



## CREDIT AGREEMENT LETTER

Canadian Imperial Bank of Commerce  
8<sup>th</sup> Floor Bankers Hall East,  
855 – 2<sup>nd</sup> St SW  
Calgary AB T2P 4J7

June 21, 2024

Cematrix Corporation.  
9727 – 40 Street SE  
Calgary, Alberta  
T2C 2P4

**Attention: Marie-Josée Cantin, CFO**

Re: Credit Facility

Canadian Imperial Bank of Commerce (“CIBC”) is pleased to establish the following credit facility in favour of Cematrix Corporation (the “Borrower”).

### **Demand operating credit**

#### **Credit Limit:**

(1) the lesser of

(a) \$8,000,000

or

(b) the sum of (i) 75% of Receivable Value [minus all Priority Claims], and (ii) 50% of Inventory Value, but in no event may the amount in this clause (ii) exceed \$500,000, [minus (iii) all Priority Claims]

plus

(2) the Documentary L/C Sublimit as hereinafter defined.

The aggregate outstanding amount of Canadian dollar loans, US dollar loans, standby L/Cs, and CORRA under this Credit may not at any time exceed the limit of this Credit set out above minus the Documentary L/C Sublimit as hereinafter defined.

The aggregate outstanding amount of Canadian dollar loans, US dollar loans, standby L/Cs, CORRA and L/C Acceptances under this Credit may not at any time exceed the sublimit of this Credit set out above under (1).

#### **Purpose:**

All amounts obtained under this Credit are to be used for working capital and other general corporate purposes.

#### **Description and rate:**

A revolving Credit, available as follows:

- Canadian dollar loans, which will also be available by way of overdrafts not exceeding \$8,000,000 at any time. Interest on Canadian dollar loans will be calculated at the Prime Rate plus 1.25% per annum.

- US dollar Base Rate loans, which will also be available by way of overdrafts, not exceeding US \$4,000,000 at any time. Interest on US dollar Base Rate loans will be calculated at the US Base Rate plus 0% per annum.
- Canadian dollar [or US dollar] standby L/Cs. At no time shall the total amount of outstanding standby L/Cs, (which for greater certainty shall be net of the amount of any previous drawing made under any standby L/C then outstanding) under this Credit (including the equivalent amount in Canadian dollars of any standby L/C denominated in US dollars) exceed \$4,000,000. Standby L/Cs under this Credit may not have terms to expiry of more than 12 months. Fees for standby financial L/Cs (being L/Cs that serve as direct credit substitutes and secure, directly or indirectly, payment of financial obligations such as indebtedness for borrowed money or the purchase price of goods or services, or lease payments) under this Credit will be calculated at 2% per annum, and for standby non financial L/Cs (being all other types of L/Cs including generally those that relate to transaction related contingencies arising in the normal course of business) under this Credit will be calculated at 2% per annum. The minimum fee for each standby L/C under this Credit is \$200 or US \$150, as applicable. In each case the Borrower shall reimburse CIBC for its out of pocket expenses relative to all standby L/Cs under this Credit. CIBC's standard L/C documentation is also required.
- Canadian dollar or US dollar documentary L/Cs. At no time shall the total amount of outstanding documentary L/Cs (which for greater certainty shall be net of the amount of any previous drawing made under any documentary L/C then outstanding) under this Credit (including the equivalent amount in Canadian dollars of any documentary L/Cs denominated in any other currency) exceed \$250,000 (herein called the "Documentary L/C Sublimit"). Documentary L/Cs under this Credit may not have terms to expiry of more than 12 months. Fees for documentary L/Cs under this Credit will be calculated at 2% per annum. The minimum fee for each documentary L/C under this Credit is \$200 or US \$150, as applicable. In each case the Borrower shall reimburse CIBC for its out of pocket expenses relative to all documentary L/Cs under this Credit. CIBC's standard L/C documentation is also required.
- L/C Acceptances pursuant to documentary L/Cs outstanding under this Credit.
- For New CORRA Loans Date, Canadian dollar Term CORRA Loans, not exceeding Canadian \$ 8,000,000. Interest on Term CORRA Loans will be calculated at the Term CORRA Rate for each applicable CORRA Period plus 2.25% per annum.

### **Re allocation:**

The Borrower may upon not less than [three] Business Days' prior written notice to CIBC, and provided that there does not then exist any failure by the Borrower to perform or observe any of its covenants herein, (i) increase the Documentary L/C Sublimit up to a maximum amount of \$1,000,000 by all or any of the unused availability under this Credit for Canadian dollar loans, US dollar loans, and standby L/Cs and CORRA, as more particularly specified under "Credit Limit" above, in which case the sublimit of those types of financial accommodation under this Credit shall be reduced by the same amount, or (ii) increase the sublimit for Canadian dollar loans, US dollar loans, standby L/Cs and CORRA under this Credit, as more particularly specified under "Credit Limit" above, by all or any of the Undrawn Documentary L/C Sublimit, in which case the Documentary L/C Sublimit shall be reduced by the same amount. For greater certainty, any L/C Acceptance outstanding under a documentary L/C shall constitute a drawing under such documentary L/C.

The Borrower may upon not less than 10 days' prior written notice to CIBC given not more frequently than once during each fiscal quarter, and provided that there does not then exist any failure by the Borrower to perform or observe any of its covenants herein, (i) increase the Documentary L/C Sublimit by all or any of the unused availability under the Credit for Documentary Letters of Credit herein, in which case the limit of that Credit shall be reduced by the same amount, or (ii) increase the limit of the Credit for Documentary Letters of Credit herein by all or any of the Undrawn Documentary L/C Sublimit, in which case the Documentary L/C Sublimit shall be reduced by the same amount.

### **Repayment:**

All amounts under this Credit are repayable immediately on demand by CIBC, and this Credit may be terminated in whole or in part by CIBC at any time.

The Borrower shall have the option to repay any amount under this Credit at any time; provided that Term CORRA Loans may be repaid only at the end of a CORRA Period, as the case may be.

## **Demand US Bank Visa Program**

**Cematrix (Canada) Inc. : Credit Limit: \$90,000.00**

**Cematrix (USA) Inc.: Credit Limit \$200,000**

### **Purpose:**

All amounts obtained under this Credit are to be used to support a US Bank Commercial Card Program that the Borrower has established with the US Bank National Association, Canada Branch ("US Bank").

### **Interest rate:**

Standard Credit Card Fees.

### **Documentation:**

CIBC's standard US Bank Canada Commercial Card Acknowledgement and Indemnity Agreement is required.

### **Repayment:**

All amounts obtained under this Credit are to be used to support a US Bank Commercial Card Program that the Borrower wishes to establish with the US Bank National Association, Canada Branch ("US Bank").

## **Security**

The following security, which shall be in form and substance satisfactory to CIBC, is required to secure all present and future indebtedness and liabilities of the Borrower to each of CIBC and CIBC's affiliates (including under any Swap Agreement). All references in any such security to indebtedness or liabilities of the Borrower to CIBC shall be deemed to be references to indebtedness and liabilities of the Borrower to each of CIBC and CIBC's affiliates.

- General assignment of accounts receivable from the Borrower.
- General Security Agreement creating in favour of CIBC, a first priority security interest, in all present and future undertaking and personal property of the Borrower including receivables, inventory, equipment and machinery
- General Security Agreement creating in favour of CIBC a first priority security interest, (second ranking on equipment specifically financed by BDC) and personal property of the Borrower including receivables, inventory, equipment and machinery.
- Guarantee from each subsidiary with respect to all of the liabilities of the Borrower supported by a floating charge security Agreement including:
  - a. Corporate Guarantee from Cematrix (Canada) Inc., supported by a first charge GSA, plus an indemnity for US Bank Visa.

- b. Corporate Guarantee from Cematrix (USA) Inc., supported by a floating first charge Security Agreement, plus an indemnity for US Bank Visa.
- c. Corporate Guarantee from Mixonsite (USA) Inc., supported by a floating first charge Security Agreement.
- d. Corporate Guarantee from Pacific International Grout Co., supported by a floating first charge Security Agreement.
- Acknowledged assignment of adequate fire and other perils insurance on the property and assets of the Borrower and its subsidiaries that are subject to CIBC's security, with loss payable to CIBC.
- Intercreditor/Priority Agreement among CIBC, BDC and the Borrower, for the purpose of setting out the relative rights of the parties thereto as creditors of the Borrower.

## **Financial covenants**

### **Covenants:**

The Borrower will ensure that:

### **Financial Covenants:**

- The Debt to EBITDA Ratio does not exceed 3.0 to 1.0 at any time, tested quarterly.
- The Fixed Charge Coverage Ratio is not less than 1.50 to 1.0 at any time, tested Annually.
- The Current Ratio is not less than 1.25 to 1.0 at any time, tested quarterly.

### **Lien restrictions:**

None of the Borrower and its Subsidiaries will create, incur or suffer to exist any Lien on any of its property or assets, except:

- a) Purchase Money Liens in the normal course of business;
- b) Existing Liens by BDC on Equipment; or
- c) Vehicle fleet financing in the normal course of business.

### **Amalgamations, etc.:**

None of the Borrower and its Subsidiaries will enter into any amalgamation or consolidation or merger or liquidate, wind up or dissolve itself (or permit any liquidation, winding up or dissolution or any proceedings therefor) or continue itself under the laws of any other statute or jurisdiction, except that, subject to the Borrower and its Subsidiaries taking such action, and executing and delivering to CIBC such agreements and other documents as CIBC may require, acting reasonably, to assure the continued validity, enforceability and effectiveness of the Security and the covenants, agreements and obligations of the Borrower under the Credits, and provided that there does not then exist any failure by the Borrower to perform or observe any of its covenants in this Agreement and no such failure would be created thereby, any wholly owned Subsidiary may be amalgamated or consolidated or merged or liquidated, wound up or dissolved with or into the Borrower, provided that the Borrower shall be the continuing corporation, or with or into any one or more other wholly owned Subsidiaries.

### **Debt restrictions:**

None of the Borrower and its Subsidiaries will create, incur, assume or permit to exist any Debt except:

- i) amounts owed to CIBC under the Credits;
- ii) Amounts owed to the Borrower by a Subsidiary, by a Subsidiary to the Borrower or by a Subsidiary to another Subsidiary; and

- iii) The existing amounts owed to BDC; and
- iv) Equipment Lease financing not to exceed \$5,000,000 CAD.

### **Dispositions of property:**

None of the Borrower and its Subsidiaries will sell, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any material part of its property, whether now owned or hereafter acquired, except that each of the Borrower and its Subsidiaries:

- i) may sell in the normal course of its business for the purpose of carrying on the same, for fair market value, in accordance with customary trade terms, any property that would reasonably be considered to be the subject matter of sales by it in the normal course of its business for the purpose of carrying on the same; and
- ii) may sell, transfer or otherwise dispose of any property that is worn out or obsolete or of no material value.

### **Restriction on investments:**

None of the Borrower and its Subsidiaries will make any Investment, or provide third-party financial assistance other than to the Borrower or a Subsidiary. Such activity will not be unreasonably withheld by CIBC.

### **Hostile take-overs:**

None of the Borrower and its Subsidiaries will use any amount obtained by the Borrower under any of the Credits to finance a bid for any securities of any corporation in circumstances where the board of directors of such corporation has recommended (or is reasonably expected to recommend) rejection of such bid.

### **Transactions with affiliates:**

Except as specifically permitted hereunder, none of the Borrower and its Subsidiaries will enter into any transaction, including the purchase, sale or exchange of any property or the rendering of any services, with any of its shareholders or with any of its Affiliates, or with any of its or their directors or officers, or enter into, assume or permit 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 in the ordinary course of business of the Borrower or such Subsidiary and which is upon fair and reasonable terms not less favourable to the Borrower or its applicable Subsidiary than it would obtain in a comparable arms length transaction.

### **No New Subsidiaries:**

The Borrower will not create, acquire or cause to exist any Subsidiary unless, concurrent with such creation, acquisition or existence, such new Subsidiary provides CIBC with all security required of Subsidiaries hereunder, including a full liability guarantee supported by a first ranking general security agreement, a postponement of claim with respect to all amounts from time to time owing by the Borrower or its Subsidiaries, original share certificates of such new Subsidiary in support of its guarantee and such other security or documents required by CIBC from time to time.

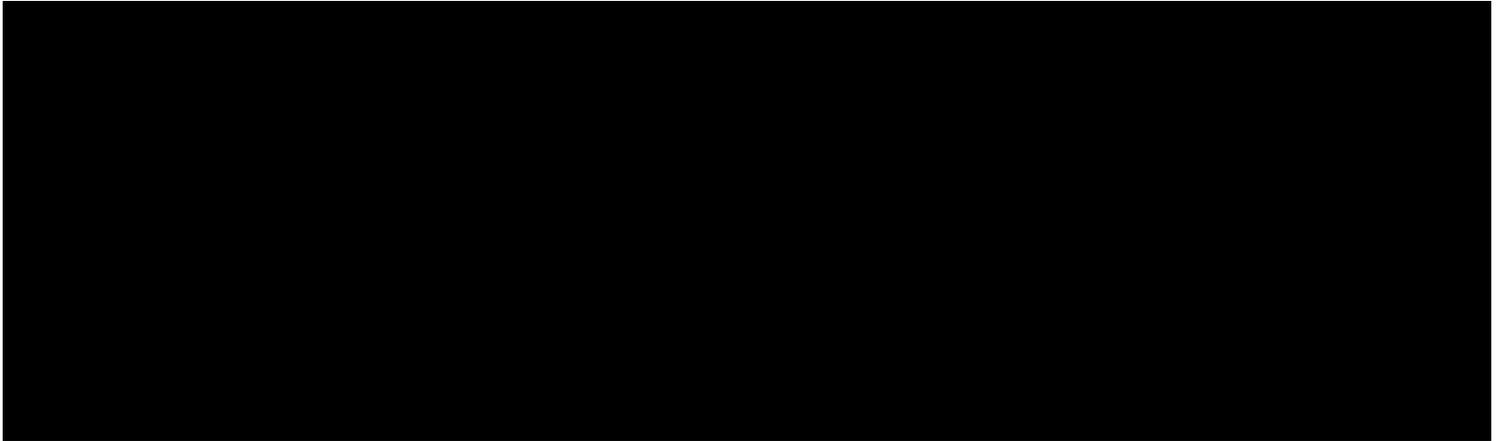
## **Reporting requirements**

The Borrower will provide to CIBC:

- Within 30 days after the end of each month an Officer's Certificate as to Receivable Value, Inventory Value, and accounts payable all on an aged basis. A monthly statement of available borrowing base is also to accompany this package.
- Within 45 days after the end of each of the first three fiscal quarters, the unaudited consolidated financial statements of the Borrower for such quarter, prepared in accordance with GAAP (as compared to the prior years' results for the same period).

- Within 45 days of each of the first three fiscal quarters, a Compliance Certificate with detailed financial calculations.
- Within 120 days after the end of each fiscal year, a business plan/forecast for the Borrower for its next fiscal year, including quarterly projected balance sheets, income statements and cash flows.
- Within 120 days after the end of each fiscal year, the audited consolidated financial statements of the Borrower for such year, prepared in accordance with GAAP along with a Compliance Certificate with detailed financial calculations.
- Promptly after obtaining knowledge thereof, particulars of any failure by any of the Borrower and its Subsidiaries to perform or observe any of its covenants or agreements in favour of CIBC.

## **Fees**



## **Other provisions**

### **Schedule A:**

The attached Schedule A, which contains certain additional provisions applicable to the Credits, and certain definitions, forms part of this Agreement. If there is a conflict or inconsistency between the provisions of this letter agreement and Schedule A, the provisions of this letter agreement shall govern.

### **Notice of borrowing:**

Whenever the Borrower desires to obtain any amount under a Credit (other than by way of a permitted overdraft ), it will give to CIBC irrevocable prior written notice as specified in Schedule A hereto.

### **Interest on excess amounts:**

The interest rate applicable to any outstanding amount under a Credit which is in excess of the limit of such Credit shall be the Interest Rate Applicable to Credit Limit Excesses specified in Schedule A hereto.

### **Interest on overdue amounts:**

Interest on overdue amounts is payable as specified in Schedule A hereto.

### **Interest payment dates:**

Except with respect to interest on amounts in default, which is payable on demand, or as otherwise specified herein or in Schedule A hereto, interest and fees will be calculated and payable monthly in arrears on such day in each month as CIBC requires.

**Authorized debits:**

The Borrower authorizes CIBC to debit its Operating Account for any interest, fees or other amounts that are payable by the Borrower to CIBC with respect to the Credits, as and when such amounts are payable.

**Communications:**

Any communication or notice to be given with respect to the Credits may be effectively given by delivering the same at the addresses set out on the signature page hereof, or by sending the same by facsimile, e-mail or prepaid registered mail to the parties at such addresses. Any notice so mailed will be deemed to have been received on the tenth day next following the mailing thereof, provided that postal service is in normal operation during such time. Any facsimile or e-mail notice will be deemed to have been received on transmission if sent on a Business Day and, if not, on the next Business Day following transmission. Either party may from time to time notify the other party, in accordance with this section, of any change of its address which thereafter will be the address of such party for all purposes of the Credits.

**Replacements:**

This letter supersedes and replaces all prior discussions, letters and agreements (if any) describing the terms and conditions of any credit facility established by CIBC in favour of the Borrower.

Please indicate your acceptance of these terms by signing below and returning the enclosed copy to our attention no later than June 28, 2024.





Address  
1501 Abbott Court  
Buffalo Grove, Illinois 60089

Cematrix (USA) Inc.

By: \_\_\_\_\_

name: Jeffrey Kendrick

Title: CEO

By: \_\_\_\_\_

name: Randy Boomhour

Title: COO

Signed this 24 day of June, 2024.

# SCHEDULE A – ADDITIONAL DEFINITIONS AND PROVISIONS

## 1. General

- 1.1. **Use of funds, returns.** The Borrower will use the Credits only for the purposes specified in this Agreement. The Borrower may not at any time exceed the limit of any Credit, and CIBC may, without notice to the Borrower, return any item that, if paid, would result in the limit of any Credit being exceeded. If, on the other hand, CIBC in its sole discretion elects to pay any such item, the Borrower will pay to CIBC immediately the amount by which the limit of the applicable Credit has been exceeded.
- 1.2. **Notice of failure.** The Borrower will promptly notify CIBC of the occurrence of any failure to perform or observe any of its covenants in this Agreement.
- 1.3. **Confidentiality.** The terms of this Agreement are confidential between the Borrower and CIBC, and accordingly the Borrower will not disclose the contents of this Agreement to anyone except its professional advisors.
- 1.4. **Applying money received.** At any time that the Borrower has failed (beyond any period of grace permitted by CIBC) to perform or observe any of its covenants in this Agreement, all moneys received by CIBC from the Borrower or from any Security may be applied on such parts of the Borrower's liabilities to CIBC as CIBC may determine.
- 1.5. **Right of set off.** At any time that the Borrower has failed (beyond any period of grace permitted by CIBC) to perform or observe any of its covenants in this Agreement, CIBC is authorized at any time to set off and apply any deposits held by it and any other amounts owed by it to or for the credit of the Borrower against any and all of the obligations of the Borrower with respect to the Credits, irrespective of whether or not CIBC has made any demand and even though any such obligations may not yet be due and payable.
- 1.6. **Registration of security.** Security will be registered or filed in all jurisdictions and in all offices as CIBC considers necessary or advisable from time to time to create, perfect or protect any Lien created thereby.
- 1.7. **Expenses.** The Borrower will reimburse CIBC for all fees and out of pocket expenses (including fees and expenses of CIBC's solicitors and of any other experts and advisors hired by CIBC) incurred in preparing, registering and renewing any Security, in responding to requests from the Borrower for waivers, amendments and other matters, in enforcing CIBC's rights under this Agreement or any Security, and in discharging any Security.
- 1.8. **Further information requirements.** The Borrower will provide such further information about its business and its Subsidiaries as is reasonably requested by CIBC from time to time, and such information shall be in a form acceptable to CIBC.
- 1.9. **Consent to release information.** CIBC may from time to time give any credit or other information about the Borrower to, or receive such information from, (i) any financial institution, credit reporting agency, rating agency or credit bureau, (ii) any person, firm or corporation with whom the Borrower may have or proposes to have financial dealings, and (iii) any person, firm or corporation in connection with any dealings the Borrower has or proposes to have with CIBC. The Borrower agrees that CIBC may use that information to establish and maintain the Borrower's relationship with CIBC and to offer any services as permitted by law, including services and products offered by CIBC's Subsidiaries when it is considered that this may be suitable to the Borrower.
- 1.10. **Instructions by fax, phone and e-mail.** The Borrower may deliver, and CIBC may accept, instructions by fax, telephone (including cellular phone) and internet e-mail ("Electronic

Communication”), according to CIBC-approved procedures, which procedures may be limited to particular types of communications or services. Unless the Borrower expressly indicates otherwise, the Borrower agrees that CIBC may also communicate with the Borrower by e-mail or fax. This may include (i) CIBC sending confidential information to the Borrower, at the Borrower’s request; or (ii) the Borrower sending confidential information to CIBC. An Electronic Communication may not be a secure means of communication and the Borrower assumes responsibility for the risks of using Electronic Communications including, without limitation, the possibility that an Electronic Communication is: intercepted by or sent to an unauthorized person, misunderstood, lost, delayed, or not received by CIBC at all. CIBC is entitled to rely upon any Electronic Communication from or purporting to be from the Borrower, as if such instructions were given in writing. However, CIBC may choose not to act upon an Electronic Communication if it believes that the Electronic Communication is unauthorized, incorrect or unclear. CIBC shall not be liable for, and the Borrower will indemnify and save CIBC harmless from, any claims, losses, damages, liabilities and expenses that CIBC incurs (other than those due to CIBC’s gross negligence or wilful misconduct) including among other things all legal fees and expenses, arising from CIBC acting or declining to act on any of your Electronic Communications given under this Agreement. This indemnity is in addition to any other indemnity or assurance against loss provided by you to CIBC under this Agreement or otherwise.

- 1.11. **Further assurances.** The Borrower will, and will ensure that each of its Subsidiaries will, from time to time promptly upon request by CIBC do and execute all such acts and documents as may be reasonably required by CIBC to give effect to the Credits and the Security, and to any transfer pursuant to section 1.16 of this Schedule.
- 1.12. **Insurance.** The Borrower will, and will ensure that each of its Subsidiaries will, keep all its respective assets and property insured (to the full insurable value) against loss or damage by fire and all other risks usual for similar property and for any other risks CIBC may reasonably require. If CIBC requests, these policies will include a loss payable clause (and with respect to mortgage security, a mortgagee clause) in favour of CIBC. As further security, the Borrower assigns all insurance proceeds to CIBC. The Borrower will provide to CIBC either the policies themselves or adequate evidence of their existence. If any insurance coverage for any reason stops, CIBC may (but shall have no obligation to) insure the property. The Borrower will notify CIBC immediately of any loss or damage to any such asset or property.
- 1.13. **Environmental.** The Borrower will, and will ensure that each of its Subsidiaries will, carry on its business, and maintain its assets and property in accordance with all applicable environmental laws and regulations. If there is any release, deposit, discharge or disposal of pollutants of any sort (collectively, a “Discharge”) in connection with the business or property of the Borrower or any of its Subsidiaries, and CIBC pays any fines or for any clean up suffers any loss or damage as a result of the Discharge, the Borrower will reimburse CIBC, its directors, officers, employees and agents for any and all losses, damages, fines, costs and other amounts (including amounts spent preparing any necessary environmental assessment or other reports, or defending any lawsuits) that result. If CIBC asks, the Borrower will defend any lawsuits, investigations or prosecutions brought against CIBC or any of its directors, officers, employees and agents in connection with any Discharge. The Borrower’s obligation under this section continues even after all Credits have been repaid and this Agreement has terminated.
- 1.14. **Related Transactions.** None of the Borrower and its Subsidiaries will enter into any transaction, including the purchase, sale or exchange of any property or the rendering of any services, with any of its shareholders or with any of its Affiliates, or with any of its or their directors or officers, or enter into, assume or permit 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 in the ordinary course of business of the Borrower or such Subsidiary and which is upon fair and reasonable terms not less favourable to the Borrower or its applicable Subsidiary than it would obtain in a comparable arms length transaction.

- 1.15. **Waiver.** No delay on the part of CIBC in exercising any right or privilege will operate as a waiver thereof, and no waiver of any failure or default will operate as a waiver thereof unless made in writing and signed by an authorized officer of CIBC, or will be applicable to any other failure or default.
- 1.16. **Assignment.** CIBC may assign, sell or participate (herein referred to as a “transfer”) all or any part of its rights and obligations under all or any of the Credits to any third party, and the Borrower agrees to sign any documents and take any actions that CIBC may reasonably require in connection with any such transfer. Upon completion of the transfer, the third party will have the same rights and obligations under this Agreement as if it were a party to it, with respect to all rights and obligations included in the transfer. The Borrower agrees that CIBC may disclose any information (including, without limitation, any personal information) relating to such Credits (including any personal guarantee) to such third party, or its agents, any assignee of such third party, any service provider (as defined below), or any prospective assignee, purchaser or participant. Personal information includes all information provided by a principal of the Borrower or a guarantor of the Borrower’s debt or other information obtained by CIBC in connection with the Borrower’s credit application and/or the Agreement, and any ongoing information and documentation about the Borrower, any guarantor of the Borrower’s debt, or the Credits, to the extent required by the third party, its agent or assignee, or any service provider, to enable such person to administer the Credits and exercise its rights thereunder. “Service Provider” means a person or entity that has been engaged in connection with the servicing, maintenance, collection or operation of the Credits or the provision of services or benefits to the Borrower and/or any guarantor of the Borrower’s debt (including loyalty programs). The Borrower may not assign any of its rights or obligations under any of the Credits.
- 1.17. **Authorized Debits.** The Borrower authorizes CIBC to debit its Operating Account for any interest, fees or other amounts that are payable by the Borrower to CIBC with respect to the Credits, as and when such amounts are payable.
- 1.18. **Communications.** Any communication or notice to be given with respect to the Credits may be effectively given by delivering the same at the addresses set out on the signature page of this Agreement, or by sending the same by facsimile, e-mail or prepaid registered mail to the parties at such addresses. Any notice so mailed will be deemed to have been received on the tenth day next following the mailing thereof, provided that postal service is in normal operation during such time. Any facsimile, e-mail notice will be deemed to have been received on transmission if sent on a Business Day and, if not, on the next Business Day following transmission. Either party may from time to time notify the other party, in accordance with this section, of any change of its address which thereafter will be the address of such party for all purposes of the Credits.
- 1.19. **Governing law.** This Agreement shall be governed by the laws of Alberta, and the Borrower submits itself to the jurisdiction of any competent federal or provincial court in such jurisdiction.
- 1.20. **Counterparts.** This Agreement and any amendment to this Agreement may be executed in one or more counterparts and may be delivered by facsimile, .pdf or other similar electronic transmission, and all of such counterparts shall constitute originals and the same agreement. The words “executed”, “execution”, “signed”, “signature”, and words of like import in this Agreement and the other loan documents, shall be deemed to include electronic signatures or electronic records, 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 record keeping system, as the case may be, to the extent permitted under, and as provided for in, any applicable law.
- 1.21. **Certain definitions.** In this Agreement the following terms have the following meanings.  
“**Affiliate**” means, with respect to any person, any other person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such person, and includes any person in like relation to an Affiliate. A person shall be deemed to control another person if the first person possesses, directly or indirectly, the power to direct or cause the direction of the management

and policies of the other person, whether through the ownership of voting securities, by contract or otherwise.

**“Agreement”** means the attached letter agreement between CIBC and the Borrower, including this Schedule and any other Schedules thereto, as the same may be amended or supplemented from time to time.

**“Business Day”** means (i) with respect to any amount denominated in Canadian dollars and all matters pertaining thereto, any day excluding Saturday, Sunday and any day which is a legal holiday in Toronto [or Montreal], Canada, and (ii) with respect to any amount denominated in US dollars and all matters pertaining thereto, any day excluding Saturday, Sunday or any day which is a legal holiday in New York, U.S.A., [or] Toronto [or Montreal], Canada and (iii) with respect to any SOFR Loan and all matters pertaining thereto, any day excluding Saturday, Sunday or any day which is a legal holiday in New York, U.S.A. or Toronto, Canada and also excluding any day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

**“Compliance Certificate”** means an Officer’s Certificate in the form prescribed by CIBC and stating, as of the applicable date, (i) that the Borrower is not in default of the observance or performance of any of its covenants in this Agreement (or describing any default then existing), (ii) that all representations and warranties contained in this Agreement are true and accurate as if made on and as of such date (or describing any thereof that are not then true and accurate), (iii) the particulars and calculation of all financial covenants of the Borrower contained in this Agreement.

**“Event of Default”** means any of the following events or circumstances:

- i. If the Borrower fails to pay any amount when due and payable hereunder;
- ii. If the Borrower defaults in the performance or observance of any negative covenant contained herein, or of any other term or covenant contained herein if such other default continues for 30 days or more;
- iii. If any representation or warranty contained in this Agreement or the Security or in any certificate delivered to CIBC by or on behalf of the Borrower is untrue in any material respect on the date as of which it was made;
- iv. If an aggregate amount exceeding \$1,000,000 owed by the Borrower or its Subsidiaries is not paid when due or the maturity thereof is accelerated;
- v. If any obligation of the Borrower and its Subsidiaries to CIBC is or becomes unenforceable or if the enforceability thereof is disputed, or if any of the Security ceases to constitute a Lien of the nature and priority contemplated by this Agreement;
- vi. If any of the Borrower and its Subsidiaries commits an act of bankruptcy under the Bankruptcy and Insolvency Act (Canada), or if any insolvency proceeding or proceeding for its winding up, liquidation or dissolution is commenced by or against any of them and is not being contested in good faith, or publicly announces or admits in writing its inability to pay its debts generally as they become due, or suspends or threatens to suspend transaction of all or any substantial part of its usual business, or any action is taken by any of the Borrower and its Subsidiaries or any shareholder of any of them in furtherance of any of the foregoing;
- vii. If an encumbrancer (including without limitation an execution creditor) takes possession of any property of any of the Borrower and its Subsidiaries which in the opinion of CIBC is material;
- viii. If there exists for three Business Days any final judgement of a court of competent jurisdiction against any of the Borrower and its Subsidiaries which has not been satisfied in full (exclusive of any amount adequately covered by insurance);

- ix. If in the reasonable opinion of CIBC there has occurred any event which has had a Material Adverse Effect; or
- x. If there is any change in the effective control of the Borrower, as determined by CIBC.

**“GAAP”** means those accounting principles which are recognized as being generally accepted in Canada from time to time as set out in the handbook published by the Canadian Institute of Chartered Accountants. If the Borrower, or the party to which references to GAAP are intended to apply, has adopted International Financial Reporting Standards (“IFRS”), then the applicable references in this Agreement to GAAP or Generally Accepted Accounting Principles may be interpreted to mean IFRS, but only if CIBC has consented to such change.

**“Inventory Value”** means, at any time, the inventory of the Borrower and its Subsidiaries (which shall not include any work in process for the purpose of this definition) then existing, less any inventory that (i) is not located on company premises, (ii) is not subject to the applicable duly perfected Liens created by the Security, (iii) is subject to any Lien other than as specifically permitted by CIBC, (iv) is located in or on leased premises unless the applicable lessor has waived all Liens that may at any time be held by such lessor in respect of any inventory, (v) is obsolete or not readily saleable in the ordinary course of business, all valued at the lower of cost and market on a first in, first out basis, (vi) that has not been paid for in full and is subject to a right of repossession by the seller thereof; or (vii) that is otherwise excluded by CIBC in its reasonable discretion.

**“Investment”** means, with respect to any person, any direct or indirect investment in or purchase or other acquisition of the securities of or any equity interest in any other person, any loan or advance to, or arrangement for the purpose of providing funds or credit to (excluding extensions of trade credit in the ordinary course of business in accordance with customary commercial terms), or capital contribution to, any other person, or any purchase or other acquisition of all or substantially all of the property of any other person.

**“Lien”** includes without limitation a mortgage, hypothec, whether legal or conventional lien, Prior Ranking Claims, security interest, prior claim, charge or encumbrance of any sort on any property or asset, and includes conditional sales contracts, title retention agreements, capital trusts, capital leases and leasing.

**“Loan”** means any advance of moneys made by CIBC to the Borrower under this Agreement and, where the context permits or requires, includes Bankers Acceptances, Letters of Credit, equipment leases, credit cards and all other forms of credit provided by CIBC to the Borrower under this Agreement.

**“Loan Document”** means this Agreement, the Security and all other deeds, certificates, instruments, agreements and other documents delivered to or obtained by CIBC in connection with any of the foregoing but for the purposes of Sections 11 and 12 of this Schedule shall exclude Swap Agreements.

**“Material Adverse Effect”** means a material adverse effect on the business, property, condition (financial or otherwise) or prospects of the Borrower and its Subsidiaries, considered as a whole, or a material adverse effect on the ability of any of the Borrower and its Subsidiaries to perform its obligations under any of this Agreement and the Security to which it is a party.

**“Normal Course Lien”** means, at any time, the following:

- i. Liens for taxes and other undetermined or inchoate Liens arising in the ordinary course of business which relate to amounts not overdue or a claim for which has not been filed or registered pursuant to applicable law;
- ii. Easements, rights of way, restrictions and other similar encumbrances arising in the ordinary course of business which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value or use of the property subject thereto;

iii. Liens created by the Security and other Liens consented to in writing by CIBC;

“Officer’s Certificate” means a certificate, in form satisfactory to CIBC, signed by a senior officer of the Borrower.

“**Operating Account**” means a Canadian dollar account or US dollar account or such other account, in each case as is agreed upon by the Borrower and CIBC from time to time for the purposes hereof.

“**Priority Ranking Claims**” means, at any time, any liability of any of the Borrower and its Subsidiaries that ranks, in right of payment in any circumstances, equal to or in priority to any liability of the Borrower or such Subsidiary to CIBC, and may include unpaid wages, salaries and commissions, unremitted source deductions for vacation pay, arrears of rent, unpaid taxes, amounts owed in respect of worker’s compensation, amounts owed to unpaid vendors who have a right of repossession, and amounts owing to creditors which may claim priority by statute or under a Purchase Money Lien.

“**Purchase Money Lien**” means any Lien which secures a Purchase Money Obligation permitted by this Agreement, provided that such Lien is created not later than 30 days after such Purchase Money Obligation is incurred and does not affect any asset other than the asset financed by such Purchase Money Obligation.

“**Purchase Money Obligation**” means any Debt (including without limitation a capitalized lease obligation) incurred or assumed to finance all or any part of the acquisition price (and not exceeding the fair market value) of any asset acquired by any of the Borrower and its Subsidiaries.

“**Receivable Value**” means, at any time, the receivables of the Borrower and its Subsidiaries then existing, less any receivable that (i) is not then subject to the applicable duly perfected Liens created by the Security, (ii) is subject to any Lien other than as specifically permitted by CIBC, (iii) is payable more than 30 days after the date of shipment of the inventory or the provision of the service that created such receivable, (iv) has been outstanding for 90 days or more, (v) is subject to any offset or counterclaim by the applicable account debtor, (vi) is owed by any person whose principal place of business is located outside Canada or the United States of America, (vii) is payable in a currency other than CAD or USD, (viii) is owed by an Affiliate of the Borrower or any employee, agent or representative of the Borrower or of any such Affiliate, (ix) with respect to which a cheque, note, draft or other payment instrument has not been honoured in accordance with its terms, or (x) has been specifically identified by CIBC as an excluded receivable for the purpose hereof or is owed by any person that is insolvent or is otherwise doubtful of collection in the reasonable opinion of CIBC.

“**Security**” means, collectively, all of the items of security held by CIBC for the indebtedness and liabilities, or any part or parts thereof, of the Borrower to CIBC.

“**Subsidiary**” of any person means any other person of which shares or other equity units having ordinary voting power to elect a majority of the board of directors or other individuals performing comparable functions, or which are entitled to or represent more than 50% of the owners’ equity or capital or entitlement to profits, are owned beneficially or controlled, directly or indirectly, by any one or more of such first person and the Subsidiaries of such first person, and shall include any other person in like relationship to a Subsidiary of such first person.

“**Swap Agreement**” means any arrangement or transaction between the Borrower (or any predecessor or Affiliate of the Borrower) and CIBC (or any Affiliate) which is an interest rate swap transaction, basis swap, forward interest rate transaction, commodity swap, interest rate option, forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency interest rate swap transaction, currency option or any other similar transaction (including any option with respect to any of such transactions or arrangements) designed to protect or mitigate against risks in interest, currency exchange or commodity price fluctuations.

## 2. Interest rates; payments; calculations

- 2.1. **Variable interest.** Each variable interest rate provided for in this Agreement will change automatically, without notice, whenever the Prime Rate, the US Base Rate, applicable Bankers Acceptance Yield, applicable CORRA Rate or applicable SOFR Rate, as the case may be, changes.
- 2.2. **Payment of interest.** Interest is calculated on the applicable balance at the end of each day. Interest is payable in arrears once a month on the day required by CIBC, unless otherwise specified in this Agreement, and interest on amounts in default is payable on demand.
- 2.3. **Interest Rate Applicable to Credit Limit Excesses.** The Interest Rate Applicable to Credit Limit Excesses will be charged on the amount outstanding under a Credit that exceeds the limit of such Credit, and if there are several parts of a Credit, the Interest Rate Applicable to Credit Limit Excesses will be charged if the limit of a particular part is exceeded. To determine if the limit of a Credit has been exceeded, any amount in a currency other than the currency in which the limit is designated will be converted into that currency, as described in section 2.10 of this Schedule.
- 2.4. **Interest on Overdue Amounts.** Except as otherwise specified herein, if any principal is not paid when due, such overdue principal will bear interest (as well after as before judgement), payable on demand, at the interest rate applicable to such principal prior to default, and interest will be payable on overdue interest (as well after as before judgement) at the same rate as is applicable to the related principal. If any amount is not paid by the Borrower when due and there is no interest otherwise applicable to such amount specified herein, such overdue amount will bear interest (as well after as before judgement), payable on demand, at a rate per annum equal at all times to the Prime Rate plus 5% (in the case of any such amount payable in Canadian dollars) or the US Base Rate plus 5% (in the case of any such amount payable in US dollars) from the date of non payment until paid in full.
- 2.5. **Reductions of Limit of Credits.** On or prior to each date on which the limit of any Credit is reduced, the Borrower will repay such outstanding amounts thereunder, if any, as are necessary so that, after giving effect to the repayment, the total of all amounts outstanding under such Credit does not exceed the limit as so reduced.
- 2.6. **Payments.** Except as otherwise expressly provided in this Schedule "A", if any payment is due on a day other than a Business Day, such payment will be due on the next Business Day.
- 2.7. **CIBC's pricing policy.** The fees, interest rates and other charges for the Borrower's banking arrangements with CIBC are dependent upon each other. Accordingly, if the Borrower cancels or does not follow through with, in the manner originally contemplated, any of these arrangements, CIBC reserves the right to require payment by the Borrower of increased or added fees, interest rates and charges as a condition of the continuation of the Borrower's banking arrangements.
- 2.8. **Calculations.** The following terms apply to all calculations under the Credits:
  - a. CDOR, Federal Funds Rate, Bankers Acceptance Yield, any CORRA Rate, any SOFR Rate, Prime Rate and US Base Rate shall be determined by CIBC if and whenever such determination is required for the purpose of this Agreement, and such determination by CIBC shall be conclusive evidence of such rate.
  - b. Except as provided in the next sentence, all interest and fees hereunder shall be computed on the basis of the actual number of days elapsed divided by 365. Interest on each SOFR Loan shall be computed on the basis of the actual number of days elapsed divided by 360. Any such applicable interest rate, expressed as an annual rate of interest for the purpose of the Interest Act (Canada), shall be equivalent to such applicable interest rate multiplied by the actual number of days in the calendar year in which the same is to be determined and divided by 365 or 360, as the case may be.

- c. In calculating interest or fees payable hereunder for any period, unless otherwise specifically stated, the first day of such period shall be included and the last day of such period shall be excluded.
- 2.9. **CIBC's Records.** CIBC's loan accounting records will provide conclusive evidence of all terms and conditions of the Credits such as principal loan balances, interest calculations, and payment dates.
- 2.10. **Foreign Currency Conversion.** If it is necessary for any purpose relating to the Credits that an amount denominated in a currency other than Canadian dollars be expressed in or equated to an amount of Canadian dollars (such as, for example, to determine whether amounts denominated in US dollars that are outstanding under a Credit which has a limit specified in Canadian dollars exceed the limit of such Credit so as to make applicable the Interest Rate Applicable to Credit Limit Excesses), the applicable amount of Canadian dollars shall be determined by CIBC in accordance with its normal practice.
- 2.11. **Deemed Re Investment Principle.** For the purpose of the *Interest Act* (Canada) and any other purpose, the principle of deemed re-investment of interest is not applicable to any calculation under this Agreement, and the rates of interest and fees specified in this Agreement are intended to be nominal rates and not effective rates or yields.
- 2.12. **Certain Definitions.** If and whenever required for the purpose of this Agreement, the following terms have the following definitions:

**"CDOR"** means, for any day, the average of the annual discount rates for bankers' acceptances denominated in Canadian dollars of certain banks named in Schedule 1 to the Bank Act (Canada) for a specified term and face amount that appears on the CDOR page of the Reuters Screen as of 10:00 a.m. on such day (or, if such day is not a Business Day, as of 10:00 a.m. on the next preceding Business Day).

**"Excluded Taxes"** means Taxes imposed on CIBC's overall net income or franchise taxes, taxes on doing business or taxes measured by our capital or net worth.

**"Federal Funds Rate"** means, for any day, an annual interest rate equal to the weighted average of the rates on overnight United States federal funds transactions with members of the Federal Reserve System arranged by United States federal funds brokers, as published for such day (or, if such day is not a business day in New York, for the next preceding business day in New York) by the Federal Reserve Bank of New York, or for any such business day on which such rate is not so published, the arithmetic average of the quotations for such day on such transactions received by CIBC from three United States federal funds brokers of recognized standing selected by it.

**"Interest Rate Applicable to Credit Limit Excesses"** means the annual interest rate generally established by CIBC from time to time for the purpose of calculating interest on overdrafts in accounts maintained with CIBC in Canada.

**"Prime Rate"** means a fluctuating annual interest rate equal at all times to the greater of (i) the reference rate of interest (however designated) of CIBC for determining interest chargeable by it on loans in Canadian dollars made in Canada and (ii) 1.05% per annum above the Term CORRA Rate for a CORRA Period of one (1) month from time to time.

**"Taxes"** means all income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings now or hereafter imposed, levied, collected, withheld or assessed and includes sales taxes, value added taxes and goods and services taxes.

**"US Base Rate"** means a fluctuating annual interest rate equal at all times to the greater of (i) the reference rate of interest (however designated) of CIBC for determining interest chargeable by it on loans in US dollars made in Canada, and (ii)  $\frac{3}{4}$  of 1% per annum above the Federal Funds Rate from time to time.

### 3. Notice of borrowing; notice of repayment; overdrafts

- 3.1. **Notice of Borrowing.** Whenever the Borrower desires to obtain any amount under a Credit (other than a loan by way of a permitted overdraft), it will give to CIBC irrevocable prior written notice (a “Notice of Borrowing”) specifying the Credit under which such amount is to be obtained and the particulars of such amount including the term of any Bankers’ Acceptances, the term of any CORRA Period or SOFR Period, the particulars of all maturing Bankers’ Acceptances in the case of a rollover or conversion of Bankers’ Acceptances, and the Business Day on which such amount is to be obtained. No amount shall be obtained if the term thereof or any CORRA Period or SOFR Period applicable thereto would mature beyond any scheduled repayment or reduction date for the applicable Credit and all or any part of such amount will be required to be repaid on such date. The amount to be obtained under any Credit at any time shall not exceed the undisbursed amount of that Credit at such time. CIBC will not be obliged to make available at any time SOFR Loans in an aggregate amount less than US \$1,000,000 or CORRA Loans in an aggregate amount less than \$500,000. A notice requesting any loan in an amount exceeding \$10,000,000 (other than a CORRA Loan) or US \$10,000,000 (other than a SOFR Loan) must be given not later than 10:00 a.m. on the Business Day preceding the applicable borrowing date; a notice requesting any Bankers’ Acceptances in an amount exceeding \$10,000,000 must be given not later than 10:00 a.m. on the second Business Day preceding the applicable borrowing date; a notice requesting any Term CORRA Loan of any amount must be given not later than 10:00 am on the third Business Day preceding the applicable borrowing date; a notice requesting any Daily Compounded CORRA Loan of any amount must be given not later than 10:00 am on the second Business Day preceding the applicable borrowing date; and a notice requesting any SOFR Loan of any amount must be given not later than 10:00 a.m. on the third Business Day preceding the applicable borrowing date.
- 3.2. **Notice of Repayment.** Whenever the Borrower desires to make any repayment or repayments under one or more of the Credits in an aggregate amount exceeding \$10,000,000 (or an equivalent amount in any other currency) on any day, it will give to CIBC irrevocable written notice specifying the particulars of such repayment not later than 10:00 a.m. on the Business Day preceding the applicable repayment date.
- 3.3. **Overdrafts.** If the Borrower is entitled under any Credit to obtain loans in Canadian dollars or US dollars by way of overdraft, the debit balance in the Borrower’s applicable Operating Account from time to time will be deemed to be a loan in Canadian dollars or US dollars, as the case may be, outstanding to the Borrower under such Credit and bearing interest as set out in this Agreement for loans in such currency under such Credit. If at any time the Borrower is a party to a cash concentration arrangement with CIBC, the amount of any overdraft from time to time in the Canadian dollar or US dollar concentration account of the Borrower established pursuant to such arrangement will also be deemed to be a loan in Canadian dollars or US dollars, as applicable, outstanding to the Borrower under the applicable Credit and bearing interest as set out above on the basis of the Prime Rate or the US Base Rate, as the case may be.

#### 4. Indemnities

- 4.1. **Reserve Indemnity.** If subsequent to the date of this Agreement any change in or introduction of any applicable law, or compliance by CIBC with any request or directive by any central bank, superintendent of financial institutions or other comparable authority, shall subject CIBC to any tax with respect to the Credits or change the basis of taxation of payments to CIBC of any amount payable under the Credits (except for changes in the rate of tax on the overall net income of CIBC), or impose any capital maintenance or capital adequacy requirement, reserve requirement or similar requirement with respect to the Credits, or impose on CIBC any other condition or restriction, and the result of any of the foregoing is to increase the cost to CIBC of making or maintaining the Credits or any amount thereunder or to reduce any amount otherwise received by CIBC under the Credits, CIBC will promptly notify the Borrower of such event and the Borrower will pay to CIBC such additional amount calculated by CIBC as is necessary to compensate CIBC for such additional cost or reduced amount received. A certificate of CIBC as to any such additional amount payable to it and containing reasonable details of the calculation thereof shall be conclusive evidence thereof.

- 4.2. **Currency Indemnity.** Interest and fees hereunder shall be payable in the same currency as the principal to which they relate. Any payment on account of an amount payable in a particular currency (the “proper currency”) made to or for the account of CIBC in a currency (the “other currency”) other than the proper currency, whether pursuant to a judgement or order of any court or tribunal or otherwise and whether arising from the conversion of any amount denominated in one currency into another currency for any purpose, shall constitute a discharge of the Borrower’s obligation only to the extent of the amount of the proper currency which CIBC is able, in the normal course of its business within one Business Day after receipt by it of such payment, to purchase with the amount of the other currency so received. If the amount of the proper currency which CIBC is able to purchase is less than the amount of the proper currency due to CIBC, the Borrower shall indemnify and save CIBC harmless from and against any loss or damage arising as a result of such deficiency.
- 4.3. **Default Indemnity.** The Borrower shall indemnify and save harmless CIBC from all claims, demands, liabilities, damages, losses, costs, charges and expenses, including any loss or expense arising from interest or fees payable by CIBC to lenders of funds obtained by it in order to make or maintain any amount under the Credits and any loss or expense incurred in liquidating or re-employing deposits from which such funds were obtained, which may be incurred by CIBC as a consequence of (i) default by the Borrower in the payment when due of any amount hereunder or the occurrence of any other default relative to any of the Credits, (ii) default by the Borrower in obtaining any amount after the Borrower has given notice hereunder that it desires to obtain such amount, (iii) default by the Borrower in making any optional repayment of any amount after the Borrower has given notice hereunder that it desires to make such repayment, or (iv) the repayment by the Borrower of any CORRA Loan or SOFR Loan otherwise than on the expiration of any applicable CORRA Period, SOFR Period, interest payment date or maturity or final payment date, as the case may be, or the repayment of any loan on which interest is payable at a fixed annual rate otherwise than on the expiration of the fixed interest rate period applicable thereto, or the repayment of any other amount otherwise than on any specified maturity date thereof. A certificate of CIBC as to any such loss or expense and containing reasonable details of the calculation thereof shall be prima facie evidence thereof.
- 4.4. **Tax withholding.** The Borrower will, whenever legally permitted, pay all amounts due to CIBC under this Agreement without any reduction or withholding on account of Taxes, other than Excluded Taxes. If the Borrower is required by law to make any such reduction or withholding, then the amount payable by the Borrower shall be increased so as to yield to CIBC on a net basis, after payment of all Taxes and after payment of all Excluded Taxes on any additional amounts payable under this section, the rates of interest and the amounts specified in this Agreement.
- 4.5. **Material Change in Financial Markets.** If any material change has occurred, or would reasonably be expected to occur, in the financial, banking or capital markets generally in Canada (as determined by CIBC in good faith in its discretion) and the effect of which is to (or would reasonably be expected to) reduce the rate of return on CIBC’s capital from, or increase the cost to CIBC of, making or maintaining any Credit or any amount thereunder or reduce any amount otherwise received by CIBC under any Credit, then CIBC will promptly notify the Borrower of such event or circumstances and the Borrower will pay to CIBC such additional amount calculated by CIBC as is necessary to compensate CIBC for such reduction in rate of return, additional cost or reduced amount received. A certificate of CIBC as to any such additional amount payable to it and containing reasonable details of the calculation thereof shall be conclusive evidence thereof.
- 4.6. **Illegality.** If CIBC determines that any applicable law has made it unlawful, or that any domestic or foreign court or government or governmental authority has asserted that it is unlawful, for CIBC or its applicable lending office to make, maintain or fund Loans whose interest is determined by reference to any applicable CORRA Rate or SOFR Rate, or to determine or charge interest rates based upon any applicable CORRA Rate or SOFR Rate, then, upon written notice thereof by CIBC to the Borrower, (a) any obligation of CIBC to make or maintain the affected CORRA Loans or SOFR Loans, as the case may be, and any right of the Borrower to borrow or continue the affected CORRA

Loans, or SOFR Loans, as the case may be, shall be suspended, and (b) unless otherwise specified in the notice to the Borrower, the interest on each affected CORRA Loan or SOFR Loan, as the case may be, shall forthwith cease to be calculated on the basis of the applicable CORRA Rate or SOFR Rate, as the case may be, and shall commence to be calculated (i) in the case of an affected CORRA Loan, on the basis of the Prime Rate (or, if the affected CORRA Rate is a term CORRA Rate, then at the discretion of CIBC, a daily CORRA Rate) or (ii) in the case of an affected SOFR Loan, on the basis of the US Base Rate (or if the affected SOFR Rate is a term SOFR Rate, then at the discretion of CIBC, a daily SOFR Rate). The Borrower will not be entitled to obtain any affected CORRA Loan or SOFR Loan, as the case may be, from, or maintain any existing affected CORRA Loan or SOFR Loan, as the case may be, with, CIBC so long as any such condition shall continue to exist, and any Loan that would otherwise have been made or maintained (x) in the case of an affected CORRA Loan, shall instead be made or maintained as a Loan in Canadian Dollars bearing interest on the basis of the Prime Rate (or, if the affected CORRA Rate is a term CORRA Rate, then at the discretion of CIBC, a daily CORRA Rate) or (y) in the case of an affected SOFR Loan, shall instead be made or maintained as a Loan in US Dollars bearing interest on the basis of the US Base Rate (or if the affected SOFR Rate is a term SOFR Rate, then at the discretion of CIBC, a daily SOFR Rate). Upon any such conversion of an affected CORRA Loan or SOFR Loan, the Borrower shall also pay any additional amounts required pursuant to Section 11.3 or 12.3 of this Schedule.

## **5. Conditions precedent**

### **5.1. Conditions precedent to the initial amount**

CIBC shall not be obliged to make available the initial amount under any Credit unless it shall have received (a) all required Security, which shall have been duly registered and filed as required hereby, (b) such financial and other information relating to the Borrower and its Subsidiaries, and any guarantor, as CIBC shall have reasonably requested, (c) confirmation of all insurance maintained by the Borrower and its Subsidiaries, and such insurance shall comply with the requirements of this Agreement, (d) payment of all fees and other amounts which shall have become due and payable by the Borrower to CIBC on or prior to the initial borrowing date, and (e) the following documents in form, substance and execution acceptable to CIBC: (i) a certified copy of the constating documents and by laws of each of the Borrower and its Subsidiaries, and of each corporate guarantor, and of all corporate proceedings taken and required to be taken by each of them to authorize the execution and delivery of such of this Agreement and the Security to which it is a party and the performance of the transactions by it contemplated therein; (ii) a certificate of incumbency for each of the Borrower and its Subsidiaries, and for each corporate guarantor, setting forth specimen signatures of the persons authorized to execute such of this Agreement and the Security to which it is a party; (iii) such legal opinions addressed to CIBC relative to the Borrower, this Agreement and the Security as CIBC may require; and (iv) such other documents relative to this Agreement and the transactions contemplated herein as CIBC may reasonably require.

### **5.2. Conditions precedent to all amounts**

CIBC shall not be obliged to make available any amount under any Credit unless (a) CIBC shall have received any applicable Notice of Borrowing, (b) on the applicable borrowing date the Borrower shall not have failed to observe or perform any of its covenants in this Agreement, and the Borrower shall have delivered to CIBC, if so requested by CIBC, an Officers' Certificate to such effect, (c) the representations and warranties contained in this Agreement shall be true on and as of the applicable borrowing date with the same effect as if such representations and warranties had been made on and as of the applicable borrowing date, and the Borrower shall have delivered to CIBC, if so requested by CIBC, an Officers' Certificate to such effect, (d) all other conditions specified herein, to the extent not previously satisfied for any reason, other shall have been satisfied, and (e) in respect of any amount that would result in the aggregate amount outstanding under the Credits being increased, there shall not have occurred subsequent to the date of last annual financial statements of

the Borrower, in the opinion of CIBC, any event which (individually or with any other events) has had, or which has a reasonable possibility of having, a Material Adverse Effect.

## 6. Representations and warranties

6.1. **Representations and warranties.** To induce CIBC to establish and maintain the Credits, the Borrower represents and warrants as follows:

- a. Each of the Borrower and its Subsidiaries has all necessary power and authority to own its property, to carry on the business carried on by it, to enter into and perform its obligations under such of this Agreement and the Security to which it is a party.
- b. This Agreement, and upon delivery thereof the Security, have been duly executed and delivered by each of the Borrower and its Subsidiaries as are parties thereto, and constitute the legal, valid and binding obligation of each of them enforceable in accordance with their terms.
- c. The execution and delivery by the Borrower and its Subsidiaries of this Agreement and the Security and the performance by them of their obligations thereunder, and the obtaining by the Borrower of amounts under the Credits, will not conflict with or result in a breach of any applicable law, and will not conflict with or result in a breach of or constitute a default under any of the provisions of its constating documents or by laws or any agreement or restriction to which it is a party or by which it is bound.
- d. The Borrower has delivered to CIBC a true and complete copy of its most recent financial statements, and such financial statements present fairly the financial position of the Borrower, in accordance with GAAP, as of the date thereof and for the fiscal period then ended. All financial statements of the Borrower delivered by the Borrower to CIBC after the date of this Agreement will present fairly the financial position of the Borrower, in accordance with GAAP, as of the dates thereof and for the fiscal periods then ended.
- e. Since the date of the most recent financial statements of the Borrower delivered to CIBC, there has occurred no event which (individually or with any other events) has had, or which has a reasonable possibility of having, a Material Adverse Effect.
- f. The Borrower has not failed to observe or perform (beyond any period of grace permitted by CIBC) any of its covenants in this Agreement.
- g. Except as disclosed in writing by the Borrower to CIBC prior to the date of this Agreement with specific reference to this paragraph, to the best knowledge of the Borrower, (i) the business carried on and the property owned or used at any time by any of the Borrower and its Subsidiaries and their respective predecessors have at all times been carried on, owned or used in compliance with all environmental laws; (ii) there are no circumstances that could reasonably be expected to give rise to any civil or criminal proceedings or liability regarding the release from or presence of any hazardous substance on any lands used in or related to the business or property of any of the Borrower and its Subsidiaries (iii) there are no proceedings and there are no circumstances or material facts which could give rise to any proceeding in which it is or could be alleged that any of the Borrower and its Subsidiaries is responsible for any domestic or foreign clean up or remediation of lands contaminated by hazardous substances or for any other remedial or corrective action under any environmental laws; and (iv) each of the Borrower and its Subsidiaries has maintained all environmental and operating documents and records relating to its business and property in the manner and for the time periods required by any environmental laws and has never had conducted an environmental audit of its business or property.
- h. No representation or warranty made by the Borrower herein or in any other document furnished to CIBC from time to time contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they are made, not misleading. All projections and pro forma information delivered to CIBC from time to time by the Borrower were prepared in good faith

based on assumptions believed by the Borrower to be reasonable at the time of delivery. There is no fact known to the Borrower on the date of this Agreement which has had, or which has a reasonable possibility of having, a Material Adverse Effect.

- 6.2. **Survival.** All representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement and the obtaining of amounts under any Credit, and the delivery of each Notice of Borrowing and the obtaining of any amount under any Credit shall constitute a reaffirmation on and as of such delivery date and such borrowing date, in each case by reference to the then existing facts and circumstances, of all representations and warranties contained in this Agreement.

## 7. Financial covenants

- 7.1. **Calculation.** All financial covenants will be calculated including the Borrower and its Subsidiaries on a consolidated basis (or, if agreed upon by CIBC in its sole discretion, including the Borrower but excluding its Subsidiaries on an unconsolidated basis), and each amount derived from the Borrower's profit and loss statement shall be calculated as the total of such amount during the Borrower's four most recently completed fiscal quarters (or, if agreed upon by CIBC in its sole discretion, during the Borrower's most recently completed fiscal year), as shown in the Borrower's most recent financial statements delivered to CIBC.

- 7.2. **Certain definitions.** In this Agreement the following terms have the following meanings:

**"Adjusted Debt Service Ratio"** means, for any period, the ratio of (a) the sum of (i) EBITDA for such period, (ii) all management bonuses and similar payments deducted in the calculation of such EBITDA but not paid out during such period (and with respect to which the entitlement to receive payment thereof has been postponed in a manner satisfactory to CIBC) and (iii) all management bonuses and similar payments deducted in the calculation of such EBITDA and paid out during such period, and which have then been loaned back to the Borrower during such period by way of Postponed Debt, to (b) Debt Service Requirements.

**"Fixed Charge Coverage Ratio"** means, for any period, the ratio of (a) the sum of (i) EBITDA for such period, divided by (b) the sum of (i) Debt Service Requirements for such period, and] (ii) cash income taxes for such period and (iii) Unfunded Capital Expenditures for such period.

**"Current Assets"** means assets that would be shown as current assets on the balance sheet prepared in accordance with GAAP, less all amounts due from Affiliates.

**"Current Liabilities"** means liabilities that would be shown as current liabilities on a balance sheet prepared in accordance with GAAP.

**"Current Ratio"** means the ratio of Current Assets to Current Liabilities.

**"Debt"** means, with respect to any person, (i) an obligation of such person for borrowed money, (ii) an obligation of such person evidenced by a note, bond, debenture or other similar instrument, (iii) an obligation of such person for the deferred purchase price of property or services, excluding trade payables and other accrued current liabilities incurred in the ordinary course of business in accordance with customary commercial terms, (iv) a capitalized lease obligation of such person, (v) a guarantee, indemnity, or financial support obligation of such person, determined in accordance with GAAP, (vi) an obligation of such person or of any other person secured by a Lien on any property of such person, even though such person has not otherwise assumed or become liable for the payment of such obligation, or (vii) an obligation arising in connection with an acceptance facility or letter of credit issued for the account of such person.

**"Debt Service Requirements"** means, for any periods (i) all principal payments in respect of Debt made or required to be made during such period, (ii) Interest Expense for such period, and (iii) all dividends paid during such period on all preferred shares of the Borrower.

**"EBIT"** means, for any period, Net Income for such period plus all amounts deducted in the calculation thereof on account of Interest Expense and income taxes.

**“EBITDA”** means, for any period, Net Income for such period plus all amounts deducted in the calculation thereof on account of Interest Expense, income taxes, depreciation and amortization.

**“Effective Tangible Net Worth”** means the sum of (i) Shareholders’ Equity less all amounts due from Affiliates and all Intangibles, and (ii) Postponed Debt.

**“Intangible”** includes without limitation such personal property as goodwill; copyrights, patents and trademarks; franchises; licences, leases; research and development costs; and deferred development costs.

**“Interest Coverage Ratio”** means the ratio of EBIT to Interest Expense calculated on a consolidated basis.

**“Interest Expense”** means, for any period the aggregate amount accrued (whether or not payable or paid) during such period in accordance with GAAP on account of (i) interest expense including amortization of Debt discount and Debt issuance costs, capitalized interest, standby fees, commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptances and (ii) the interest expense components of all capitalized lease obligations.

**“Net Income”** means, for any period, the net income (loss) for such period, calculated in accordance with GAAP [before unusual and extraordinary items] [but excluding (i) the income (or loss) of any person accrued prior to the date it becomes a Subsidiary of the Borrower or is amalgamated with or consolidated into the Borrower or into any of its Subsidiaries or such person’s property is acquired by the Borrower or any of its Subsidiaries, and (ii) any after tax gains (but not pre tax losses) attributable to dispositions of property out of the ordinary course of business.

**“Postponed Debt”** means any Debt for borrowed money that is incurred at such time as no failure by the Borrower to perform or observe any of its covenants in this Agreement is continuing or would be created by the incurrence thereof (to be evidenced by pro forma financial statements delivered to CIBC) and which has the following attributes: (i) no principal thereof is repayable so long as any amount is owed by the Borrower to CIBC (or until such earlier date as CIBC may agree upon in writing), (ii) no covenant with respect to such Debt is more onerous than or in addition to the covenants specified herein, and (iii) all rights of the holder of such Debt are postponed and subordinated to all rights of CIBC under or in respect of the Credits pursuant to a subordination agreement satisfactory in form and substance to CIBC.

**“Senior Debt”** means all Debt less all Postponed Debt.

**“Senior Debt to EBITDA Ratio”** means the ratio of Senior Debt to EBITDA.

**“Shareholders’ Equity”** means, at any time, the amount which would, in accordance with GAAP, then be included as shareholders’ equity on a balance sheet.

**“Tangible Net Worth”** means the sum of Shareholders’ Equity less any amount that would be included on a balance sheet prepared in accordance with GAAP as an investment in or as amounts owed by any Affiliate or as an Intangible.

**“Total Liabilities”** means all amounts that would be included as liabilities on a consolidated balance sheet of the Borrower.

**“Unfunded Capital Expenditures”** means capital expenditures that are not specifically financed with long term Debt.

**“Working Capital”** means the excess of Current Assets over Current Liabilities.

## 8. Letters of Credit and acceptances

The following terms apply to each Letter of Credit issued by CIBC for the Borrower whether issued under any Credit or otherwise.

- 8.1. **Reimbursement, payment or prepayment.** The Borrower agrees, forthwith upon demand by CIBC, to provide CIBC with cash in the proper currency to meet each drawing that CIBC is required to pay under an L/C or to reimburse CIBC for each drawing that CIBC has paid under an L/C. If we demand payment of any Credit under which a Letter of Credit is outstanding, or if the Borrower elects to permanently repay or terminate any Credit under which a Letter of Credit is outstanding, the Borrower must provide CIBC with cash, in the same currency as the L/C, or marketable securities satisfactory to us (collectively the "Cash Collateral") in an amount equal to CIBC's maximum potential liability under the L/C. The Cash Collateral will be held by us as security for, and may be applied to satisfy obligations under the L/C or otherwise under any Credit. We shall release any Cash Collateral that is no longer required for such purposes.
- 8.2. Neither CIBC nor any of its correspondents shall be liable for the use which may be made with respect to any L/C; any acts or omissions of the beneficiary of any L/C including the application of any payment made to such beneficiary; the form, validity, sufficiency, correctness, genuineness or legal effect of any document relating to any L/C, even if such document should prove to be in any respect invalid, insufficient, inaccurate, fraudulent or forged; any failure of the beneficiary of any L/C to meet the obligations of such beneficiary to the Borrower or to any other person; or any failure by CIBC to make payment under any L/C as a result of any law, control or restriction rightfully or wrongfully exercised or imposed by any domestic or foreign court or government or governmental authority or as a result of any other cause beyond the control of CIBC. The obligations of the Borrower under this Clause 9 are absolute and unconditional under all circumstances including without limitation any matter referred to above.
- 8.3. **Indemnity.** The Borrower hereby indemnifies and agrees to hold CIBC harmless from all losses, damages, costs, demands, claims, expenses (including out-of-pocket expenses) and other consequences which CIBC may incur, sustain or suffer, other than as a result of its own negligence or wilful misconduct, as a result of issuing or amending an L/C, including legal and other expenses incurred by CIBC in any action to compel payment by CIBC under an L/C or to restrain CIBC from making payment under an L/C. Any amounts due under this indemnity shall form part of the Debt.
- 8.4. **L/C fees.** Unless the Borrower has made other arrangements with us, we will automatically debit the operating account of the Borrower for all fees payable with respect to L/Cs. Any Overdraft in the operating account in excess of any Credit Limit attached to the operating account will bear interest at the Excess Interest Rate.
- 8.5. **Standard agreements.** The terms and conditions of our standard Application for Irrevocable Documentary Credit or Application for Standby Letter of Credit, as applicable, and any of our other standard documentation relating to L/C's, in effect from time to time will be applicable to each L/C whether or not any such Application or other documentation has been executed by or on behalf of the Borrower. A copy of any such Application or other documentation is available from CIBC.
- 8.6. Unless otherwise specified in the applicable Application or other documentation referred to above, and subject to any provision herein to the contrary, each L/C shall be subject to the Uniform Customs and Practice for Documentary Credits or the International Standby Practices, as applicable, of the International Chamber of Commerce current at the time of issuance of such L/C.
- 8.7. **Cash collateralization.** If any Letter of Credit or Acceptance is outstanding at any time that the Borrower has failed to perform or observe (beyond any period of grace permitted by CIBC) any of its covenants in this Agreement or at the date of termination of the applicable Credit, the Borrower will forthwith pay to CIBC, in the currency of such Letter of Credit or Acceptance, as the case may be, funds in an amount equal to the total maximum actual and contingent liability of CIBC pursuant thereto. Such funds will be held by CIBC for payment of the liability of the Borrower in respect of such Letter of Credit or Acceptance, as the case may be, and any excess thereof will be applied to any other liabilities of the Borrower pursuant to the Credits or will be returned to the Borrower at such time as no such liabilities exist or may arise.

8.8. **Undisbursed Credit.** For the purpose of calculating the undisbursed amount of any Credit and for any other relevant provision of this Agreement, the amount constituted by any Letter of Credit or Acceptance shall be the total maximum actual and contingent liability of CIBC pursuant thereto.

8.9. **Definitions.** In this Agreement, the following terms shall have the following meanings:

“**Acceptance**” means an outstanding bill of exchange drawn by the beneficiary of a documentary L/C which CIBC has accepted and is therefore obligated to pay at maturity.

“**Letter of Credit**” or “L/C” means a documentary or standby letter of credit, a letter of guarantee or a similar instrument, as the context may require, in form and substance satisfactory to CIBC.

## 9. CORRA and CORRA Loans

9.1. **Selection of CORRA Periods for Term CORRA Loans** The Borrower shall select a CORRA Period for each Term CORRA Loan made or to be made available to it by telephone notice (to be confirmed the same day in writing) or Electronic Communication received by CIBC not later than 10:00 a.m. on the third Business Day prior to the commencement of such CORRA Period. The first CORRA Period for each Term CORRA Loan will commence on (and include) the date of advance of such Term CORRA Loan, and each CORRA Period occurring thereafter for such Term CORRA Loan will commence on (and include) the last day of the immediately preceding CORRA Period for such Term CORRA Loan. Notwithstanding the foregoing:

- a. If CIBC has not received due notice of renewal of the CORRA Period for any outstanding Term CORRA Loan in accordance with the first sentence of this section, such Term CORRA Loan will be automatically converted on the expiry of such existing CORRA Period to a further Term CORRA Loan with a CORRA Period of the same tenor, or at the discretion of CIBC converted on the expiry of such existing CORRA Period to a Daily Compounded CORRA Loan or a Loan bearing interest on the basis of the Prime Rate and notice of which is given to the Borrower;
- b. The last day of each CORRA Period shall be a Business Day and if not, the Borrower shall be deemed to have selected a CORRA Period the last day of which is the first Business Day following the last day of the CORRA Period selected by the Borrower, unless such first Business Day is in a succeeding calendar month, in which case, the last day of such CORRA Period shall be the immediately preceding Business Day;
- c. all CORRA Periods in effect at any time must end on not more than five different days.

9.2. **Calculations and Interest Payment Dates.** The following terms apply to all CORRA Loan calculations:

- a. The applicable CORRA Rate shall be determined by CIBC if and whenever such determination is required for the purpose of this Agreement, and such determination by CIBC shall be conclusive evidence of such rate. Each change in the applicable CORRA Rate shall apply automatically to change the applicable interest rate without notice to the Borrower.
- b. Interest on each CORRA Loan shall be computed on a daily basis upon the outstanding principal amount of such CORRA Loan as of the applicable date of determination for the actual number of days elapsed divided by 365.
- c. Interest on each Term CORRA Loan is payable in arrears on the last day of each CORRA Period **applicable** thereto.
- d. Interest on each Daily Compounded CORRA Loan is payable in arrears once a month (or such other period as may be agreed between the Borrower and CIBC) on the day required by CIBC, unless otherwise specified in this Agreement; provided that if any such date would be a day other than a Business Day, such date shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such date shall be the next preceding Business Day.

- 9.3. **Prepayment.** The Borrower shall provide to CIBC at least five (5) days prior written notice of any prepayment of a CORRA Loan and shall pay to CIBC all breakage costs suffered or incurred by CIBC if any Term CORRA Loan is repaid on a date other than the last day of its then current CORRA Period or if any Daily Compounded CORRA Loan is repaid on a date other than its interest payment date or maturity or final payment date, in each case as determined and calculated by CIBC in accordance with its customary practice.
- 9.4. **Default.** If, at any time there exists any failure by the Borrower (beyond any period of grace permitted by CIBC) to perform or observe any of its covenants in this Agreement, then, at the option of CIBC, (a) the Borrower will not be entitled to borrow any further CORRA Loans and all outstanding Notices of Borrowing for any CORRA Loan shall be deemed to be a request for a Loan in Canadian dollars in the same amount bearing interest on the basis of the Prime Rate, (b) in the case of all then outstanding Term CORRA Loans, on the last day of their respective then current CORRA Periods, the interest thereon shall cease to be calculated hereunder on the basis of the applicable CORRA Rate, and shall commence to be calculated on the basis of the Prime Rate, and (c) in the case of all then outstanding Daily Compounded CORRA Loans, on their immediately following interest payment date the interest thereon shall cease to be calculated on the basis of the applicable CORRA Rate and shall commence to be calculated on the basis of the Prime Rate.
- 9.5. **Failure of CORRA.** If at any time:
- a. CIBC **determines** (which determination shall be conclusive and binding absent manifest error) for any reason that CORRA or any applicable CORRA Rate cannot be determined pursuant to the definition thereof; or
  - b. CIBC determines for any reason (which determination shall be conclusive and binding absent manifest error) that CORRA or any applicable CORRA Rate with respect to a CORRA Loan does not adequately and fairly reflect the cost to CIBC of funding or maintaining such CORRA Loan; or
  - c. A **Canadian** Benchmark Transition Event has occurred and a Canadian Replacement Benchmark has not yet been chosen and implemented by CIBC in accordance with Section 11.6 below, the Borrower. On the effective date of such notice, or in the case of any affected Term CORRA Loan, on the last day of the CORRA Period for such outstanding Term CORRA Loan occurring on or after the effective date of such notice, the interest on such CORRA Loan shall cease to be calculated on the basis of the affected CORRA Rate, and shall commence to be calculated on the basis of the Prime Rate (or, if the affected CORRA Rate is a term CORRA Rate, then at the discretion of CIBC, a daily CORRA Rate). Any Notice of Borrowing which has been delivered to CIBC requesting an affected CORRA Loan on a day on or subsequent to such notification date will be deemed to request instead a Loan in Canadian dollars in the same amount bearing interest on the basis of the Prime Rate (or, if the affected CORRA Rate is a term CORRA Rate, then at the discretion of CIBC, a daily CORRA Rate). The Borrower will not be entitled to obtain any affected CORRA Loan from CIBC so long as any of the circumstances set out in this Section continue to exist, and any Loan that would otherwise have been made by CIBC as an affected CORRA Loan shall instead be made as a Loan in Canadian Dollars bearing interest on the basis of the Prime Rate (or, if the affected CORRA Rate is a term CORRA Rate, then at the discretion of CIBC, a daily CORRA Rate).

During the period referenced in the foregoing sentence, if the affected CORRA Rate is a term CORRA Rate, then any component of Prime Rate based upon a term CORRA Rate will not be used in any determination of Prime Rate and the floor for Prime Rate will be the Daily Compounded CORRA from time to time plus 1.05% per annum.

- 9.6. **Discontinuance of Canadian Benchmark.** If at any time, on or prior to the setting of the then current Canadian Benchmark:
- a. CIBC determines (which determination shall be conclusive and binding absent manifest error) for any reason that such Canadian Benchmark (or the published component used in the calculation

thereof) (and, in the case of a term rate, all Canadian Available Tenors of such Canadian Benchmark) has ceased or will cease to be available, permanently or indefinitely; or

- b. CIBC determines (which determination shall be conclusive and binding absent manifest error) for any reason that such Canadian Benchmark (or the published component used in the calculation thereof) (and, in the case of a term rate, all Canadian Available Tenors of such Canadian Benchmark) are no longer, or as of a specified future date will no longer be, representative,

(each a “**Canadian Benchmark Transition Event**”), then CIBC shall be entitled to give notice thereof (by telephone to be confirmed the same day in writing or by Electronic Communication) to the Borrower.

If the Canadian Benchmark Transition Event relates to the Term CORRA Reference Rate, then on the last day of the CORRA Period for each outstanding Term CORRA Loan occurring on or after the effective date of such notice, the interest on such Term CORRA Loan shall cease to be calculated on the basis of a term CORRA Rate, and subject to Section 11.5c, shall commence to be calculated at the option of CIBC (exercised in the notice of the occurrence of a Canadian Benchmark Transition Event or by further notice in writing to the Borrower) either (i) on the basis of a Daily Compounded CORRA Rate plus the margin set out in such notice or the attached letter agreement for Daily Compounded CORRA Loans, as the case may be, or (ii) the sum of: (A) the alternate benchmark rate that has been selected by CIBC and the Borrower giving due consideration to (1) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Cdn Governmental Body, or (2) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the affected CORRA Rate, (B) the related Canadian Replacement Benchmark Adjustment and (C) the margin agreed by CIBC and the Borrower (the replacement benchmark rate chosen by CIBC pursuant to the foregoing, the “**Canadian Replacement Benchmark**”).

If the Canadian Benchmark Transition Event relates to any Canadian Benchmark other than the Term CORRA Reference Rate, then on and after the effective date of such notice, the interest on the affected Loans shall cease to be calculated on the basis of such Canadian Benchmark and subject to Section 11.5c, shall commence to be calculated at a rate equal to the sum of: (i) the alternate benchmark rate that has been selected by CIBC and the Borrower giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Cdn Governmental Body, or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to such Canadian Benchmark, (ii) the related Canadian Replacement Benchmark Adjustment and (iii) the margin agreed by CIBC and the Borrower (the replacement benchmark rate chosen by CIBC pursuant to the foregoing, also, a “**Canadian Replacement Benchmark**”).

If the Canadian Replacement Benchmark would at any time be less than the Canadian Floor, the Canadian Replacement Benchmark will be deemed to be the Canadian Floor for the purposes of this Agreement and the other Loan Documents.

Any Notice of Borrowing which has been delivered to CIBC requesting an affected Loan on a day on or subsequent to the effective date of such notification will be deemed to request instead a Loan in Canadian dollars in the same amount bearing interest on the basis of the Canadian Replacement Benchmark Rate. The Borrower will not be entitled to obtain any affected Loans from CIBC so long as any of the circumstances set out in this Section continue to exist, and any affected Loan that would otherwise have been made by CIBC shall instead be made as a Loan in Canadian Dollars bearing interest on the basis of the Canadian Replacement Benchmark.

#### 9.7. **Canadian Benchmark Replacement.**

- a. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, if a Canadian Benchmark Transition Event has occurred and notice of the Canadian Replacement Benchmark has been given to the Borrower and become effective, such Canadian Replacement

Benchmark will replace the applicable Canadian Benchmark, for all purposes under this Agreement and every other Loan Document without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document except for the Canadian Replacement Benchmark Conforming Changes determined by CIBC to be necessary or desirable and written notice of which have been given to the Borrower.

- b. In connection with the implementation of a Canadian Replacement Benchmark, CIBC will have the right to make Canadian Replacement Benchmark Conforming Changes from time to time and, notwithstanding anything to the contrary in this Agreement or any other Loan Document, any amendments implementing such Canadian Replacement Benchmark Conforming Changes will become effective upon written notice to the Borrower without any further action or consent of any other party to this Agreement or any other Loan Document.

9.8. **Unavailability of any Tenor of a Canadian Benchmark.** Notwithstanding anything to the contrary in this Agreement or any other Loan Document, at any time the Canadian Benchmark for a Canadian Available Tenor (including the Term CORRA Reference Rate for any CORRA Period) (a) is not displayed on a screen or other information service that publishes such rate from time to time as selected by CIBC in its reasonable discretion or (b) the regulatory supervisor for the administrator of such Canadian Benchmark has provided a public statement or there has been publication of information announcing that such Canadian Available Tenor is or will be no longer representative, then (i) CIBC may provide written notice of such event to the Borrower and upon the effective date of such notice, such unavailable or un-representative Canadian Available Tenor will no longer be available to the Borrower and all applicable definitions will be amended to delete reference to such Canadian Available Tenor, without the consent, approval or any other action by any of the parties to this Agreement or any of the other Loan Documents, and (ii) if such Canadian Available Tenor subsequently becomes available or representative, then CIBC may, in its discretion, reinstate such Canadian Available Tenor under this Agreement by written notice to the Borrower.

9.9. **Notices; Standards for Decisions and Determinations.** CIBC will promptly notify the Borrower of (i) the implementation of any Canadian Replacement Benchmark, (ii) any occurrence of a Canadian Benchmark Transition Event, and (iii) the effectiveness of any Canadian Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by CIBC pursuant to this Section 11, 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 sole discretion and without consent from any other party to this Agreement, except, in each case, as expressly required pursuant to this Section 11.

9.10. **Certain Additional Definitions.** In this Agreement the following terms have the following definitions:

**“Canadian Available Tenor”** means, as of any date of determination and with respect to the then-current Canadian Benchmark, as applicable, (x) if the then-current Canadian Benchmark is a term rate, any tenor for such Canadian Benchmark (or component thereof) that is or may be used in connection with or for determining the length of an interest payment period for such Canadian Benchmark pursuant to this Agreement as of such date (including, for certainty, each CORRA Period), or (y) otherwise, any payment period for interest calculated with reference to such Canadian Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Canadian Benchmark pursuant to this Agreement as of such date, but, for certainty, not including any tenor of such Canadian Benchmark that is then not available to the Borrower pursuant to the terms of this Agreement.

**“Canadian Benchmark”** means, initially, each of the Term CORRA Reference Rate and Daily Compounded CORRA Rate, as the case may be; provided that if a Canadian Benchmark Transition Event has occurred with respect to the Term CORRA Reference Rate, Daily Compounded CORRA Rate, or the then current Canadian Benchmark, then “Canadian Benchmark” means the applicable Canadian Replacement Benchmark to the extent that such Canadian Replacement Benchmark has

replaced such prior benchmark rate. Any reference to “Canadian Benchmark” shall include, as applicable, the published component used in the calculation thereof.

“**Canadian Floor**” means zero or such other Canadian benchmark rate floor, if any, provided in this Agreement from time to time or by written notice to the Borrower.

“**Canadian Replacement Benchmark**” has the meaning set out in Section 11.6.

“**Canadian Replacement Benchmark Adjustment**” means, with respect to any replacement of the then-current Canadian Benchmark with a Canadian Benchmark Replacement (excluding, for certainty, any required spread adjustment), the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been agreed by CIBC and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Canadian Benchmark with the applicable Canadian Replacement Benchmark (excluding, for certainty, any required spread adjustment) by the Relevant Cdn Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Canadian Benchmark with the applicable Canadian Replacement Benchmark (excluding, for certainty, any required spread adjustment) for Canadian dollar-denominated syndicated or bilateral credit facilities at such time.

“**Canadian Replacement Benchmark Conforming Changes**” means, with respect to any Canadian Replacement Benchmark, any technical, administrative or operational changes (including changes to the definition of “Prime Rate,” the definition of “Business Day,” the definition of “CORRA Period,” available tenors, adjustments and margins, the timing and frequency of determining rates and making payments of fees and interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters that CIBC decides may be appropriate to reflect the adoption and implementation of such Canadian Replacement Benchmark and to permit the administration thereof by CIBC in a manner substantially consistent with market practice (or, if CIBC decides that adoption of any portion of such market practice is not administratively feasible or if CIBC determines that no market practice for the administration of such Canadian Replacement Benchmark exists, in such other manner of administration as CIBC decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“**CORRA**” means the Canadian Overnight Repo Rate Average administered and published by the Bank of Canada (or any successor administrator).

“**CORRA Loan**” means a Term CORRA Loan or a Daily Compounded CORRA Loan, as the case may be.

“**CORRA Period**” means, subject to availability, any period of one (1) or three (3) months or, subject to availability, such other periods as may be agreed in writing (in the attached letter agreement or otherwise) by CIBC in its sole discretion.

“**CORRA Rate**” means any of a Daily Compounded CORRA Rate or a Term CORRA Rate, as the case may be.

“**Daily Compounded CORRA Loan**” means a loan with respect to which interest is calculated under this Agreement for the time being by reference to a Daily Compounded CORRA Rate.

“**Daily Compounded CORRA Rate**” means, for any day, daily compounded CORRA with interest accruing on a daily basis, with the methodology and conventions for this compounded rate (which will include compounding in arrears with a lookback of five (5) Business Days or such other lookback as may be established by CIBC) being established by CIBC in accordance with the methodology and conventions for this rate selected or recommended by the Relevant Cdn Governmental Body for

determining compounded CORRA for business loans; provided that if CIBC decides that any such convention is not administratively feasible for CIBC, then CIBC may establish another convention in its reasonable discretion; and provided that if the administrator has not provided or published CORRA and a Canadian Benchmark Transition Event with respect to CORRA has not occurred, then, in respect of any day for which CORRA is required, references to CORRA will be deemed to be references to the last provided or published CORRA within the previous five (5) Business Days; and provided further that in the case of Daily Compounded CORRA Loans on which interest is calculated on the basis of a Daily Compounded CORRA Rate as so determined is less than the Canadian Floor, then the Daily Compounded CORRA Rate shall be deemed to be the Canadian Floor.

**“Relevant Cdn Governmental Body”** means the Bank of Canada, or a committee officially endorsed or convened by the Bank of Canada, or any successor thereto.

**“Term CORRA Administrator”** means Candeal Benchmark Administration Services Inc., TSX Inc., or any successor administrator.

**“Term CORRA Loan”** means a loan with respect to which interest is calculated under this Agreement for the time being by reference to a Term CORRA Rate.

**“Term CORRA Rate”** means, for any calculation with respect to a Term CORRA Loan for a CORRA Period, the Term CORRA Reference Rate for such CORRA Period on the day (such day, the “Periodic Term CORRA Determination Day”) that is two (2) Business Days prior to the first day of such CORRA Period, as such rate is published by the Term CORRA Administrator; provided, however, that if as of 1:00 p.m. (Toronto time) on any Periodic Term CORRA Determination Day, the Term CORRA Reference Rate for the applicable tenor has not been published by the Term CORRA Administrator and a Canadian Replacement Benchmark Date with respect to the Term CORRA Reference Rate has not occurred, then the Term CORRA Rate will be the Term CORRA Reference Rate for such tenor as published by the Term CORRA Administrator on the first preceding Business Day for which such Term CORRA Reference Rate for such tenor was published by the Term CORRA Administrator so long as such first preceding Business Day is not more than three (3) Business Days prior to such Periodic Term CORRA Determination Day; and provided further that in the case of Term CORRA Loans on which interest is calculated on the basis of the Term CORRA Rate as so determined is less than the Canadian Floor, then the Term CORRA Rate shall be deemed to be the Canadian Floor.

**“Term CORRA Reference Rate”** means the forward-looking term rate based on CORRA.

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