Compliance Certificate pursuant hereto to the extent Material Project EBITDA Adjustments will be made to Consolidated EBITDA in determining compliance with the covenants set forth in Section 14.4, the Borrower shall have delivered to the Agent a written request for Material Project EBITDA Adjustments setting forth (A) the scheduled Commercial Operation Date for such Material Project, and (B) pro forma projections of Consolidated EBITDA and costs and expenses attributable to such Material Project, and (y) promptly after request by the Agent, the Borrower shall have delivered to the Agent such other supporting information reasonably requested by the Agent,

provided, in each case, that the aggregate amount of all Material Project EBITDA Adjustments during any measurement period shall be limited to 15% of total actual Consolidated EBITDA.

**"Maturity Date"** means the date which is (i) a Banking Day with respect to a SOFR Loan, on which the applicable SOFR Period expires in respect of a SOFR Loan, (ii) the Banking Day which is the expiry date of a Letter of Credit, or (iii) the Banking Day which is the date a Bankers' Acceptance or a BA Equivalent Loan becomes due and payable.

**"Moody's"** means Moody's Investors Service, Inc. and its successors.

**"NBC"** means National Bank of Canada and its successors and permitted assigns.

**"Net Income"** means, for any fiscal period, the net income of the Borrower determined on a consolidated basis (other than in respect of WCSB, the Dimsdale Entities and LCFS, subject to provisos (C) and (D) of the definition of "Consolidated EBITDA") in accordance with GAAP, as set forth in the consolidated financial statements of the Borrower for such period, and for greater certainty shall exclude minority interests.

**"Net Proceeds"** means the Discount Proceeds of a Bankers' Acceptance (or in the case of a BA Equivalent Loan, the amount of such BA Equivalent Loan), less the applicable BA Stamping Fee.

**"New Convertible Debenture Conditions"** means, collectively:

- (a) the receipt by the Agent, for and on behalf of the Lenders, of the following documents each in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably:
  - (i) an executed Compliance Certificate as at the date of issuance of the New Convertible Debentures, with respect to the Fiscal Quarter of the Borrower ending immediately prior thereto, on a *pro forma* basis after giving effect to the issuance of the New Convertible Debentures;
  - (ii) each of the New Indenture Documents, and the Agent shall have received a certificate of an officer of the Borrower certifying true, correct and complete copies of the same; and

- (iii) a confirmation of subordination in respect of the New Convertible Debentures;
- (b) satisfactory completion of the Lenders' corporate, financial, environmental and legal due diligence with respect to the New Convertible Debentures;
- (c) no Default, Event of Default or Material Adverse Effect having occurred as a result of the execution and delivery of the Documents and the Agent shall have received a certificate of an officer of the Borrower certifying the same;
- (d) each of the representations and warranties as provided in Section 13.1 being true and correct, except for any representation and warranty made solely at the date hereof, and the Agent shall have received a certificate of an officer of the Borrower certifying the same;
- (e) the New Convertible Debenture Proceeds shall not be less than Cdn.\$20,000,000 and the Agent shall have received a certificate of an officer of the Borrower certifying the same; and
- (f) receipt by the Agent, for and on behalf of the Lenders, of such other documents, certificates, opinions and agreements as are reasonably required to confirm the completion and satisfaction of the foregoing which the Agent and the Lenders may reasonably request.

**"New Convertible Debenture Proceeds"** means the net cash proceeds of the New Convertible Debentures.

**"New Convertible Debentures"** means convertible unsecured subordinated debentures issued following the date hereof pursuant to the New Indenture, which are convertible into shares of LCFS held by the Borrower.

**"New Indenture"** means the trust indenture to be entered into following the date hereof in respect of the New Convertible Debentures.

**"New Indenture Documents"** means, collectively, the New Indenture and the other instruments or agreements entered into in connection therewith or relating thereto (including, for certainty, any depositary agent agreements related thereto).

**"Non-BA Lender"** means a Lender that (a) is not a bank chartered under the *Bank Act* (Canada); or (b) has notified the Agent in writing that it is unwilling or unable to accept bankers' acceptance drafts.

**"Non-Consenting Lender"** has the meaning attributed to it in Section 18.17.

**"Non-Financial Letter of Credit"** means a Letter of Credit that is not a Financial Letter of Credit.

**"Non-Paying Lender"** has the meaning attributed to it in Section 5.7(a).

**"Note Documents"** means, in respect of the High Yield Notes, collectively, the Trust Indenture or other document or agreement governing such High Yield Notes, the relevant High Yield Notes, any guarantees of the obligations of such High Yield Notes and all other material agreements, instruments or other documents evidencing, governing or relating to such High Yield Notes.

**"Notice of Borrowing"** means, in relation to Advances, a notice by the Borrower to the Agent substantially in the form of Schedule E, with the blanks completed, as applicable.

**"Notice of Conversion"** means in relation to the Conversion of Advances, a notice by the Borrower to the Agent substantially in the form of Schedule F, with the applicable blanks completed.

**"Notice of Repayment"** means, in relation to Advances, a notice by the Borrower to the Agent substantially in the form of Schedule F, with the blanks completed.

**"Notice of Rollover"** means, in relation to the rolling over of Advances, a notice by the Borrower to the Agent substantially in the form of Schedule F, with the applicable blanks completed.

**"Obligations"** means, collectively, the Loan Obligations, the Hedging Obligations, the Bank Product Obligations and the Erroneous Payment Subrogation Rights, for certainty, these obligations include any performance obligation or commitment whether liquidated or not such as any obligation under any Swap Documents.

**"OFAC"** means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

**"Operating Facility"** means the Credit Facility established pursuant to Section 3.1(b), subject to the terms and conditions of this Agreement.

**"Operating Facility Commitment Amount"** means, initially, Cdn.\$50,000,000 (or the Canadian Dollar Exchange Equivalent in U.S. Dollars or, in the case of Letters of Credit, any other currency acceptable to the Operating Facility Lender), as otherwise determined pursuant to this Agreement.

**"Operating Facility Lender"** means NBC in its capacity as the provider of the Operating Facility or any Lender in replacement thereof requested by the Borrower and consented to by the Agent and such Lender.

**"Original Credit Agreement"** means the second amended and restated credit agreement dated August 18, 2021, as amended by a first amending agreement made as of December 30, 2021, a second amending agreement made as of June 23, 2022, a third amending agreement made as of July 29, 2022 and a fourth amending agreement made as of August 10, 2022.

**"Original Currency"** has the meaning attributed to it in Section 19.4.

**"Paper Record"** has the meaning attributed to it in Section 19.17.

**"Participant"** has the meaning attributed to it in Section 17.4.

**"Parties"** means the Borrower, the Agent and the Lenders and their respective successors and permitted assigns, and **"Party"** means any one of the Parties.

**"Payment Recipient"** has the meaning attributed to it in Section 18.18(a).

**"Pension Plan"** means any retirement or pension benefit plan that is established by a Person for the benefit of its employees, that requires such Person to make periodic payments or contributions.

**"Permitted Contest"** means action taken by or on behalf of a Loan Party in good faith by appropriate proceedings diligently pursued to contest a Tax, claim or Lien, provided that:

- (a) the Person to which the Tax, claim or Lien being contested is relevant (and, in the case of a Loan Party, the Borrower on a consolidated basis) has established reasonable reserves therefor if and to the extent required by GAAP;

- (b) proceeding with such contest does not have, and would not reasonably be expected to have, a Material Adverse Effect; and
- (c) proceeding with such contest will not create a material risk of sale, forfeiture or loss of, or interference with the use or operation of, a material part of the property of the Loan Parties.

**"Permitted Convertible Debenture Refinancing"** means any Indebtedness of the Borrower issued in exchange for, or on the net proceeds of which are used to extend, refinance, renew, replace, defease or refund Convertible Debentures, provided that:

- (a) the principal amount (or accreted value, if applicable) of such permitted refinancing Indebtedness does not exceed the maximum principal amount (or accreted value, if applicable) of the then current Convertible Debentures (excluding, for certainty all accrued and unpaid interest on such Indebtedness and the amount of all costs, fees, expenses and premiums incurred in connection therewith);
- (b) such permitted refinancing Indebtedness has a final maturity date not earlier than the later of (i) the date that is two (2) months following the latest Final Maturity Date then in effect and (ii) the final maturity date of the Convertible Debentures being extended, refinanced, renewed, replaced, defeased or refunded; and
- (c) such permitted refinancing Indebtedness otherwise meets the requirements of the definition of Convertible Debentures.

**"Permitted Dispositions"** means any:

- (a) sale or disposition in the ordinary course of business and in accordance with sound industry practice of any Loan Party's inventory or other tangible personal property that is obsolete, no longer useful for its intended purpose or being replaced in the ordinary course of business;
- (b) sales or dispositions of assets (other than the Converted Shares) for fair market value to third parties having an aggregate fair market value in any Fiscal Year not exceeding the Threshold Amount;
- (c) sales or dispositions of assets between any of the Loan Parties;
- (d) subject to Section 14.3(s), sales or dispositions of securities of public entities which were permitted to be acquired under Section 14.3(i);
- (e) following the issuance of the New Convertible Debentures in accordance with the terms hereof, the disposition of Deposited Shares by the Borrower to the holders of the corresponding New Convertible Debentures upon the conversion of the applicable New Convertible Debentures into shares of LCFS pursuant to the New Indenture; and
- (f) subject to compliance with Section 14.3(s) after deeming any Converted Shares to not be owned by the Borrower, the disposition of LCFS Voting Securities for gross proceeds of up to \$30,000,000.

**"Permitted Encumbrances"** means:

- (a) undetermined or inchoate Liens arising in the ordinary course of and incidental to construction or current operations which have not been filed pursuant to Law or in respect of which no steps or proceedings to enforce such Lien have been initiated or which relate to obligations which are not due or delinquent or if due or delinquent, any Lien which any Loan Party is contesting at the time by a Permitted Contest;
- (b) Liens incurred or created in the ordinary course of business and in accordance with sound industry practice in respect of the joint operation of oil and gas properties or related production, processing, storage or transportation facilities as security in favour of any other Person conducting the development or operation of the property to which such Liens relate for the costs and expenses of such development or operation, provided such costs or expenses are not due or delinquent or if due or delinquent, any Lien which the Borrower is contesting at the time by a Permitted Contest;
- (c) easements, rights-of-way, servitudes, zoning or other similar rights or restrictions in respect of land (including rights-of-way and servitudes for railways, sewers, drains, pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) which, either alone or in the aggregate, would not reasonably be expected to have a Material Adverse Effect;
- (d) any Lien or trust arising in connection with worker's compensation, employment insurance, pension or employment Law;
- (e) the right reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, license, franchise, grant or permit acquired or by any statutory provision to terminate any such lease, license, franchise, grant or permit or to require annual or other periodic payments as a condition of the continuance thereof;
- (f) all reservations in the original grant from the Crown of any lands and premises or any interests therein and all statutory exceptions, qualifications and reservations in respect of title;
- (g) public and statutory Liens not yet due and similar Liens arising by operation of Law;
- (h) the Security;
- (i) Liens for Taxes, assessments or governmental charges not at the time due or delinquent or, if due or delinquent, the validity of which is contested at the time by a Permitted Contest;
- (j) Liens under or pursuant to any judgment rendered, or claim filed, against the Borrower or other Loan Party, which the Borrower is contesting at the time by a Permitted Contest;
- (k) Liens granted to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or other authority in connection with the operations of the Loan Parties, all in the ordinary course of its business which individually or in the aggregate do not materially detract from the value of the asset concerned or materially impair its use in the operation of the business of the Loan Parties, taken as a whole;

- (l) bankers' liens, rights of set-off and other similar Liens existing solely with respect to cash on deposit in one or more accounts maintained by the Loan Parties granted in the ordinary course of business in favour of a Lender or Lenders with which such accounts are maintained, securing amounts owing to such Lender or Lenders with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements;
- (m) pledges or deposits to secure performance of (i) bids, tenders, contracts (other than contracts for the payment of money) or (ii) leases of real property, in each case, to which a Loan Party is a party;
- (n) any Lien from time to time which is consented to in writing by all of the Lenders;
- (o) Liens in respect of operating leases (to the extent the obligations, liabilities and indebtedness arising in connection with such operating leases are permitted under paragraph (c) of the definition of "Permitted Indebtedness", and which, for certainty, shall not include any operating leases entered into in connection with any sale-leaseback);
- (p) any other Liens (including Purchase Money Liens and Liens in respect of Finance Leases) which are not otherwise Permitted Encumbrances; provided that the aggregate principal amount of Indebtedness or other obligations secured thereby does not exceed the Threshold Amount;
- (q) Liens in respect of Permitted Junior Debt;
- (r) Liens granted by the [Redacted] Indemnity Agreement; provided such Liens are at all times subject to the [Redacted] NIL;
- (s) Liens granted by the Borrower to the lenders under the Dimsdale Project Financing (or their administrative agent on their behalf) in respect of the Retained Working Interest and its legal interest in the Dimsdale Project Permits;
- (t) subject to compliance with Section 14.3(s) as if all such Converted Shares are not owned by the Borrower, Liens granted by the Borrower in respect of the Converted Shares in connection with the New Indenture; and
- (u) any extension, renewal or replacement (or successive extensions, renewals or replacements), as a whole or in part, of any Lien referred to in the preceding paragraphs (a) to (q) of this definition, so long as any such extension, renewal or replacement of such Lien is limited to all or any part of the same property that secured the Lien extended, renewed or replaced (plus improvements on such property) and the Indebtedness, liability or obligation secured thereby is not increased.

Notwithstanding anything else contained herein (including in this definition of "Permitted Encumbrances"), Liens to secure obligations of any Loan Party under any Financial Instruments (including, for certainty under all forms of hedging) shall be restricted to (A) in the case of hedge counterparties that are Swap Lenders, the Security, and (B) in the case of hedge counterparties that are not Swap Lenders, up to Cdn.\$500,000 in letters of credit and up to Cdn.\$500,000 in cash or Cash Equivalents.

**"Permitted Indebtedness"** means the following:

- (a) the Obligations;
- (b) any Indebtedness owing by a Loan Party to another Loan Party;
- (c) Indebtedness of any Loan Party arising in connection with operating leases entered into in the ordinary course of business (which, for certainty, shall not include any operating leases entered into in connection with any sale-leaseback);
- (d) Indebtedness consisting of Financial Assistance permitted under Section 14.3(i);
- (e) Indebtedness under any Financial Instrument permitted under this Agreement;
- (f) Permitted Junior Debt, provided that the combined aggregate principal amount of all Permitted Junior Debt shall not, at any time, exceed Cdn.\$250,000,000;
- (g) Indebtedness arising under a Permitted Junior Debt Refinancing;
- (h) Indebtedness of the Borrower owing to the EDC Guaranteed LC Facility Provider pursuant to the EDC Guaranteed LC Facility or owing to EDC pursuant to the EDC Indemnity Agreement;
- (i) guarantees provided by any Loan Party in respect of Permitted Junior Debt permitted hereunder, provided that such Loan Party has provided or concurrently provides a guarantee of the Obligations; and
- (j) other Indebtedness (including Finance Leases and Purchase Money Obligations) which is not otherwise Permitted Indebtedness; provided that the aggregate outstanding principal amount of all such obligations does not, in the aggregate at any time, exceed the Threshold Amount.

**"Permitted Junior Debt"** means Indebtedness created, incurred or issued by the Borrower (including guarantees thereof by the other Loan Parties) and which is owing to the Junior Creditors pursuant to the terms of the Junior Debt Documents, which Indebtedness has the following characteristics:

- (a) at the time of the creation, incurrence or issuance of such Indebtedness, the Borrower shall, on a *pro forma* basis and taking into account such Indebtedness, be in compliance with the financial covenants set out in Section 14.4;
- (b) the initial final maturity date or due date in respect of the repayment of such Indebtedness extends at least 2 months beyond the latest Final Maturity Date in effect at the time such Indebtedness is created, incurred or issued;
- (c) such Indebtedness is not payable on demand and does not have any scheduled principal repayments, amortizations, redemptions, purchases or cancellations prior to the latest Final Maturity Date in effect at the time such Indebtedness is created, incurred or issued;
- (d) the conditions, covenants, events of default or other terms of such Indebtedness are no more restrictive on the Borrower and its Subsidiaries, individually or in the aggregate, than the conditions, covenants, Events of Default and other terms of this Agreement;
- (e) if such Indebtedness is not secured by a Lien, the occurrence of a Default or Event of Default hereunder or the acceleration of the time for repayment of any of the Obligations

or enforcement of the rights and remedies of the Agent and the Lenders hereunder or under any other Document shall not in and of themselves:

- (i) cause a default or event of default (with the passage of time or otherwise) under the applicable Junior Debt Documents; or
- (ii) cause or permit the obligations under the applicable Junior Debt Documents to be due and payable prior to the stated maturity thereof;

in each case, unless such Default or Event of Default arose solely in respect of the failure to pay any amount when due hereunder in excess of 5% of the Consolidated Tangible Assets of the Borrower;

(f) if such Indebtedness is secured by a Lien, then:

- (i) the Agent, the Borrower and the applicable Junior Creditor shall have entered into an intercreditor agreement which shall be in form and substance satisfactory to the Majority Lenders, acting reasonably, pursuant to which such Junior Creditor shall agree and confirm that such Indebtedness and Lien is subordinated and postponed in full to the Obligations and the Security; and
- (ii) the occurrence of a Default or Event of Default hereunder or the acceleration of the time for repayment of any of the Obligations or enforcement of the rights and remedies of the Agent and the Lenders hereunder or under any other Document shall not in and of themselves:

- (A) cause a default or event of default (with the passage of time or otherwise) under the applicable Junior Debt Documents; or
- (B) cause or permit the obligations under the applicable Junior Debt Documents to be due and payable prior to the stated maturity thereof,

in each case, unless such Default or Event of Default arose solely in respect of the failure to pay any amount when due hereunder in excess of 5% of the Consolidated Tangible Assets of the Borrower; and

(g) the incurrence of such Indebtedness has been consented to by the Special Majority of Lenders.

**"Permitted Junior Debt Refinancing"** means any Indebtedness of the Borrower issued in exchange for, or on the net proceeds of which are used to extend, refinance, renew, replace, defease or refund Permitted Junior Debt, provided that:

- (a) the principal amount (or accreted value, if applicable) of such permitted refinancing Indebtedness does not exceed the maximum principal amount (or accreted value, if applicable) of the then current Permitted Junior Debt (excluding, for certainty all accrued and unpaid interest on such Indebtedness and the amount of all costs, fees, expenses and premiums incurred in connection therewith);
- (b) such permitted refinancing Indebtedness has a final maturity date not earlier than the later of (i) the date that is two (2) months following the latest Final Maturity Date in effect at the time such permitted refinancing indebtedness is created, incurred or issued and

- (ii) the final maturity date of the Permitted Junior Debt being extended, refinanced, renewed, replaced, defeased or refunded; and
- (c) such permitted refinancing Indebtedness otherwise meets the requirements of the definition of Permitted Junior Debt.

**"Person"** means an individual, a partnership, a corporation, a company, a trust, an unincorporated organization, a union, a government or any department or agency thereof (collectively an "entity") and the heirs, executors, administrators, successors, or other legal representatives, as the case may be, of such entity.

**"Petroleum Substances"** means any one or more of crude oil, bitumen, synthetic crude oil, petroleum, natural gas, natural gas liquids, related hydrocarbons and any and all other substances, whether liquid, solid or gaseous, whether hydrocarbons or not, produced or producible in association with any of the foregoing, including hydrogen sulphide and sulphur.

**"Pipestone Gas Plant"** means TWM's Pipestone Sour Gas Plant located west of Grande Prairie, Alberta.

**"Pricing Table"** means the pricing table labelled "Pricing Table" set forth in Section 3.8(a).

**"Principal Repayment"** means the repayment by or for and on behalf of the Borrower to the Lenders of all or a portion of any Aggregate Principal Amount under the Credit Facilities.

**"Private Placement"** means the private placement of 28,750,000 units of the Borrower, each consisting of one common share and one-half of one common share purchase warrant, at a price of Cdn. \$1.20 per unit for aggregate gross proceeds to the Borrower of Cdn. \$34,500,000, which shall occur concurrently with the Unit Offering as more particularly described in the final prospectus filed by the Borrower in connection therewith.

**"Property Loss Event"** means, with respect to any property, any loss of or damage to such property or any taking of such property or condemnation thereof.

**"Purchase Money Lien"** means a Lien, whether given to a vendor, lender or any other Person, securing Indebtedness assumed or incurred as, or to provide, all or part of the purchase price or other acquisition cost of property, which Lien is limited exclusively to such property (including assumed or fixed improvements, if any, erected or constructed thereon) and any proceeds thereof and any extension, renewal, refinancing or replacement thereof.

**"Purchase Money Obligation"** means any monetary obligation created or assumed as part of the purchase price of real or tangible personal property, whether or not secured, any extensions, renewals or refundings of any such obligation, provided that the principal amount of such obligation outstanding on the date of such extension, renewal or refunding is not increased and further provided that any security given in respect of such obligation shall not extend to any property other than the property acquired in connection with which such obligation was created or assumed and fixed improvements, if any, erected or constructed thereon and the proceeds thereof.

**"Purchase Option Payment Documents"** means the Tribus Letter Agreement and the Dimsdale Letter Agreement.

**"Purchase Option Payments"** means any payment of or with respect to the "Purchase Price" under the Tribus Letter Agreement and any payments of or with respect to the "Option Price" and "Amendment Fees" under the Dimsdale Letter Agreement; in each case along with any other payment

having the effect of reducing the obligations owing with respect to the foregoing or any other obligation under the Purchase Option Documents.

**"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).

**"QFC Credit Support"** has the meaning attributed to it in Section 4.13(a).

**"Rateable Portion"** means, at any time, subject to adjustment pursuant to Section 3.4, the proportion of the Individual Commitment Amount of a Lender relative to the Commitment Amount of all Lenders, provided that when such term is used in relation to:

- (a) the Syndicated Facility Lenders, such term means the proportion of the Individual Syndicated Facility Commitment Amount of a Syndicated Facility Lender, relative to the Syndicated Facility Commitment Amount of all Syndicated Facility Lenders; and
- (b) the Operating Facility Lender, such term means 100% of the Operating Facility Commitment Amount.

**"Release"** includes releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.

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

**"Renewables Asset Sale Agreements"** means (i) the Co-Processing Assets Sale Agreements and (ii) the RNG & Hydrogen Storage Assets Sale Agreements.

**"Replacement Refinery Maintenance EBITDA"** means, in respect of any Scheduled Refinery Maintenance Adjustment, the average Consolidated EBITDA attributable to the Borrower's Prince George Refinery for the Scheduled Refinery Maintenance Period as shown over the same such consecutive calendar days in each of the three (3) immediately preceding calendar years.

**"Required Lenders"** means (i) if there are two or less Lenders, all Lenders or (ii) if there are three or more Lenders, the Lenders holding, in aggregate, at least 90% of the Commitment Amount.

**"Resignation Notice"** has the meaning attributed to it in Section 18.10.

**"Resolution Authority"** means, with respect to an EEA Financial Institution, an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

**"Retained Working Interest"** means the 1.0% working interest retained by the Borrower in the leases comprising the Dimsdale Assets.

**"RNG & Hydrogen Storage Assets Sale Agreements"** means (i) the Initial RNG & Hydrogen Storage Assets Sale Agreement dated as of August 18, 2021 between the Borrower and Tidewater Acquisition and (ii) the RNG & Hydrogen Storage Assets Sale Agreement dated as of August 18, 2021 between Tidewater Acquisition and LCFS.

**"Rollover"** means, with respect to an Advance:

- (a) in relation to a SOFR Loan, the continuation of all or any portion of such SOFR Loan for an additional SOFR Period subsequent to the initial or any subsequent SOFR Period applicable thereto; and
- (b) in relation to maturing Banker's Acceptances, the issuance of new Bankers' Acceptances in respect of all or any portion of such Bankers' Acceptances at their Maturity Date.

**"S&P"** means S&P Global Ratings, a division of S&P Global Inc., and its successors.

[Redacted]

**"Sanctioned Person"** means:

- (a) a Person that is designated under, listed on, or owned or controlled by a Person designated under or listed on, or acting on behalf of a Person designated under or listed on, any Sanctions List;
- (b) a Person that is located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a Person located in or organized under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions;
- (c) a Person that is otherwise a target of Sanctions ("target of Sanctions" signifying a Person with whom a Person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities); or
- (d) any other Person to which one or more Lenders would not be permitted to make a loan, or provide funding, in accordance with the Sanctions, or otherwise deal with pursuant to the Sanctions.

**"Sanctions"** means the economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority, including any sanctions or requirements imposed by, or based upon the obligations or authorities set forth in, the *Special Economic Measures Act* (Canada), the *United Nations Act* (Canada), the *Criminal Code* (Canada), the

*Freezing of Assets of Corrupt Foreign Officials Act (Canada), the Executive Order, the U.S. Bank Secrecy Act (31 U.S.C. §§ 5311 et seq.), the U.S. Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956 et seq.), the USA Patriot Act of 2001, the U.S. International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.), the U.S. Trading with the Enemy Act (50 U.S.C. App. §§ 1 et seq.), the U.S. United Nations Participation Act, the U.S. Syria Accountability and Lebanese Sovereignty Act, the U.S. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 or the Iran Sanctions Act (United States), or any of the foreign assets control regulations of the U.S. Department of the Treasury (including but not limited to 31 CFR, Subtitle B, Chapter V) or any other law or executive order relating thereto or regulation administered by OFAC.*

**"Sanctions Authority"** means any of: (a) the Canadian government; (b) the United States government; (c) the United Nations; (d) the European Union; (e) the United Kingdom; or (f) the respective governmental institutions, departments and agencies of any of the foregoing, including Global Affairs Canada, Public Safety Canada, OFAC, the United States Department of State, and Her Majesty's Treasury of the United Kingdom; and **"Sanctions Authorities"** means all of the foregoing Sanctions Authorities, collectively.

**"Sanctions List"** means the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty's Treasury of the United Kingdom, or any substantially similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

**"Scheduled Refinery Maintenance Adjustments"** means, with respect to a Scheduled Refinery Maintenance Period, the aggregate amount of Replacement Refinery Maintenance EBITDA for such Scheduled Refinery Maintenance Period which may, at the Borrower's option, replace the Scheduled Refinery Maintenance EBITDA for such Scheduled Refinery Maintenance Period (in whole, but not in part) for the purposes of calculating Consolidated Adjusted EBITDA for the Fiscal Quarter(s) in which such Scheduled Refinery Maintenance Period occurs; provided that (a) such replacement is subject to approval by National Bank of Canada and [Redacted] (as co-lead arrangers) in their sole discretion (which approval shall not be unreasonably withheld or delayed) and (b) for certainty, any Consolidated EBITDA attributable to the Borrower's Prince George Refinery during such Scheduled Refinery Maintenance Period shall not be included in the calculation of Consolidated Adjusted EBITDA for such Fiscal Quarter(s).

**"Scheduled Refinery Maintenance EBITDA"** means during any Scheduled Refinery Maintenance Period, the Consolidated EBITDA attributable to the Borrower's Prince George Refinery during such Scheduled Refinery Maintenance Period.

**"Scheduled Refinery Maintenance Period"** means, the consecutive calendar days through which any pre-scheduled temporary shutdowns (whether full or partial) of the Borrower's Prince George Refinery occur; provided that the Borrower shall have delivered no less than 15 Banking Days prior written notice of such shutdown to the Agent and the Lenders and such shutdown is (a) in the ordinary course of business and (b) for the primary purpose of maintenance.

**"Second Currency"** has the meaning attributed to it in Section 19.4.

**"Secured Parties"** has the meaning attributed to it in Section 18.18(a) and **"Secured Party"** means any one of them.

**"Security"** has the meaning attributed to it in Section 4.1 and includes any other Lien hereafter granted to secure the payment of any Obligations.

**"SOFR"** means a rate equal to the secured overnight financing rate as administered by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

**"SOFR Loan"** means a loan denominated in U.S. Dollars and bearing interest based on the Adjusted Term SOFR.

**"SOFR Period"** means a period of 1, 3 or 6 months selected by the Borrower.

**"Special Majority of Lenders"** means (i) if there are two or less Lenders, all Lenders or (ii) if there are three or more Lenders, the Lenders holding, in aggregate, at least 91% of the Commitment Amount.

**"Spot Rate"** means the daily average exchange rate quoted by the Bank of Canada at approximately the close of business on the Banking Day immediately preceding the date of determination; provided that, if such daily average exchange rate is for any reason unavailable, it shall mean the spot rate of exchange for wholesale transactions quoted by the Agent at approximately noon (Toronto time) on such date in accordance with its usual practice or, if such date of determination is not a Banking Day, on the Banking Day immediately preceding such date of determination.

[Redacted]

**"Subsidiary"** means any Person of which more than 50% of the outstanding Voting Securities are owned, directly or indirectly by another Person, provided that the ownership of such securities confers the right to elect at least a majority of the board of directors of such Person, or a majority of Persons serving similar roles, and includes any legal entity in like relationship to a Subsidiary.

**"Successor Agent"** has the meaning attributed to it in Section 18.10.

**"Supported QFC"** has the meaning attributed to it in Section 4.13(a).

**"Swap Document Demand for Payment"** means a demand made by a Swap Lender pursuant to a Swap Document demanding payment of all obligations under such Swap Document which are then due and payable relating thereto and shall include any notice thereunder or related thereto which, when delivered, would require an early termination thereof and a payment by the Borrower or a Subsidiary thereof in settlement of obligations thereunder as a result of such early termination.

**"Swap Documents"** means, collectively, all Financial Instruments entered into between a Swap Lender and a Loan Party.

**"Swap Lender"** means any Lender or any Affiliate thereof that is a hedge provider under a Financial Instrument entered into prior to such Swap Lender or relevant Affiliate ceasing to be a Lender, which, for certainty, includes a Lender or relevant Affiliate that entered into a Financial Instrument with a Loan Party prior to becoming a Lender hereunder (each such Affiliate, a **"Hedging Affiliate"**). For greater certainty, any Person who enters into a Financial Instrument after such Person ceases to be a Lender or a Hedging Affiliate, as applicable, is not a Swap Lender for purposes of such Financial Instrument, and any Lender or any Affiliate thereof that is a hedge provider under a Financial Instrument entered into prior to the Closing Date is a Swap Lender for purposes of those Financial Instruments.

**"Syndicated Facility"** means the Credit Facility established pursuant to Section 3.1(a), subject to the terms and conditions of this Agreement.

**"Syndicated Facility Commitment Amount"** means Cdn.\$500,000,000 (or the Canadian Dollar Exchange Equivalent thereof in U.S. Dollars) as such amount may be determined pursuant to this Agreement.

**"Syndicated Facility Lenders"** means those Lenders who have Individual Syndicated Facility Commitment Amounts, and **"Syndicated Facility Lender"** means any of them.

**"Taking"** means the expropriation, condemnation or taking by eminent domain or similar authority, or by any proceeding or purchase in lieu or anticipation thereof, of any undertaking, asset or property (or any part thereof), or any right, title or interest therein, by a Governmental Authority.

**"Taxes"** means all taxes of any kind or nature whatsoever including income taxes, capital taxes, minimum taxes, levies, imposts, stamp taxes, royalties, duties, charges to tax, value added taxes, commodity taxes, goods and services taxes, and all fees, deductions, compulsory loans, withholdings and restrictions or conditions resulting in a charge imposed, levied, collected, withheld or assessed as of the date hereof or at any time in the future by any governmental or quasi-governmental authority of or within any jurisdiction whatsoever having power to tax, together with penalties, fines, additions to tax and interest thereon and any instalments in respect thereof.

**"Term SOFR"** means, for any SOFR Period, the "Term SOFR" reference rate for a comparable period on the 2<sup>nd</sup> Banking Day prior to the first day of such SOFR Period, as such rate is published by the CME Group Benchmark Administration Limited (or a successor administrator selected by the Agent), provided however that if such reference rate for such period has not been published on such 2<sup>nd</sup> Banking Day, then Term SOFR will be the "Term SOFR" reference rate for such period as published by its administrator on the first preceding Banking Day for which such reference rate was published so long as such first preceding Banking Day is not more than 3 Banking Days prior to the 2<sup>nd</sup> Banking Day referred to above.

**"Term SOFR Adjustment"** means, with respect to Term SOFR, *[Redacted]*% (*[Redacted]* Basis Points) for a SOFR Period of one-month's duration, *[Redacted]*% (*[Redacted]* Basis Points) for a SOFR Period of three-months' duration, and *[Redacted]*% (*[Redacted]* Basis Points) for a SOFR Period of six-months' duration.

**"Threshold Amount"** means the greater of (a) Cdn.\$*[Redacted]*, and (b) *[Redacted]*% of Consolidated Tangible Assets (excluding, for certainty, any shares in LCFS).

**"Tidewater Acquisition"** means Tidewater Acquisition Inc. and its successors.

**"Total Availability"** has the meaning attributed to it in Section 14.3(f).

**"Tribus Letter Agreement"** means the letter agreement dated June 22, 2022 among the Borrower and *[Redacted]* regarding Tidewater Brazeau Gas Storage LP and any further agreement reflecting the terms thereof (such agreement to be in form and substance satisfactory to the Lenders).

**"Trust Agreement"** means the trust agreement entered into between Dimsdale LP and the Borrower, pursuant to which the Dimsdale Project Permits are to be held in trust by the Borrower on behalf of Dimsdale LP, as beneficiary, as amended, restated, supplemented or otherwise modified from time to time.

**"Trust Indenture"** means the trust indenture dated December 19, 2017 among the Borrower and the Trustee.

**"Trustee"** means BNY Trust Company of Canada, as trustee under the Trust Indenture, and its successors and permitted assigns.

**"UK Bribery Act"** means the United Kingdom Bribery Act 2010, including any subordinate legislation thereunder.

**"UK Financial Institution"** means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain Affiliates of such credit institutions or investment firms.

**"UK Resolution Authority"** means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

**"Uniform Customs"** means the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce current at the time of issuance of the applicable Letter of Credit.

**"Unit Offering"** means the distribution of 48,392,000 units of the Borrower, each consisting of one common share and one-half of one common share purchase warrant, at a price of Cdn. \$1.20 per unit for aggregate gross proceeds to the Borrower of Cdn. \$58,070,400, all as more particularly described in the final prospectus filed by the Borrower in respect of the Unit Offering on August 16, 2022.

**"Unit Offering Flow of Funds"** means the flow of funds memorandum governing, *inter alia*, the distribution of the proceeds of the Unit Offering and the Private Placement, the payout of the Junior Credit Agreement and the satisfaction or defeasance of the High Yield Notes, in form and substance satisfactory to the Agent and the Lenders.

**"United States Dollars", "U.S. Dollars" or "U.S. \$"** each means such currency of the United States of America which, as at the time of payment or determination, is legal tender therein for the payment of public or private debts.

**"U.S. Base Rate"** means the greatest of: (a) variable rate of interest quoted by the Agent from time to time as the reference rate of interest which it employs to determine the interest rate it will charge for demand loans in U.S. Dollars to its customers in Canada and which it designates as its "U.S. Base Rate"; (b) the Federal Funds Rate plus [Redacted] Basis Points; and (c) the Floor.

**"U.S. Base Rate Loan"** means an Advance bearing interest at a fluctuating rate determined by reference to the U.S. Base Rate.

**"U.S. Special Resolution Regimes"** has the meaning attributed to it in Section 4.13(a).

**"Variance Report"** has the meaning attributed to it in Section 14.2(r).

**"Voting Securities"** means securities of capital stock of any class of any corporation, partnership units in the case of a partnership, trust units in the case of a trust, or other evidence of ownership serving similar purposes, carrying voting rights under all circumstances, provided that, for the purposes of this definition, shares which only carry the right to vote conditionally on the happening of an event will not be considered Voting Securities, whether or not such event will have occurred, nor will any securities be deemed to cease to be Voting Securities solely by reason of a right to vote accruing to securities of another class or classes by reason of the happening of such event.

**"WCSB"** means WCSB Blockchain Infrastructure Ltd. and its successors.

**"WCSB Transactions"** means the acquisition by the Borrower of shares (in multiple transactions) which in the aggregate represent a 57% ownership interest in WCSB as consideration for the Borrower providing WCSB access to certain gas processing and storage facilities of the Borrower including at the Acheson facility, all to facilitate power generation for cryptocurrency mining.

**"Write-Down and Conversion Powers"** means:

- (a) 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; and
- (b) with respect to the United Kingdom, any powers of the applicable UK Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

**SCHEDULE B  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**INDIVIDUAL COMMITMENT AMOUNTS  
(Cdn.\$)**

<b>Syndicated Facility Lenders</b>	<b>Syndicated Facility Commitment Amount (Cdn.\$)</b>
[Redacted]	[Redacted]
<b>Total Syndicated Facility Commitment Amount</b>	<b>\$500,000,000</b>

<b>Operating Facility Lender</b>	<b>Operating Facility Commitment Amount (Cdn.\$)</b>
[Redacted]	\$50,000,000
<b>Total Operating Facility Commitment Amount</b>	<b>\$50,000,000</b>

<b>MasterCard Facility</b>	<b>Agent Commitment Amount(Cdn.\$)</b>
MasterCard Facility	[Redacted]
<b>Total MasterCard Facility Commitment Amount</b>	<b>\$750,000</b>

**SCHEDULE C  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FORM OF COMPLIANCE CERTIFICATE**

**TO:** National Bank of Canada ("**National Bank**"), as Agent

**AND TO:** The Lenders

**RE:** Third amended and restated credit agreement (the "**Credit Agreement**") dated August 16, 2022 between Tidewater Midstream and Infrastructure Ltd. (the "**Borrower**"), National Bank and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and National Bank, as agent for the Lenders (the "**Agent**"), as amended, supplemented or otherwise modified to the date hereof

**DATE:** [•]

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Capitalized terms used herein and not otherwise defined herein have the meanings given to them in the Credit Agreement.

This Compliance Certificate is delivered pursuant to Section **[2.1(a)(iii)/14.2(b)]** of the Credit Agreement.

I, \_\_\_\_\_, the duly appointed **[insert name of office]** of the Borrower, hereby certify in such capacity for and on behalf of the Borrower, and not in my personal capacity and without assuming any personal liability whatsoever, after making due inquiry:

1. This Compliance Certificate applies to the Fiscal **[Quarter/Year]** ending \_\_\_\_\_, 20\_\_ (the "**Calculation Date**").
2. I am familiar with and have examined the provisions of the Credit Agreement and I have made such reasonable investigations of corporate records and inquiries of other officers and senior personnel of each of the Loan Parties as I have deemed necessary for purposes of this Compliance Certificate.
3. Based on the foregoing, no Default or Event of Default has occurred and is continuing.
4. The aggregate EBITDA received by the Borrower from WCSB as at the Calculation Date is \_\_\_\_\_, and the aggregate cash flow received by the Borrower from WCSB as at the Calculation Date is \_\_\_\_\_, the calculations of which are outlined in Exhibit 1 hereto.
5. The Material Project EBITDA Adjustment as at the Calculation Date is Cdn.\$ \_\_\_\_\_, the calculations of which are outlined in Exhibit 2 hereto.
6. The Consolidated Debt to Consolidated Adjusted EBITDA Ratio of the Borrower as at the Calculation Date is \_\_\_\_\_:1.00, the calculations of which are outlined in Exhibit 3 hereto.
7. The Consolidated First Lien Senior Debt to Consolidated Adjusted EBITDA Ratio of the Borrower as at the Calculation Date is \_\_\_\_\_:1.00, the calculations of which are outlined in Exhibit 4 hereto.

8. The Consolidated EBITDA to Interest Coverage Ratio of the Borrower as at the Calculation Date is \_\_\_\_\_:1.00, the calculations of which are outlined in Exhibit 5 hereto.
9. As at the Calculation Date, the Consolidated EBITDA attributable to Tidewater Midstream (US) Ltd. is Cdn.\$\_\_\_\_\_.
10. As at the Calculation Date, the Consolidated Assets attributable to Tidewater Midstream (US) Ltd. are Cdn.\$\_\_\_\_\_.
11. All Financial Instruments of the Loan Parties are set out in Exhibit 6 hereto, including all new Swap Documents since the last Compliance Certificate was delivered and the position and market value of each Financial Instrument in effect as at the Calculation Date.
12. As of the date hereof, the Borrower has no Subsidiaries other than those listed in Schedule G to the Credit Agreement **[and [list any new Subsidiaries]]**.
13. As of the date hereof, the Borrower has no Material Contracts other than those listed in Schedule I to the Credit Agreement **[and [list any new Material Contracts]]**.
14. As of the date hereof, each of the representations and warranties of the Borrower set forth in the Documents deemed to be made on each Drawdown is true and correct.

**DATED** at Calgary, Alberta effective the date and year first above written.

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD.**

Per: \_\_\_\_\_  
Name: [•]  
Title: [•]

**EXHIBIT 1**

**WCSB EBITDA AND CASH FLOW RECEIVED BY BORROWER**

**Applicable to the Fiscal [Quarter/Year] Ending \_\_\_\_\_**

**[attach calculations]**

**EXHIBIT 2**

**MATERIAL PROJECT EBITDA ADJUSTMENT**

**Applicable to the Fiscal [Quarter/Year] Ending \_\_\_\_\_**

**[attach calculations]**

**EXHIBIT 3**

**CONSOLIDATED DEBT TO CONSOLIDATED ADJUSTED EBITDA RATIO**

**Applicable to the Fiscal [Quarter/Year] Ending \_\_\_\_\_**

**[attach calculations]**

**EXHIBIT 4**

**CONSOLIDATED FIRST LIEN SENIOR DEBT TO CONSOLIDATED ADJUSTED EBITDA RATIO**

**Applicable to the Fiscal [Quarter/Year] Ending \_\_\_\_\_**

**[attach calculations]**

**EXHIBIT 5**

**CONSOLIDATED EBITDA TO INTEREST COVERAGE RATIO**

**Applicable to the Fiscal [Quarter/Year] Ending \_\_\_\_\_**

**[attach calculations]**

**EXHIBIT 6**

**FINANCIAL INSTRUMENTS**

**[attach list]**

**SCHEDULE D  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FORM OF EXTENSION REQUEST**

**TO:** National Bank of Canada ("**National Bank**"), as [**Agent/Operating Facility Lender**]

**DATE:** [•]

Dear Sirs/Mesdames:

Tidewater Midstream and Infrastructure Ltd., as borrower, National Bank and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and National Bank, as agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "**Agent**") are parties to a third amended and restated credit agreement dated August 16, 2022 (such third amended and restated credit agreement, as it has been and may be further amended, supplemented or otherwise modified or restated from time to time, the "**Credit Agreement**").

We hereby give notice of our request for an offer of extension of the Final Maturity Date until \_\_\_\_\_, 20\_\_\_\_, being a date not later than three (3) years from the effective date of such extension, pursuant to Section 3.2(a) of the Credit Agreement.

As of the date hereof, there exists no Default or Event of Default, except those set out below which have been expressly disclosed to and waived or agreed to by the Lenders.

Yours very truly,

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD.**

Per: \_\_\_\_\_

Name: [•]

Title: [•]

**SCHEDULE E  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FORM OF NOTICE OF BORROWING**

**TO:** National Bank of Canada ("**National Bank**"), as [**Agent/Operating Facility Lender**]

**AND TO:** The Lenders [**Syndicated Facility only**]

**RE:** Third amended and restated credit agreement (the "**Credit Agreement**") dated August 16, 2022 between Tidewater Midstream and Infrastructure Ltd. (the "**Borrower**"), National Bank and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and National Bank, as agent for the Lenders (the "**Agent**"), as amended, supplemented or otherwise modified to the date hereof

**DATE:** [•]

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1. THE DRAWDOWN DATE IS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.
2. Pursuant to Section 5.2 of the Credit Agreement, the undersigned hereby irrevocably requests that the following Advances be made available under the applicable Credit Facility:

Syndicated Facility:

<u>TYPE OF ADVANCE</u>	<u>PRINCIPAL AMOUNT</u>	<u>TERM</u>
Canadian Prime Rate Loan	_____	N/A
U.S. Base Rate Loan	_____	N/A
Bankers' Acceptances	_____	_____
SOFR Loan	_____	_____

Operating Facility:

<u>TYPE OF ADVANCE</u>	<u>PRINCIPAL AMOUNT</u>	<u>TERM</u>
Canadian Prime Rate Loan	_____	N/A
U.S. Base Rate Loan	_____	N/A
Bankers' Acceptances	_____	_____
SOFR Loan	_____	_____
Letter of Credit	_____	_____

3. As of the date of this Notice of Borrowing, no Default or Event of Default has occurred and is continuing and each of the representations and warranties of the Borrower set forth in the Documents deemed to be made on each Drawdown is true and correct as of the date of the requested Drawdown.
4. After giving effect to the requested Advance and the application of proceeds thereof, the Borrower will not have any Excess Cash.
5. After giving effect to the requested Advance and the application of proceeds thereof, the Borrower will be in pro forma compliance with the financial covenant set forth in Section 14.4(d) of the Credit Agreement.
6. After giving effect to the requested Advance, the Borrower will be in pro forma compliance, including by giving effect on a pro forma basis to the actual and projected Consolidated EBITDA as at the end of the current Fiscal Quarter, with each of the financial ratios set out in Section 14.4 of the Credit Agreement; and provided that, upon the reasonable request of the Agent, for and on behalf of the Lenders, the Borrower shall have delivered to the Agent, for and on behalf of the Lenders, no later than 3 Banking Days prior to the requested date of such Advance, reasonable evidence of such pro forma compliance, in form and substance satisfactory to the Agent and the Lenders in their sole discretion (including, without limitation, delivery of a pro forma Compliance Certificate and supporting calculations and assumptions).
7. Capitalized terms used herein and not otherwise defined herein have the meanings given to them by the Credit Agreement.

**DATED** at Calgary, Alberta effective the date and year first above written.

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD.**

Per: \_\_\_\_\_  
Name: [●]  
Title: [●]

**SCHEDULE F  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FORM OF NOTICE OF ROLLOVER OR NOTICE OF  
CONVERSION OR NOTICE OF REPAYMENT**

**TO:** National Bank of Canada ("**National Bank**"), as [**Agent/Operating Facility Lender**]

**AND TO:** The Lenders

**RE:** Third amended and restated credit agreement (the "**Credit Agreement**") dated August 16, 2022 between Tidewater Midstream and Infrastructure Ltd., as borrower, National Bank and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and National Bank, as agent for the Lenders (the "**Agent**"), as amended, supplemented or otherwise modified to the date hereof

**DATE:** [●]

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Capitalized terms used herein and not otherwise defined herein have the meanings given to them by the Credit Agreement.

1. Pursuant to Section 5.4 of the Credit Agreement, the undersigned hereby irrevocably notifies the Agent that it will be:

(a) rolling over part or all of the Accommodation under the [**Syndicated/Operating**] Facility described as:

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

into the same Accommodation described as:

Date of Maturity: \_\_\_\_\_

\* if only part of maturing Advance is rolled over, please indicate.

or;

(b) converting part or all of the Accommodation under the [**Syndicated/Operating**] Facility described as:

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

into an Accommodation described as:

\*if only part of maturing Advance is converted, please indicate.

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

or;

(c) Repaying part or all of the Advance described as:

Type of Accommodation: \_\_\_\_\_

Credit Facility **[Syndicated Facility, Operating Facility]**

\*Principal Amount<sup>(1)</sup>: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

(1) If only part of maturing Advance is being repaid, please indicate the applicable amount being repaid including the details provided above in respect thereof and whether the balance will be rolled over or Converted

effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

- 2. This Notice is irrevocable.
- 3. No Default or Event of Default has occurred and is continuing.

**DATED** at Calgary, Alberta effective the date and year first above written.

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD.**

Per: \_\_\_\_\_

Name: [●]

Title: [●]

**SCHEDULE G  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

*[Redacted]*

**SCHEDULE H  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FORM OF ASSIGNMENT**

**TO:** National Bank of Canada ("**National Bank**"), as [**Agent/Operating Facility Lender**]

**AND TO:** The Lenders

**RE:** Third amended and restated credit agreement (the "**Credit Agreement**") dated August 16, 2022 between Tidewater Midstream and Infrastructure Ltd. (the "**Borrower**"), National Bank and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and National Bank, as agent for the Lenders (the "**Agent**"), as amended, supplemented or otherwise modified to the date hereof

**DATE:** [●] (the "**Effective Date**")

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Unless otherwise indicated, capitalized terms defined in the Credit Agreement have the same meanings when used herein.

1. [**Name of assignee lender**] (the "**Assignee**") acknowledges that its proper officers have received and reviewed a copy of the Credit Agreement and the other Documents and further acknowledges the provisions of the Credit Agreement and the other Documents.
2. The Assignee desires to become a Lender under the Credit Agreement. Effective on the Effective Date, [**Name of assigning lender**] (the "**Assignor**") has agreed to and does hereby sell, assign and transfer to the Assignee, and the Assignee hereby irrevocably purchases and assumes, an interest in the [**Syndicated Facility/ Operating Facility**], the Assignee assumes the obligations of the Assignor in respect of the Assignor's [**Individual Syndicated Facility/ Operating Facility**] Commitment Amount to the extent of Cdn. \$[●] of such commitment (the "**Assigned Commitment**"), and a share of the rights of the Assignor as a [**Syndicated Facility/Operating Facility**] Lender under the Credit Agreement to the extent of the Assigned Commitment, including without limitation, a share (the "**Pro Rata Share**") of the rights of the Assignor with respect to the Aggregate Principal Amount owing to the Assignor under the [**Syndicated Facility/ Operating Facility**] equal to the proportion that the amount of the Assigned Commitment bears to Cdn. \$[●] (being the amount of the [**Individual Syndicated Facility/ Operating Facility**] Commitment Amount of the Assignor on the Effective Date prior to the assignment and transfer under this Assignment) (the Assigned Commitment and such Pro Rata Share are referred to herein as the "**Assigned Interest**"); and, accordingly, the Assignee has agreed to execute this Assignment and deliver an original of it to the Agent.
3. The Assignee, by its execution and delivery of this Assignment, agrees that from and after the date hereof it will be a [**Syndicated Facility/Operating Facility**] Lender under the Credit Agreement to the extent of the Assigned Commitment and the Pro Rata Share and agrees to be bound by and to perform, where required, all of the terms, conditions and covenants of the Credit Agreement and the other Documents applicable to a [**Syndicated Facility/Operating Facility**] Lender; but its liability to make Advances will be limited to its share of such Advances based upon its [**Individual Syndicated Facility/Operating Facility**] Commitment Amount identified in paragraph 4 below, subject to the provisions of the Credit Agreement.

4. The Assignee confirms that its **[Individual Syndicated Facility/Operating Facility]** Commitment Amount under the Credit Agreement will be as follows:

**[State amount in Canadian Dollars.]**

5. The Assignee agrees to assume all liabilities and obligations of the Assignor as a Lender under the Credit Agreement and the other Documents to the extent of the Assigned Interest as provided for herein and the Assignor is hereby released and discharged from such obligations and liabilities to the same extent but only in respect of such obligations and liabilities arising from and after the Effective Date.
6. The Assignor: (a) represents and warrants that: (i) it is the legal and beneficial owner of the Assigned Interest; (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim; and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to: (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Document; (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Documents; (iii) the financial condition of any of the Loan Parties or any other Person obligated in respect of any Document; or (iv) the performance or observance by any of the Loan Parties or any other Person of any of their respective obligations under any Document.
7. The Assignee: (a) represents and warrants that: (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a **[Syndicated Facility/ Operating Facility]** Lender under the Credit Agreement; and (ii) it has received a copy of the Credit Agreement, copies of the most recent financial statements of the Borrower delivered pursuant to the Credit Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Agent or any other **[Syndicated Facility/ Operating Facility]** Lender; and (b) agrees that: (i) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a **[Syndicated Facility/ Operating Facility]** Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder; (ii) it will, independently and without reliance on the Agent, the Assignor 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 decisions in taking or not taking action under the Documents; and (iii) it will perform in accordance with their terms all of the obligations which by the terms of the Documents are required to be performed by it as a Lender.
8. From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves
9. Notices will be given to the Assignee in the manner provided for in the Credit Agreement at the following address:

**[•]**

Attention: **[•]**

Telecopier: [•]

- 10. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Assignment. This Assignment shall be governed by, and construed in accordance with, the Laws in force in the Province of Alberta from time to time.

**DATED** effective the date and year first above written.

**[Name of Assignee]**

Per: \_\_\_\_\_  
 Name: [•]  
 Title: [•]

\* \* \*

The Assignor hereby acknowledges the above Assignment and agrees that its **[Individual Syndicated Facility/ Operating Facility]** Commitment Amount is reduced by an amount equal to the commitment assigned to the Assignee hereby.

**DATED** at Calgary, Alberta effective the date and year first above written.

**[Name of Assignor]**

Per: \_\_\_\_\_  
 Name: [•]  
 Title: [•]

Consented to and acknowledged effective the date and year first above written by:

**NATIONAL BANK OF CANADA,**  
as Agent

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD.**  
**[while no Event of Default exists]**

Per: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[ISSUING BANK]**

Per: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE I  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**LIST OF MATERIAL CONTRACTS**

[Redacted]

**SCHEDULE J**

**TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FORM OF ENVIRONMENTAL CERTIFICATE**

**DATE:** [•]

**TO:** National Bank of Canada, as Agent

**RE:** Third amended and restated credit agreement dated August 16, 2022 (the "**Credit Agreement**") between Tidewater Midstream and Infrastructure Ltd. (the "**Borrower**"), as borrower, National Bank of Canada and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and National Bank of Canada, as agent for the Lenders (in such capacity, the "**Agent**"), as amended, supplemented or otherwise modified to the date hereof

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This certificate is delivered pursuant to Section 14.2(n) of the Credit Agreement.

1. I, [•], am the duly appointed [•] of the Borrower and hereby certify in such capacity for and on behalf of the Borrower and each of the other Loan Parties, and not in my personal capacity and without assuming any personal liability whatsoever, as follows:
2. The following certifications are made to the best of my knowledge after due enquiry.
3. The following certifications in paragraphs 4 through 9 are qualified as to (i) the matters, if any, disclosed in Exhibit 1 hereto, and (ii) any breach of, or failure to comply with, any Environmental Laws, provided that the breach or failure to comply has not had, or would not reasonably be expected to have (whether on an individual or cumulative basis), a Material Adverse Effect.
4. The property of the Borrower and every other Loan Party is owned, leased, managed, controlled or operated, in compliance with Environmental Laws.
5. There are no existing, pending or threatened (by written notice):
  - (a) claims, complaints, notices or requests for information received from a Governmental Authority by the Borrower or any other Loan Party, or of which the Borrower or any other Loan Party is otherwise aware, with respect to any alleged violation of or alleged liability under any Environmental Laws by the Borrower or any other Loan Party; or
  - (b) stop, cleanup or preventative orders, direction or action requests, notice of which has been received from a Governmental Authority by the Borrower or any other Loan Party or of which the Borrower or any other Loan Party is otherwise aware, relating to the Environment which as a result thereof, requires any work, repair, remediation, cleanup, construction or capital expenditure with respect to any property owned, leased, managed, controlled or operated by the Borrower or any other Loan Party.
6. Except in compliance with Environmental Laws, no Contaminant has been received, handled, used, stored, treated or shipped at or from, and there has been no discharge or Release of a

Contaminant at, on, from or under any property owned, leased, managed, controlled or operated by the Borrower or any other Loan Party which would reasonably be expected to create an obligation or liability in excess of an amount equal to the Threshold Amount.

7. None of the lands and facilities owned, leased, managed, controlled or operated by the Borrower or any other Loan Party, have been used as a land fill site or, except in compliance with Environmental Laws, as a waste disposal site.
8. No condition exists, at, on or under any of the premises or facilities owned, leased, managed, controlled or operated by the Borrower or any other Loan Party, which with the passage of time, or the giving of notice or both, has given rise to or could reasonably be expected to give rise to a violation or liability under any Environmental Laws.
9. The Borrower has obtained and has caused each other Loan Party to obtain all permits, licenses and other authorizations (collectively the "**Permits**") which are required under Environmental Laws and the Borrower and each of the other Loan Parties are in compliance with all terms and conditions of all Permits and each of the Permits is in full force and effect and unrevoked as of the date of this certificate.
10. Neither the Borrower nor any other Loan Party is aware of any matter affecting the Environment which has had or could reasonably be expected to have a Material Adverse Effect.

The undersigned officer acknowledges that the Agent and the Lenders are relying on this certificate in connection with Advances made under the Credit Agreement.

Capitalized terms used herein and not otherwise defined herein have the meanings given to them by the Credit Agreement.

***[Remainder of Page Intentionally Left Blank]***

Dated at Calgary, Alberta as of the date first written above.

**TIDEWATER MIDSTREAM AND  
INFRASTRUCTURE LTD.**

By: \_\_\_\_\_  
Name: [•]  
Title: [•]

**EXHIBIT 1**

**[•]**

**SCHEDULE K  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**DIMSDALE PROJECT PERMITS**

Permit	Issuer	Approval Holder	Date (Expiry)
Facility Licence No. F48965 (Amendment) Multiwell Gas Battery Location: 02/08-25-071-07 W6M Application No. 1882589	Alberta Energy Regulator (AER)	Tidewater Pipestone Infrastructure Corp.	November 1, 2017
Registration No. 381711-00-01 (as amended) pursuant to Code of Practice for Compressor and Pumping Station/Sweet Gas Processing Plants	AER	Tidewater Pipestone Infrastructure Corp.	Most recent approval May 27, 2020
Pipeline Licence No. 57708 (Amendment) Location: From 08-25-071-07W6M to 15-30-071-08W6MAApplication No. 1877230	AER	Tidewater Pipestone Infrastructure Corp.	May 2, 2017
Gas Storage Approval No. 12203G for underground storage of natural gas and injection of Class III sweet gas Application 1932528	AER	Tidewater Pipestone Infrastructure Corp.	April 15, 2021
Well Licence No. 0480964 Well Name: TIDEWATER DIMSD 13-25-71-7 UID: 00/13-25-071-07W6/0 Application No. 1858864	AER	Tidewater Pipestone Infrastructure Corp.	October 27, 2016
Class III Gas Storage Scheme – Directive 051 Approval for Well UID 00/13-25-071-07W6/0 Application No. 1882581	AER	Tidewater Pipestone Infrastructure Corp.	November 2, 2017

<b>Permit</b>	<b>Issuer</b>	<b>Approval Holder</b>	<b>Date (Expiry)</b>
Well Licence No. 0125485 Well Name: Tidewater DIMSD 8-25-71-7 UID: 00/08-25-071-07W6	AER	Tidewater Pipestone Infrastructure Corp.	December 29, 1986
Class III Gas Storage Scheme – Directive 051 Approval for Well UID 00/08-25-071-07W6 Application No. 1914124	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2018
Well Licence No. 0125494 Well Name: TPIC DIMSD 11-25-71-7 UID: 00/11-25-071-07W6/0	AER	Tidewater Pipestone Infrastructure Corp.	December 30, 1986
Well Licence No. 0351639 Well Name: TPIC DMSD 11-35-71-7 UID: 00/11-35-071-07W6/2	AER	Tidewater Pipestone Infrastructure Corp.	February 9, 2006
Well Licence No. 0124264 Well Name: Tidewater DIMSD 2-35-71-7 UID: 00/02-35-071-07W6/0	AER	Tidewater Pipestone Infrastructure Corp.	November 3, 1986
Class III Gas Storage Scheme – Directive 051 Approval for Well UID 00/02-35-071-07W6/0 Application No. 1876945	AER	Tidewater Pipestone Infrastructure Corp.	January 23, 2017
Well Licence No. 0486102 Well Name: TIDEWATER DIR DIMSD 16-24-71-7 UID: 02/16-24-071-07W6/0 Application No. 1882653	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017
Class III Gas Storage Scheme – Directive 051 Approval for Well UID 02/16-24-071-07W6/0 Application No. 1923898	AER	Tidewater Pipestone Infrastructure Corp.	November 5, 2019

<b>Permit</b>	<b>Issuer</b>	<b>Approval Holder</b>	<b>Date (Expiry)</b>
Well Licence No. 0486103 Well Name: TIDEWATER DIR DIMSD 2-26-71-7 UID: 00/02-26-071-07W6/0 Application No. 1882653	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017 (November 1, 2022)
Well Licence No. 0486104 Well Name: TIDEWATER DIR DIMSD 7-30-71-6 UID: 00/07-30-071-06W6/0 Application No. 1882653	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017 (November 1, 2022)
Well Licence No. 0486105 Well Name: TIDEWATER DIR DIMSD 5-25-71-7 UID: 00/05-25-071-07W6/0 Application No. 1882653	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017 (November 1, 2022)
Well Licence No. 0486106 Well Name: TIDEWATER DIR DIMSD 10-26-71-7 UID: 00/10-26-071-07W6/0 Application No. 1882653	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017 (November 1, 2022)
Well Licence No. 0486107 Well Name: TIDEWATER DIR DIMSD 16-26-71-7 UID: 00/16-26-071-07W6/0 Application No. 1882653	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017 (November 1, 2022)
Approval for extension of Well Licence Nos. 0486103, 0486104, 0486105, 0486106, 0486107 Application No. 31404294	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2022
Pipeline Licence No. 59472 Location: From 05-36-071-07W6M to 05-36-071-07W6M Application No. 1882591 - Pipeline drilling or construction	AER	Tidewater Pipestone Infrastructure Corp.	November 1, 2017

<b>Permit</b>	<b>Issuer</b>	<b>Approval Holder</b>	<b>Date (Expiry)</b>
Pipeline Licence No. 55371 (Amendment) Location: From 05-36-071-07W6 to 02-35-071-07W6 and 07-35-071-07W6 to 02-35-071-07W6	AER	Tidewater Pipestone Infrastructure Corp.	January 7, 2019
Pipeline Licence No. 53302 (Amendment) Location: From 05-36-071-07W6 to 08-25-071-07W6	AER	Tidewater Pipestone Infrastructure Corp.	October 29, 2018
Pipeline Licence No. 25753 Location: From 16-24-071-07 W6M to 12-36-071-07 W6M Application Nos. 1872041 and 1872246 – Pipeline segment replacement drilling and construction	AER	Tidewater Pipestone Infrastructure Corp.	November 3 & 7, 2016
Facility Licence No. F21177 (Amendment) Gas Battery – Multiwell – Location: 00/05-36-071-07 W6M Application No. 1932929	AER	Tidewater Pipestone Infrastructure Corp.	September 16, 2021
Facility Licence No. F22737 (Amendment) Gas Battery – Multiwell – Location: 00/12-36-071-07 W6M Application 1918651	AER	Tidewater Pipestone Infrastructure Corp.	May 2, 2019
Facility Licence No. F15089 Compressor Station Location: 00/02-35-071-07 W6M Application No. 1044445	AER	Tidewater Pipestone Infrastructure Corp.	July 29, 1999
EPEA Approval No. 00360116-00-02 (as amended) for the construction and reclamation of a pipeline from 08-25-071-07 W6M to 12-32-071-09 W6M and	AER	Tidewater Pipestone Infrastructure Corp.	Most recent approval May 27, 2020

**SCHEDULE L  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**LIST OF MATERIAL LCFS CONTRACTS**

*[Redacted]*

**SCHEDULE M  
TIDEWATER MIDSTREAM AND INFRASTRUCTURE LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED AUGUST 16, 2022**

**FINANCE LEASE OBLIGATIONS AND PURCHASE MONEY OBLIGATIONS**

*[Redacted]*