

**FIFTH AMENDED AND RESTATED CREDIT AGREEMENT**

Made as of November 26, 2019

Among

**INTACT FINANCIAL CORPORATION**

as Borrower

and

**ONEBEACON U.S. HOLDINGS, INC.**

**ONEBEACON SERVICES, LLC**

**ONEBEACON U.S. FINANCIAL SERVICES, INC.**

as US Borrowers

and

**INTACT FINANCIAL CORPORATION**

**INTACT INSURANCE COMPANY**

**BELAIR INSURANCE COMPANY INC.**

**TRAFALGAR INSURANCE COMPANY OF CANADA**

**NOVEX INSURANCE COMPANY**

**THE NORDIC INSURANCE COMPANY OF CANADA**

**INTACT FARM INSURANCE INC.**

**JEVCO INSURANCE COMPANY**

**INTACT VENTURES INC.**

**7144407 CANADA INC.**

**CANADA BROKERLINK INC.**

**CANADA BROKERLINK (ONTARIO) INC.**

as Swingline Borrowers

and

**[REDACTED]**

as Administrative Agent

and

**[REDACTED]**

as Co-Lead Arrangers and Joint Bookrunners

and

**[REDACTED]**

as Syndication Agent

and

**THE LENDERS LISTED ON THE SIGNATURE PAGES**

as Lenders

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**FIFTH AMENDED AND RESTATED CREDIT AGREEMENT**

This Agreement is made as of the 26<sup>th</sup> day of November, 2019, among

**INTACT FINANCIAL CORPORATION**  
as Borrower

and

**ONEBEACON U.S. HOLDINGS, INC.**  
**ONEBEACON SERVICES, LLC**  
**ONEBEACON U.S. FINANCIAL SERVICES, INC.**  
as US Borrowers

and

**INTACT FINANCIAL CORPORATION**  
**INTACT INSURANCE COMPANY**  
**BELAIR INSURANCE COMPANY INC.**  
**TRAFALGAR INSURANCE COMPANY OF CANADA**  
**NOVEX INSURANCE COMPANY**  
**THE NORDIC INSURANCE COMPANY OF CANADA**  
**INTACT FARM INSURANCE INC.**  
**JEVCO INSURANCE COMPANY**  
**INTACT VENTURES INC.**  
**7144407 CANADA INC.**  
**CANADA BROKERLINK INC.**  
**CANADA BROKERLINK (ONTARIO) INC.**  
as Swingline Borrowers

and

[REDACTED]

and

**THE LENDERS LISTED ON THE SIGNATURE PAGES**  
as Lenders

**RECITALS**

A. Intact Financial Corporation, as Borrower, certain of the Swingline Borrowers, the Agent and certain of the Lenders entered into a credit agreement dated September 23, 2011 (the “**Original Credit Agreement**”).

B. The Original Credit Agreement was amended and restated pursuant to an amended and restated credit agreement made as of October 26, 2012 (the “**Initial Amended and Restated Credit Agreement**”).

C. The Initial Amended and Restated Credit Agreement was further amended and restated pursuant to a second amended and restated credit agreement made as of December 5, 2014 (the “**Second Amended and Restated Credit Agreement**”).

D. The Second Amended and Restated Credit Agreement was further amended and restated pursuant to a third amended and restated credit agreement made as of August 28, 2017 (the “**Third Amended and Restated Credit Agreement**”).

E. Pursuant to a joinder agreement dated September 28, 2017, OneBeacon U.S. Holdings Inc. became a US Borrower under the Third Amended and Restated Credit Agreement.

E. The Third Amended and Restated Credit Agreement was further amended and restated pursuant to a fourth amended and restated credit agreement made as of August 1<sup>st</sup>, 2018 (the “**Fourth Amended and Restated Credit Agreement**”).

F. The Borrowers, the Agent and the Lenders wish to enter into this Agreement to further amend and restate the Fourth Amended and Restated Credit Agreement to make the amendments to the terms of the Fourth Amended and Restated Credit Agreement as are specified herein.

FOR VALUE RECEIVED, the parties agree as follows:

## **SECTION 1 - INTERPRETATION**

### **1.1 Definitions**

In this Agreement:

(1) ***ABTL Laws*** means all “know your customer” laws, measures, regulations and rules in effect in Canada, the United States and the European Union.

(2) ***Acceptance Fee*** means a fee payable by the relevant Borrower with respect to the acceptance of a Bankers’ Acceptance or a B/A Equivalent Loan by a Lender under this Agreement, as set forth in Section 4.2.

(3) ***Additional Compensation*** has the meaning given to it in Section 4.8(3).

(4) ***Advances*** means an extension of credit under the Credit Facilities by an applicable Lender. An Advance made under the Swingline Facility to a Swingline Borrower is designated a “**Swingline Advance**”. Advances may be denominated in Canadian Dollars, U.S. Dollars or (other than the Swingline Facility) Sterling or Euros. Advances under the Credit Facilities (other than the Swingline Facility) may be made to the Borrower or any US Borrower, as applicable, by way of a Prime Loan, a Base Rate (Canada) Advance, LIBO Rate Advances (in U.S. Dollars, Sterling and/or Euros) and the acceptance of a Bankers’ Acceptance or making of a B/A Equivalent Loan. Advances under the Swingline Facility may be made to a Swingline Borrower by way of a Prime Loan or a Base Rate (Canada) Advance.

(5) ***Advances Outstanding*** means, at any time, in respect of the (i) Revolving Facility, in relation to (a) the Borrower, the US Borrowers and all Revolving Lenders, the amount of all

Advances outstanding thereunder made to the Borrower and the US Borrowers by the Revolving Lenders, and (b) the Borrower, the US Borrowers and each Revolving Lender, the amount of all Advances outstanding thereunder made to the Borrower and the US Borrowers by such Revolving Lender; and (ii) in respect of a Swingline Lender, the Swingline Advances outstanding to such Swingline Lender by all Swingline Borrowers. In determining Advances Outstanding under the Revolving Facility, the aggregate amount thereof shall be determined on the basis of the aggregate principal amount of all outstanding Advances (in the case of Bankers' Acceptances and B/A Equivalent Loans, the aggregate face amount of all outstanding Bankers' Acceptances and B/A Equivalent Loans (if any) which any applicable Lender has purchased or arranged to have purchased and the aggregate principal amount of all outstanding Swingline Advances for which the Revolving Lenders are contingently liable pursuant to this Agreement. In determining the aggregate amount of all Advances Outstanding under the Swingline Facility to a Swingline Lender, the aggregate amount thereof shall be determined on the basis of the aggregate principal amount of all outstanding Swingline Advances thereunder. In determining Advances Outstanding under the Revolving Facility and the Swingline Facility, the foregoing amounts shall be expressed in Cdn\$ and each relevant amount in any other currency shall be converted (for purposes of such determination only) into its Equivalent Amount in Cdn\$, as of the date of determination.

- (6) ***Affected Borrowing*** has the meaning given to it in Section 4.10.
- (7) ***Affiliate*** has the meaning given to it in the *Canada Business Corporations Act*, as in effect on the date hereof.
- (8) ***Agent*** means [REDACTED] as administrative agent for the Lenders under this Agreement, and any successor appointed pursuant to Section 11.10.
- (9) ***Agreed Currency*** has the meaning given to it in Section 14.4.
- (10) ***Agreement*** means this fifth amended and restated agreement, including the Appendix and Schedules hereto, as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time.
- (11) ***Anticorruption Laws*** means all Applicable Laws that prohibit bribery, money laundering or corruption.
- (12) ***Applicable Law*** means, in respect of any Person, property, transaction or event, all present and future laws, statutes and regulations, treaties, and all judgments and decrees of any Governmental Authority applicable to that Person, property, transaction or event (whether or not having the force of law with respect to regulatory matters applicable to the Agent or the Lenders) and all applicable requirements, requests, official directives, consents, approvals, authorizations, guidelines, rules, orders and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction or event.
- (13) ***Applicable Margin*** means the percentage applicable to a type of Advance or applicable Commitment Fee as determined in accordance with Section 4.4.

- (14) **Approved Fund** means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.
- (15) **Assignment and Assumption Agreement** has the meaning given to it in Section 13.1(4)(f).
- (16) **Associate** has the meaning given to it in the *Canada Business Corporations Act*, as in effect on the date hereof.
- (17) **Auditors** means Ernst & Young or an independent chartered accounting firm of national standing or otherwise acceptable to the Lenders appointed by either the shareholders or the board of directors of the Borrower to provide audit services from time to time.
- (18) **B/A Equivalent Loan** has the meaning set out in Section 3.7(8). For greater certainty, unless the context requires otherwise, all provisions of this Agreement which are applicable to Bankers' Acceptances are also applicable, *mutatis mutandis*, to B/A Equivalent Loans.
- (19) **Bankers' Acceptance** and **B/A** each means a bill of exchange, including a depository bill issued in accordance with the *Depository Bills and Notes Act* (Canada), denominated in Canadian Dollars, drawn by the Borrower and accepted by a Lender.
- (20) **Base Rate (Canada)** means, at any time, the greater of (i) the rate of interest per annum (expressed on the basis of a 365 or 366 day year) which the principal office of the Agent in Toronto, Ontario announces from time to time as the reference rate of interest for loans in U.S. Dollars to its Canadian borrowers, adjusted automatically with each change in such rate all without the necessity of any notice to the Borrower or any other Person, and (ii) [REDACTED].
- (21) **Base Rate (Canada) Advance** means an Advance denominated in U.S. Dollars bearing interest at the Base Rate (Canada).
- (22) **Benchmark Replacement** means the sum of: (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by the Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to the Libor rate for U.S. Dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement.
- (23) **Benchmark Replacement Adjustment** means, with respect to any replacement of the Libor rate with an Unadjusted Benchmark Replacement for each applicable LIBO Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Agent and the Borrower giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the Libor rate with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the Libor rate with

the applicable Unadjusted Benchmark Replacement for U.S. Dollar-denominated syndicated credit facilities at such time.

(24) ***Benchmark Replacement Conforming Changes*** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes that the Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Agent decides is reasonably necessary in connection with the administration of this Agreement).

(25) ***Benchmark Replacement Date*** means the earlier to occur of the following events with respect to the Libor rate:

- (a) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of the Libor rate permanently or indefinitely ceases to provide the Libor rate; or
- (b) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

(26) ***Benchmark Transition Event*** means the occurrence of one or more of the following events with respect to the Libor rate:

- (a) a public statement or publication of information by or on behalf of the administrator of the Libor rate announcing that it has ceased or will cease to provide the Libor rate, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Libor rate;
- (b) a public statement or publication of information by the regulatory supervisor for the administrator of the Libor rate, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator of the Libor rate, a resolution authority with jurisdiction over the administrator of the Libor rate or a court or an entity with similar insolvency or resolution authority over the administrator of the Libor rate, which states that the administrator of the Libor rate has ceased or will cease to provide the Libor rate permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the Libor rate; or
- (c) a public statement or publication of information by the regulatory supervisor for the administrator of the Libor rate announcing that the Libor rate is no longer representative.

(27) ***Benchmark Transition Start Date*** means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark

Transition Event is a public statement or publication of information of a prospective event, the 90<sup>th</sup> day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by the Agent or the Required Lenders, as applicable, by notice to the Borrower, the Agent (in the case of such notice by the Required Lenders) and the Lenders.

(28) **Benchmark Unavailability Period** means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the Libor rate and solely to the extent that the Libor rate has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the Libor rate for all purposes hereunder in accordance with Section 4.8(7) and (y) ending at the time that a Benchmark Replacement has replaced the Libor rate for all purposes hereunder pursuant to Section 4.8(7).

(29) **Benefit Plans** means all material employee benefit plans or arrangements (other than Canadian Pension Plans and US Pension Plans) maintained or contributed to by any Borrower, including all profit sharing, savings, supplemental retirement, retiring allowance, severance, pension, deferred compensation, welfare, bonus, incentive compensation, phantom stock, legal services, supplementary unemployment benefit plans or arrangements and all life, health, dental and disability plans and arrangements in which the employees or former employees of any Borrower participate or are eligible to participate but excluding all stock option or stock purchase plans.

(30) **Borrower** means Intact Financial Corporation, a corporation existing under the laws of Canada, and its successors and permitted assigns.

(31) **Borrowers** means, collectively, the Borrower, the US Borrowers and the Swingline Borrowers, and “relevant Borrower”, “applicable Borrower”, “any Borrower” or similar term means any of such entities.

(32) **Borrower’s or US Borrower’s Accounts** means the Borrower’s and the relevant US Borrower’s Canadian Dollar account, U.S. Dollar account, Sterling account or Euro account, as applicable, in each case, maintained by the Agent or the Swingline Lender at its principal office, the particulars of which shall have been notified by the Agent or the Swingline Borrower, as the case may be, to the Borrower, the US Borrowers and the Agent, as applicable.

(33) **Business Day** means a day on which chartered banks are open for over-the-counter business in Toronto and excludes Saturday, Sunday and any other day which is a statutory holiday in Toronto and, where used in the context of (i) a Base Rate (Canada) Advance, is also a day on which banks are not required or authorized to close in New York, New York; and (ii) a LIBO Rate Advance, is also a day on which banks are not required or authorized to close in New York, New York and is a London Business Day.

(34) **Canadian Dollars** and the symbol *Cdn\$* and \$ each means lawful money of Canada.

(35) **Canadian Pension Plans** means all plans or arrangements which are considered to be pension plans for the purposes of any applicable pension benefits standards statute or regulation

in Canada and which are established, maintained or contributed to by the applicable Borrower for its employees or former employees.

(36) **Capital Lease** means, with respect to a Person, any lease that transfers substantially all the risks and rewards incidental to ownership of an underlying asset.

(37) **Certificate** means, in respect of any of the Borrowers, a written certificate signed in the name of such Borrower by an officer thereof.

(38) **Change of Control** means (i) an event or series of events (whether a share purchase, merger, consolidation or other business combination or otherwise) by which any Person is or becomes the “beneficial owner” (as defined in Section 1(5) of the *Securities Act* (Ontario)) directly or indirectly of more than 50% of the combined voting power of the then outstanding securities of the Borrower, or (ii) a transaction whereby property constituting all or substantially all of the assets of the Borrower (determined on a consolidated basis) are sold, in one or more related transactions, to any “person” or “company” (as such terms are defined in the *Securities Act* (Ontario)) or to a combination of persons or companies, excluding in the case of each of clauses (i) and (ii) any reincorporation, reorganization or recapitalization transaction in which the shareholders of any such corporations continue to possess all of the outstanding voting securities of the successor or surviving entity in the same relative proportions.

(39) **Co-Lead Arranger** means [REDACTED], and their respective successors and assigns.

(40) **Commitment** means, at any time, in respect of (i) the Revolving Facility, Cdn\$750,000,000 which may be increased by an amount of Cdn\$500,000,000 in accordance with Section 3.15 (the “**Revolving Commitment**”), (ii) the Swingline Facility, Cdn\$75,000,000 or such greater amount (but no greater than the Swingline Lender’s Revolving Commitment) agreed to by the Swingline Lender and the Borrower (the “**Swingline Commitment**”) provided, for greater certainty, that the Swingline Commitment constitutes part of the Revolving Commitment, and a “**Lender’s Revolving Commitment**” and a “**Lender’s Swingline Commitment**” means, at any time, with respect to a Lender that is a Lender on the date of this Agreement or a Person that becomes a Lender after the date hereof pursuant to Section 13.1, the obligation of such Lender to make available to the Borrower and the US Borrowers, Advances under the Revolving Facility, or to make available to the Swingline Borrowers, Advances under the Swingline Facility, as the case may be, in an aggregate principal amount at any time outstanding of up to but not exceeding the Equivalent Amount in Canadian Dollars, set opposite the Lender’s name in Appendix A hereto and which may otherwise be increased in accordance with Section 3.15 or in an Assignment and Assumption Agreement executed by such Lender and a “**Lender’s Commitment**” means the aggregate of such Lender’s Revolving Commitment and such Lender’s Swingline Commitment, as cancelled, reduced, increased, released or terminated under this Agreement.

(41) **Commitment Fee** has the meaning given to it in Section 4.3(3).

(42) **Commitment Fee Payment Date** has the meaning given to it in Section 4.3(1).

(43) **Compliance Certificate** means a compliance certificate substantially in the form attached as Schedule 1.1(34) signed by (i) the Chief Financial Officer, (ii) the Vice President, Investor

Relations and Treasurer, (iii) the Senior Vice President, Corporate and Legal Services or (iv) any other authorized officer of the Borrower acceptable to the Agent.

(44) **Contaminant** has the meaning given to it in the *Environmental Protection Act* (Ontario) and includes waste of any kind.

(45) **Contract Period** means the period selected by the Borrower in accordance with Section 3.5(1) commencing on the Drawdown Date, Rollover Date or Conversion Date, as applicable, and expiring on a Business Day, subject to the terms of Section 3.7 with respect to Bankers' Acceptances or (B/A Equivalent Loans, as applicable).

(46) **Conversion** means the conversion of an outstanding Advance, or a portion of an outstanding Advance, into an alternative type of Advance under Section 3.8 or the extension of a LIBO Rate Advance pursuant to Section 3.8, as applicable.

(47) **Conversion Date** means the Business Day that the Borrower or any US Borrower elects as the date on which a Conversion is to occur.

(48) **Credit Facilities** means, collectively, the Revolving Facility and the Swingline Facility, and, in the singular, any one of them, made available to the Borrower and the US Borrowers and, in the case of the Swingline Facility, to the Swingline Borrowers, respectively, pursuant to Section 3.1 of this Agreement.

(49) **DBRS** means DBRS Limited, and its successors.

(50) **Default** means an event, circumstance or omission which constitutes an Event of Default or which, with any or all of the giving of notice, lapse of time, or a failure to remedy the event, circumstance or omission within a lapse of time, would constitute an Event of Default.

(51) **Defaulting Lender** means any Lender that (a) has failed to fund any portion of any extension of credit required to be funded by it hereunder within three Business Days of the date required to be funded by it hereunder unless such failure has been cured, (b) has otherwise failed to pay over to the Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute or unless such failure has been cured, (c) has been determined by a court of competent jurisdiction or regulator to be insolvent or is unable to meet its obligations or admits in writing it is unable to pay its debts as they generally become due, (d) is the subject of a bankruptcy or insolvency proceeding or (e) is subject to or is seeking the appointment of an administrator, regulator, conservator, liquidator, receiver, trustee, custodian or other similar official over any portion of its assets or business.

(52) **Discharge** shall mean the method by which any Contaminant comes to be in the environment at large, including any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of a Contaminant in the indoor or outdoor environment, including the movement of a Contaminant through or in the air, soil, surface water, ground water or property as the result of any activity of the Borrowers.

(53) **Discount Proceeds** means, for any Bankers' Acceptance issued (or B/A Equivalent Loan, made as applicable), an amount equal to the result of the following mathematical formula, rounded to the nearest whole cent:

$$\text{Bankers' Acceptance nominal amount X} \quad \frac{1}{1 + (A \times B/C)}$$

where, "A" is the Discount Rate; "B" is the number of days comprised in the term selected by a Borrower with respect to the relevant Bankers' Acceptance (or B/A Equivalent Loan) as such Lender is requested to issue; and "C" is 365.

(54) **Discount Rate** means,

[REDACTED]

(55) **Distribution** means any payment, loan, contribution or other transfer of funds or property to the beneficial holder of any security issued by the Borrower or any of its Subsidiaries (where security has the meaning assigned in the *Securities Act* (Ontario)), including preferred shares, or to any Associate or Affiliate of that holder, either directly or indirectly, and includes management, consulting or servicing fees, bonuses, dividends, repayment of any loans or the redemption, retraction or purchase of any of those securities.

(56) **Documents** means this Agreement, the Bankers' Acceptances, the guarantees of the Borrower of the obligations of the Swingline Borrowers and the US Borrowers and all certificates, instruments, agreements and other documents delivered, or to be delivered, to the Lenders, or any of them, under this Agreement or any other Document and, when used in relation to any Person, the term Documents means the Documents executed and delivered by the Person.

(57) **Drawdown Date** means a Business Day on which an Advance is made or is deemed to be made.

(58) **Early Opt-in Election** means the occurrence of:

- (a) (i) a determination by the Agent or (ii) a notification by the Required Lenders to the Agent (with a copy to the Borrower) that the Required Lenders have determined that U.S. Dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in Section 4.8(7), are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the Libor rate, and
- (b) (i) the election by the Agent or (ii) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Agent of written notice of such election to the Borrower and the Lenders or by the Required Lenders of written notice of such election to the Agent.

(59) **Eligible Assignee** means any Person (other than a natural person, any of the Borrowers or any Affiliate of any of the Borrowers, any Defaulting Lender or any subsidiary of a Defaulting Lender, or any Person who, upon becoming a Lender, would constitute a Defaulting Lender).

(60) **EMU Legislation** means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

(61) **Environmental Activity** means any activity, event or circumstance in respect of a Contaminant including, its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation or its Discharge into the natural environment including movement through or in the air, soil, subsoil, surface water or groundwater.

(62) **Environmental Laws** means any and all federal, provincial, state, municipal and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, grants, licences, agreements or other governmental restrictions of Canada, the United States of America, its provinces, states and all applicable municipalities or counties thereof, relating to the environment, health and safety, health protection or any Environmental Activity.

(63) **Environmental Permits** shall mean all permits, licenses, written authorizations, certificates, approvals or registrations required by any Governmental Authority under any Environmental Laws.

(64) **Equivalent Amount** in one currency on any day means the amount of that currency into which a specified amount of another currency can be converted at the indicative rate published by the Bank of Canada on the previous Business Day at or around 4:30 p.m. (or at any other rate to which the parties agree) and if that day is not a Business Day, on the immediately preceding Business Day.

(65) **ERISA** means the Employee Retirement Income Security Act of 1974 of the United States of America, as amended from time to time.

(66) **ERISA Affiliate** means any corporation or trade or business that is a member of any group of organizations (i) described in Section 414(b) or (c) of the US Revenue Code of which the applicable Borrower is a member and (ii) solely for purposes of potential liability under Section 302 of ERISA and Section 412 of the US Revenue Code and the lien created under Section 303(k) of ERISA and Section 430(k) of the US Revenue Code, described in Section 414(m) or (o) of the US Revenue Code of which the applicable Borrower is a member.

(67) **ERISA Event** means

- (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a US Pension Plan (other than an event for which the 30-day notice period referred to in Section 4043(c) of ERISA is waived);
- (b) any failure by any US Pension Plan to satisfy the minimum funding standards (within the meaning of Sections 412 or 430 of the US Revenue Code or Section 302 of ERISA) applicable to such US Pension Plan, whether or not waived;

- (c) the filing pursuant to Section 412(c) of the US Revenue Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any US Pension Plan, the failure to make by its due date a required installment under Section 430(j) of the US Revenue Code with respect to any US Pension Plan or the failure by the applicable Borrower or any ERISA Affiliate to make any required contribution to a US Pension Plan;
  - (d) the incurrence by the applicable Borrower or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any US Pension Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any US Pension Plan;
  - (e) imposition of a lien on the applicable Borrower under Section 303(k) of ERISA or Section 430(k) of the US Revenue Code.
  - (f) a determination that any US Pension Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the US Revenue Code or Section 303 of ERISA);
  - (g) the receipt by the applicable Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any US Pension Plan or to appoint a trustee to administer any US Pension Plan under Section 4042 of ERISA;
  - (h) the incurrence by the applicable Borrower or any ERISA Affiliate of any liability under Section 4063 of ERISA with respect to the withdrawal from any US Pension Plan; or
  - (i) the receipt by the applicable Borrower or any ERISA Affiliate of any notice, or the receipt by any "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA), from the applicable Borrower or any ERISA Affiliate of any notice, concerning the imposition of "withdrawal liability" in connection with a "complete" or "partial withdrawal" (as such terms are defined in Title IV of ERISA), from such multiemployer plan or a determination that a multiemployer plan in which the applicable Borrower or any ERISA Affiliate has an obligation to contribute is, or is expected to be, insolvent (within the meaning of Section 4245 of ERISA) or in endangered or critical status (within the meaning of Section 432 of the US Revenue Code or Section 305 or Title IV of ERISA).
- (68) **Euros** and € means the lawful currency of the Participating Member States (as described in EMU Legislation) introduced in accordance with EMU Legislation.
- (69) **Event of Default** means any of the events or circumstances specified in Section 9.1.
- (70) **Exchange Rate Determination Date** means the last Business Day of each calendar month.
- (71) **Excluded Taxes** has the meaning given to it in Section 6.2(5).

(72) **FATCA** means Sections 1471 through 1474 of the US Revenue Code, as of the date of this Agreement (or any amended or successor version of such Sections that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the US Revenue Code and any fiscal or regulatory legislation, rules or official administrative practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities entered into in connection with implementing the foregoing.

(73) **Federal Funds Effective Rate** means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Agent from three Federal funds brokers of recognized standing selected by it; provided, that, if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

(74) **Federal Reserve Bank of New York's Website** means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

(75) **Financial Assistance** means, with respect to any Person and without duplication, any advances, loans or other extensions of credit to or other forms of direct or indirect financial support of any other Person or any obligation (contingent or other) intended to enable another Person to incur or pay any Indebtedness or to comply with agreements relating thereto or otherwise to assure or protect creditors of the other Person against loss in respect of Indebtedness of the other Person and includes, any guarantee of the Indebtedness of the other Person and any absolute or contingent obligation:

- (a) to advance or supply funds for the payment or purchase of any Indebtedness of any other Person;
- (b) to purchase, sell or lease (as lessee or lessor) any property, assets, goods, services, materials or supplies primarily for the purpose of enabling any Person to make payment of Indebtedness or to assure the holder thereof against loss;
- (c) to indemnify or hold harmless any creditor of any other Person from or against any losses, liabilities or damages;
- (d) to make a payment to another for goods, property or services regardless of the non-delivery or nonfurnishing thereof; or
- (e) maintain the capital, working capital, solvency or general financial condition of another Person.

The amount of any Financial Assistance is the amount of any loan or direct or indirect financial support, without duplication, made or given, or all Indebtedness of the obligor to which the Financial Assistance relates, unless the Financial Assistance is limited to a determinable amount,

in which case the amount of the Financial Assistance is the determinable amount. For purposes of this definition, “**Financial Assistance**” shall exclude Investments.

(76) **Fiscal Year** means the fiscal year of the Borrower, which currently ends on December 31 of each year.

(77) **Foreign Lender** has the meaning given to it in Section 6.2(4)(a)(i).

(78) **Fund** means any Person (other than a natural person) that is (or shall be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

(79) **Funded Debt** means, at any time, without duplication, the consolidated Indebtedness of the Borrower and its Subsidiaries for: (a) borrowed money including the Obligations and all obligations evidenced by notes, bonds, debentures, bankers acceptances or similar instruments, plus (without duplication), (b) contingent liabilities under outstanding letters of credit and guarantees (excluding undrawn letters of credit and guarantees, in each case, where the beneficiary of which is the Borrower or any Subsidiary of the Borrower), (c) obligations of such Person to pay the deferred purchase or acquisition price of assets or services (other than trade accounts payable and operating leases (other than for borrowed money) arising, and accrued liabilities incurred, in the ordinary course of business and any such obligations incurred under ERISA), and which purchase price is due more than six months from the date of such purchase and evidenced by an instrument in writing or other written agreement, (d) all Capital Lease obligations, and (e) the maximum amount of Funded Debt referred to in (a) through (d) of any other Person which is directly or indirectly guaranteed by Borrower or any of its Subsidiaries, it being understood and agreed that Funded Debt shall not (at the option of the Borrower on notice to the Agent in writing) include the portion of Indebtedness that is incurred by the Borrower to finance all or a portion of the purchase price of a Permitted Acquisition (**Excluded Funded Debt**), but solely:

(i)(A) if such Permitted Acquisition is consummated, up to the closing date of such Permitted Acquisition, or (B) if the Permitted Acquisition is not consummated, up to the date that is sixty (60) days after the acquisition agreement or other agreement pertaining to such Permitted Acquisition is terminated;

(ii)(A) if the terms and conditions of Excluded Funded Debt provide that Excluded Funded Debt is repayable or redeemable to the extent that such Permitted Acquisition is not consummated or (B) if the Borrower deems other outstanding Funded Debt to be treated as Excluded Funded Debt for the purposes hereof, provided that such other outstanding Funded Debt is repayable or redeemable within the time periods described in clause (i) above; and

(iii) so long as the net cash proceeds of the Excluded Funded Debt are kept and maintained by the Borrower or are held in escrow by an escrow agent on behalf of the Borrower in the form of cash or cash equivalents.

Furthermore, for greater certainty, Funded Debt does not include (i) any amount owing in respect of any hedging arrangements or similar obligations permitted under Section 8.2(12) and (ii) any

obligation or other liability incurred with respect to any SFT made in accordance with the Investment Policy.

(80) **Government Approvals** means, with respect to any Person, all licences, permits, consents, authorizations and approvals from any and all Governmental Authorities required for the conduct of that Person's business as presently conducted, including Environmental Permits.

(81) **Governmental Authority** means any domestic or foreign government, including, any federal, provincial, state, territorial or municipal government and any government agency, tribunal, commission or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

(82) **Granting Lender** has the meaning given to it to it in Section 13.1(3).

(83) **Hedge Contract** means a contract for the purchase of any currency with any other currency at an agreed rate of exchange on a specified date, an interest rate or currency swap, forward rate agreement or any other interest or exchange rate exposure management or other hedging arrangements, or any option or derivative with respect to any such arrangements, and including any hedging arrangements made in the ordinary course in the Investment Portfolio in accordance with the Investment Policy.

(84) [REDACTED]

(85) **IFRS** means generally accepted accounting principles in effect in Canada (including the international financial reporting standards issued by the International Accounting Standards Board) as in effect from time to time.

(86) **including** means including, without limitation, and includes means includes, without limitation.

(87) **Incremental Revolving Facility Amount** has the meaning given to it in Section 3.15.

(88) **Indebtedness** of a Person means, without duplication, all debts, liabilities and obligations, direct, indirect, liquidated, unliquidated, contingent and other, including principal, interest, charges and fees, which in accordance with IFRS would be classified upon such Person's balance sheet as liabilities, including without limitation, liabilities under currency and interest rate hedging agreements and similar agreements, any obligation or other liability incurred with respect to any SFT and all Funded Debt and all such obligations secured by any Lien, but excluding indebtedness for borrowed money to a financial institution incurred for tax planning purposes which is repaid on the same or the next Business Day (i.e. "daylight loan"), and being understood that all leases that would be classified as operating leases under IFRS as in effect prior to January 1, 2019 shall not be considered Indebtedness after the coming into force of IFRS 16.

(89) **Interest Payment Date** means, in respect of Prime Loans and Base Rate (Canada) Advances, the first Business Day following the last day of each month or such other date as may be agreed upon between the Lenders and the relevant Borrower.

(90) **Invested Assets** means, at any particular time, investments as reflected on the most recent consolidated balance sheet of the Borrower provided to the Agent and the Lenders hereunder.

(91) **Investment** means, for any Person, the acquisition (whether for cash, property, services, securities or otherwise) of (i) shares, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person, or (ii) all or substantially all of the assets of any other Person or of a business, division or product line of such Person.

(92) **Investment Policy** means the Borrower's investment policy approved and modified by the Borrower's directors from time to time.

(93) **Investment Portfolio** means a portfolio of securities, money and other investment property maintained and managed by the Borrower and/or certain of its Subsidiaries in the ordinary course of business in accordance with the Borrower's Investment Policy.

(94) **ITA** means the *Income Tax Act* (Canada), and any regulations promulgated thereunder.

(95) **Joinder** means a joinder substantially in the form attached hereto as Schedule 1.1(89).

(96) **Judgment Currency** has the meaning given to it in Section 14.4.

(97) **Lenders** means the banks named on the signature pages of this Agreement and any Person which becomes a Lender in accordance with Section 3.15 or Section 13.1(4), and their successors and permitted assigns, and "Lender" means any one of them. A Lender with a Revolving Commitment is sometimes referred to herein as a "**Revolving Lender**".

(98) **LIBO Interest Period** means, for each LIBO Rate Advance, a period commencing (i) in the case of the initial LIBO Interest Period for such LIBOR Rate Advance, on the date of such advance; and (ii) in the case of any subsequent LIBO Interest Period for such advance, on the last day of the immediately preceding LIBO Interest Period applicable thereto, and ending, in either case, on the last day of such period as shall be selected by the Borrower or any US Borrower as the case may be pursuant to the provisions below. Except as provided in the next following sentences, the duration of each such LIBO Interest Period shall be 1, 2, 3 or subject to availability, 6 or 12 months as selected by the relevant Borrower pursuant to the applicable Notice of Borrowing (or such shorter or longer period as agreed to by the relevant Borrower and the Agent, acting reasonably). No LIBO Interest Period may be selected which (a) would, in the opinion of the Agent, acting reasonably, conflict with the repayment provisions set out in Section 5.2; or (b) would result in there being outstanding LIBO Rate Advances having more than (y) 20 different maturity dates, or (z) 10 maturity dates in the same month, in each case, unless otherwise agreed to by the Agent. Whenever the last day of a LIBO Interest Period would otherwise occur on a day other than a Business Day, the last day of such LIBO Interest Period shall be extended to occur on the next succeeding Business Day, provided that, if such extension would cause the last day of such LIBO Interest Period to occur in the next following calendar month, the last day of such LIBO Interest Period shall occur on the immediately preceding Business Day.

(99) **LIBO Rate** means, for any LIBO Interest Period with respect to a LIBO Rate Advance, the rate determined by the Agent, expressed on the basis of a year of 360 days:

- (a) as the rate per annum which is applicable to deposits in U.S. Dollars and appearing on the display referred to as “LIBOR01 Page” (or any display substituted therefor) of Reuters Limited (or any successor thereto or Affiliate thereof) that displays the ICE Benchmark Administration Limited (or its successor) interbank borrowing rate applicable to such LIBO Interest Period as of 11:00 a.m. (London, England time) on the second Business Day prior to the first day of such LIBO Interest Period; or
- (b) if such rate does not appear on such Reuters Limited display, or if such display or rate is not available for any reason, the rate per annum at which deposits in U.S. Dollars are offered by the principal lending office in London, England of the Agent (or its Affiliates if it does not maintain such an office) in the London interbank market at approximately 11:00 a.m. (London, England time) on the second Business Day prior to the first day of such LIBO Interest Period, in each case in an amount similar to such LIBOR Rate Advance and for a period comparable to such LIBO Interest Period; provided that if the LIBO Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

(100) ***LIBO Rate Advances*** means an Advance denominated in U.S. Dollars, Sterling or Euros, as selected by the relevant Borrower and bearing interest at the LIBO Rate.

(101) ***Lien*** means any mortgage, charge, lien, hypothec or encumbrance, whether fixed or floating on, or any security interest in, any property, whether real, personal or mixed, tangible or intangible, any pledge or hypothecation of any property, any deposit arrangement, priority, conditional sale agreement, other title retention agreement or equipment trust, Capital Lease or other security arrangement of any kind.

(102) ***London Business Day*** means a day on which dealings are carried on in the London interbank market in respect of transactions in U.S. Dollars.

(103) ***Material Adverse Effect*** means a material adverse effect on (a) the business, operations, assets, capitalization, financial or other condition, agreements, prospects, licenses, permits, rights, privileges or liabilities, whether contractual or otherwise, of the Borrower and its Subsidiaries, as a whole, on a consolidated basis, (b) the ability of any of the Borrowers to perform and discharge its obligations under this Agreement, any of the other Documents, or its Material Contracts, or (c) the Lenders’ ability to enforce their rights or remedies under this Agreement or any of the other Documents and, where used in relation to any other Person, has a similar meaning.

(104) ***Material Contract*** means any contract or agreement to which the Borrower or any of its Subsidiaries is a party or by which it is bound, the termination or cancellation of which (prior to its scheduled termination date) would have a Material Adverse Effect.

(105) ***Maturity Date*** means, in respect of any Lender, November 26, 2024, as such date may be extended as agreed to by such Lender pursuant to Section 5.1.

(106) ***Moody’s*** means Moody’s Investors Service, Inc. and its successors.

(107) ***Notice of Borrowing*** has the meaning given to it in Section 3.5(1).

(108) **Obligations** means all loans, advances, debts, liabilities and obligations for the performance of covenants, tasks or duties or for the payment of monetary amounts (whether or not performance is then required or contingent, or those amounts are liquidated or determinable) owing by the Borrowers to the Agent or any Lender under the Credit Facilities and under any or all of the Documents and all covenants and duties regarding those amounts, of any kind or nature, present or future, whether or not evidenced by any agreement or other instrument, owing under any or all of the Documents.

(109) **OneBeacon** means OneBeacon U.S. Holdings, Inc., a company existing under the laws of Delaware, and its successors and permitted assigns.

(110) **Original Credit Agreement** has the meaning specified in the recitals to this Agreement.

(111) **OSFI** means the Office of the Superintendent of Financial Institutions.

(112) **Participant** has the meaning given to it in Section 13.1(3).

(113) **Participant Register** has the meaning given to it in Section 13.1(5)(b).

(114) **PBGC** shall mean the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

(115) **Pension Plans** means all plans or arrangements which are considered to be pension plans for the purposes of any applicable pension benefits standards statute or regulation in Canada or the United States of America and which are established, maintained or contributed to by the applicable Borrower for its employees or former employees.

(116) **Permitted Acquisition** [REDACTED].

(117) **Permitted Dispositions** has the meaning given to it in Section 8.2(2).

(118) **Permitted Liens** means, with respect to any Person:

- (i) any Lien over an asset securing Indebtedness raised for the acquisition or lease of that asset by such Person provided that the amount secured by such Lien does not exceed the cost of such asset, improvements thereon and fees and expenses incurred in connection therewith;
- (ii) any Lien existing on an asset hereafter acquired or leased by such Person at the date of acquisition of such asset provided that the amount secured by such Lien is not increased and provided further that the Lien was not created in contemplation of such acquisition and the Lien is not extended to any additional asset of such Person other than improvements thereto;
- (iii) any Lien on an asset or assets (other than a Lien described in clauses (i), (ii) and (xvii) of this definition of Permitted Liens) securing Indebtedness or other liabilities (excluding, for greater certainty, any Lien over all or

substantially all of the assets of the Borrower and its Subsidiaries taken as a whole);

- (iv) security for Hedge Contracts other than Hedge Contracts in the Investment Portfolio;
- (v) security for Hedge Contracts in the Investment Portfolio in accordance with the Investment Policy;
- (vi) Liens for taxes, assessments or governmental charges or levies not at the time due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with IFRS;
- (vii) the Lien of any judgment rendered which is being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with IFRS;
- (viii) Liens and charges incidental to construction or current operations which have not at such time been filed pursuant to law and which relate to obligations not due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with IFRS;
- (ix) restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons which in the aggregate do not materially impair the usefulness, in the operation of the business of such Person, of the property subject to such restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons;
- (x) the right reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, licence, franchise, grant or permit acquired by such Person or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (xi) the Lien resulting from the deposit of cash or securities (i) in connection with contracts or tenders in the ordinary course of business or expropriation proceedings, or (ii) to secure workers' compensation, surety or appeal bonds, costs of litigation when required by law and public and statutory obligations in the ordinary course of business, including Liens under pension standards legislation of Canada or any province thereof applicable to any Canadian Pension Plan that relate to employee contributions withheld from pay but not yet due to be remitted to the Canadian Pension Plan, or (iii) in connection with the discharge of Liens incidental to construction and mechanics', warehouseman's, carriers' and other similar liens;

- (xii) security given to a public utility or any municipality or governmental or other public authority when required or requested by such utility or other authority in connection with the operations of such Person, all in the ordinary course of business;
- (xiii) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown or in comparable grants, if any, in jurisdictions other than Canada;
- (xiv) title defects or irregularities which are of a minor nature and in the aggregate shall not materially impair the use of the property for the purpose for which it is held;
- (xv) applicable municipal and other governmental restrictions affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with and shall not materially impair the use of the property for the purpose for which it is held;
- (xvi) the extension, renewal or refinancing of any Lien permitted pursuant to clauses (i) and (ii) above, provided that the amount so secured does not exceed the original amount secured immediately prior to such extension, renewal or refinancing and the Lien is not extended to any additional property other than improvements thereto; and
- (xvii) any Lien securing Indebtedness incurred with respect to funding activities under SFTs made in accordance with the Investment Policy granted on the assets subject to such SFTs;

**[REDACTED]**

(119) **Person** means any natural person, sole proprietorship, partnership, syndicate, trust, joint venture, Governmental Authority or any incorporated or unincorporated entity or association of any nature.

(120) **Prime Loan** means an Advance which is denominated in Canadian Dollars and in respect of which any of the Borrowers is obligated to pay interest in accordance with 4.1(1).

(121) **Prime Rate** means, with respect to a Prime Loan made by a Lender, on any day the greater of: (a) the annual rate of interest announced from time to time by the Agent as being its reference rate then in effect on such day for determining interest rates on Canadian Dollar denominated commercial loans made by it in Canada; and (b) the sum of (y) the average of the rates per annum for Canadian Dollar bankers' acceptances having a term of one month that appears on the Reuters Screen CDOR Page as of 10:00 a.m. (Toronto time) on the date of determination, as reported by the Agent (and if such screen is not available, any successor or similar service as may be selected by the Agent, and (z) **[REDACTED]**.

(122) **Proceeds** means all cash and non-cash proceeds received from any of the Borrowers (i) after any declaration by the Agent pursuant to Section 9.2 that all obligations of the Borrowers

hereunder shall be immediately due and payable, (ii) upon any dissolution, liquidation, winding-up, reorganization, bankruptcy, insolvency or receivership of any of the Borrowers (or any other arrangement that is similar thereto) or (iii) upon the enforcement of, or any action taken with respect to, any of the Documents.

(123) **Rateable Portion**, with respect to a Lender, means, as applicable, (i) the fraction of the Total Commitment represented by that Lender's Commitment (except for such Lender's Swingline Commitment which shall not be aggregated separately but calculated as part of such Lender's Revolving Commitment), or (ii) the fraction of the Revolving Commitment represented by such Lender's Revolving Commitment. If a declaration has been made under Section 9.2, Rateable Portion, with respect to a Lender, means the fraction of all Advances outstanding under the Credit Facilities owing to the Lender.

(124) **Related Parties** means, with respect to any Person, such Person's Affiliates and the directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

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

(126) **Required Lenders** means:

- (a) at any time when no Advances are then outstanding, any Lender or Lenders whose Commitments represent, in the aggregate, greater than 50.1% of the Total Commitment; and
- (b) at any other time, any Lender or Lenders from whom, in the aggregate, greater than 50.1% of the Advances Outstanding are owing.

(127) **Reuters Screen CDOR Page** means the display designated as page CDOR on the Reuters Monitor Money Rates Service or other page as may, from time to time, replace that page on that service for the purpose of displaying bid quotations for bankers' acceptances accepted by leading Canadian banks.

(128) **Revolving Commitment Fee** has the meaning given to it in Section 4.3(1).

(129) **Revolving Facility** means the revolving credit facility to be made available to the Borrower and any US Borrower, as the case may be, under this Agreement for the purposes specified in Section 3.4.

(130) **Rollover** means the rollover of an Advance by way of Bankers' Acceptance or B/A Equivalent Loan, as applicable, for an additional Contract Period under Section 3.7(8).

(131) **Rollover Date** means the Business Day on which a Rollover occurs.

(132) **Sanctioned Person** means, at any time, (a) any Person listed in any Sanctions-related list of designated persons maintained by the Foreign Affairs, Trade and Development Canada Office, the U.S. Department of the Treasury, the U.S. Department of State, the or by the United Nations

Security Council, the European Union or any EU member state, or (b) any Person controlled by any such Person.

(133) **Sanctions** means economic, trade or financial sanctions or trade embargoes imposed, administered or enforced from time to time under laws and executive orders of the Canadian government, the US government, the United Nations Security Council, the European Union, any EU member state, Her Majesty's Treasury of the United Kingdom, any government, official institutions or agencies thereof or any other relevant sanctions authority.

(134) **Schedules** means the schedules attached to and forming part of this Agreement, as particularized in Section 1.18.

(135) **SFTs** means securities financing transactions entered into in the ordinary course of business, including short-term repurchase agreements (repos), securities lending transactions and sell and buy-back transactions.

(136) **Shareholders' Equity** means, with respect to the Borrower, at any time, the shareholders equity of the Borrower at such time, calculated in respect of the Borrower on a consolidated basis in accordance with IFRS, and as reflected in the consolidated financial statements of the Borrower most recently delivered hereunder.

(137) **SOFR** with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York's Website.

(138) **Sterling** and "£" means lawful money of the United Kingdom of Great Britain and Northern Ireland.

(139) **Subsidiary of a Person** means (A) any corporation of which the Person and/or any one of its Affiliates holds, directly or beneficially, other than by way of security only, securities to which are attached more than 50% of the votes that may be cast to elect directors of such corporation, (B) any corporation of which the Person and/or any one of its Affiliates has, through operation of law or otherwise, the ability to elect or cause the election of a majority of the directors of such corporation, and (C) any partnership, limited liability company or joint venture in which such Person and/or one or more Subsidiaries of such Person shall have, directly or indirectly, more than 50% of the votes that may be cast to elect the governing body of such entity.

(140) **Sufficient Copies** means, in respect of documents required to be delivered under this Agreement, the number of copies of each document equal to one plus the number of Lenders at the time the document is delivered, unless the Borrower is otherwise notified by the Lender.

(141) **Swingline Borrowers** means Intact Financial Corporation, Intact Insurance Company, Belair Insurance Company Inc., Trafalgar Insurance Company of Canada, Novex Insurance Company, The Nordic Insurance Company of Canada, Intact Farm Insurance Inc., Jevco Insurance Company, Intact Ventures Inc., 7144407 Canada Inc., Canada BrokerLink Inc. and Canada Brokerlink (Ontario) Inc. as Swingline Borrowers, together with any other Subsidiary of the Borrower designated in writing by the Borrower and agreed to by the Swingline Lender to be a

Swingline Borrower, provided that such Subsidiary has signed a Joinder to this Agreement, together with their successors and permitted assigns.

(142) **Swingline Facility** means the revolving credit facility to be made available to the Swingline Borrowers by the Swingline Lender under this Agreement of up to Cdn\$75,000,000 in aggregate for all Swingline Borrowers.

(143) **Swingline Lender** means [REDACTED].

(144) **Swingline Lender Commitment Fee** has the meaning given to it in Section 4.3(3).

(145) [REDACTED]

(146) **Tax and Taxes** means all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Authority (including income, capital (including large corporations), withholding, consumption, sales, use, transfer, goods and services or other value-added, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment, health, education, business, school, property, local improvement, development, education development and occupation taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and charges) together with all fines, interest, penalties or additions on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges.

(147) **Term SOFR** means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

(148) **Total Capitalization** means, without duplication, the sum of: (i) Funded Debt; plus (ii) Shareholders Equity of the Borrower; all of which shall be calculated in respect of the Borrower on a consolidated basis in accordance with IFRS.

(149) **Total Commitment** shall mean, at any time, the Revolving Commitment at such time, as cancelled, reduced, increased or terminated under this Agreement.

(150) **Unadjusted Benchmark Replacement** means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

(151) **US Borrowers** means OneBeacon, OneBeacon Services, LLC and OneBeacon U.S. Financial Services, Inc., together with their successors and permitted assigns.

(152) **U.S. Dollars** or **U.S.\$** means lawful money of the United States of America.

(153) **US Pension Plans** means all single employer "defined benefit plans", as defined in Section 3(35) of ERISA, which are subject to the provisions of Title IV of ERISA and which are established, maintained or contributed to by the applicable Borrower for its employees or former employees.

(154) *US Revenue Code* means the *Internal Revenue Code of 1986* of the United States, as amended from time to time.

(155) *U.S. Tax Compliance Certificate* has the meaning given to it in Section 6.2(4)(a)(ii)(C).

(156) *Written* or in writing includes printing, typewriting, or any electronic means of communication capable of being legibly reproduced at the point of reception.

## **1.2 Business Day**

Except as otherwise set forth herein, if under this Agreement any payment or calculation is to be made, or any other action is to be taken, on or as of a day which is not a Business Day, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a Business Day.

## **1.3 Conflict**

If there is a conflict between any provision of this Agreement and any provision of another document contemplated by or delivered under or in connection with this Agreement, the relevant provision of this Agreement is to prevail.

## **1.4 Currency**

Unless otherwise specified, all loan, principal, interest, fee and commitment amounts are stated and all payments are to be made in Canadian Dollars. For purposes of calculating compliance with any other currency limitation expressed in this Agreement in Canadian Dollars, such reference shall be deemed to include the words “(or the Equivalent Amount thereof in any other currency)”.

## **1.5 Time**

Time shall be of the essence in all provisions of this Agreement.

## **1.6 IFRS**

Unless otherwise expressly provided, all accounting terms used in this Agreement shall be interpreted and all financial information shall be prepared in accordance with IFRS, consistently applied. If any accounting changes occur and such changes result in a material change in the calculation of the financial covenants, standards or terms used in this Agreement or any other Document, then the Borrower, the Agent and the Lenders agree to enter into negotiations in order to amend such provisions of this Agreement or such Document, as applicable, so as to equitably reflect such accounting changes with the desired result that the criteria for evaluating the Borrower's (or its applicable Subsidiary's) financial condition shall be the same after such accounting changes as if such accounting changes had not been made; provided, however, that the agreement of the Required Lenders to any required amendments of such provisions shall be sufficient to bind all Lenders. If the Borrower and the Required Lenders agree upon the required amendments, then after appropriate amendments have been executed and the underlying accounting change with respect thereto has been implemented, any reference to IFRS contained in

this Agreement or in any other Document shall, only to the extent of such accounting change, refer to IFRS, consistently applied after giving effect to the implementation of such accounting change. If the Borrower and the Required Lenders cannot agree upon the required amendments within thirty (30) days following the date of implementation of any accounting change, then all calculations of financial covenants and other standards and terms in this Agreement and the other Documents shall continue to be prepared, delivered and made without regard to the underlying accounting change (in such case, the Borrower shall, in connection with the delivery of any financial statements under this Agreement, provide a management prepared reconciliation of the financial covenants to such financial statements in light of such accounting changes).

Notwithstanding the new IFRS 16 rules that came into force on January 1, 2019 with respect to the accounting treatment of leases, (i) the provisions of this Agreement of a financial or accounting nature (including ratios and tests) will be applied without taking into account the IFRS 16 rules and as if there had been no change in such accounting treatment and (ii) any financial ratio calculation thereafter will be accompanied with a reconciliation of the calculation of the financial ratios and tests with the financial statements delivered for the period to which such calculation relates.

**1.7 [intentionally deleted]**

**1.8 Several Obligations**

Notwithstanding any other provision of this Agreement:

- (a) all Obligations of each Swingline Borrower (excluding, for greater certainty, Intact Financial Corporation in its capacity as Swingline Borrower) hereunder, including, but without limitation, Obligations on account of payment of interest (Section 4), payment of principal (Section 5), set-off (Section 10) or indemnities (Section 12), are the several (and not joint and several) obligations, undertakings and agreements of each Swingline Borrower for the direct obligations that such Swingline Borrower may from time to time incur in respect of Swingline Advances made to it and nothing herein shall be construed or interpreted as creating a guarantee, payment or indemnity obligation by any Swingline Borrower in respect the Obligations of the Borrower, the US Borrowers or any other Swingline Borrower in favour of any Person; and
- (b) all Obligations of each US Borrower hereunder, including, but without limitation, Obligations on account of payment of interest (Section 4), payment of principal (Section 5), set-off (Section 10) or indemnities (Section 12), are the several (and not joint and several) obligations, undertakings and agreements of each US Borrower for the direct obligations that such US Borrower may from time to time incur in respect of Revolving Advances made to it and nothing herein shall be construed or interpreted as creating a guarantee, payment or indemnity obligation by any US Borrower in respect the Obligations of the Borrower, any other US Borrower or any Swingline Borrower in favour of any Person.

## **1.9 Consolidated**

Unless otherwise specified, references to amounts and financial statements which are “consolidated” or are made “on a consolidated basis” shall mean such amounts or financial statements in the aggregate for Borrower and its Subsidiaries determined in accordance with IFRS.

## **1.10 Headings and Table of Contents**

The division of this Agreement into sections, the insertion of headings and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

## **1.11 Number and Gender**

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders.

## **1.12 References**

Unless otherwise specified, references in this Agreement to Sections and Schedules are to sections of, and schedules to, this Agreement. The terms “**this Agreement**”, “**hereof**”, “**hereunder**” and similar expressions refer to this Agreement and not to any particular section hereof.

## **1.13 Statutory References**

Each reference to an enactment is deemed to be a reference to that enactment, and to the regulations made under that enactment, as amended or re-enacted from time to time.

## **1.14 Time of Day**

Unless otherwise specified, references to time of day or date mean the local time or date in the City of Toronto, Province of Ontario.

## **1.15 Governing Law**

This Agreement and each of the Documents are governed by, and are to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.

## **1.16 Entire Agreement**

This Agreement and the Documents constitute the entire agreement between the parties with respect to the subject matter and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral, including any summary of terms and conditions from the Agent to the Borrower.

### **1.17 Severability**

If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision shall not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability of that provision in any other jurisdiction.

### **1.18 Schedules**

The following Schedules are attached to and form part of this Agreement:

Schedule 1.1(34) — Compliance Certificate

Schedule 1.1(89) — Form of Joinder of Additional Swingline Borrower

Schedule 3.5(1)(A) — Notice of Borrowing

Schedule 3.5(1)(B) — Notice Periods and Amounts

Schedule 3.7(9) — Notice of Rollover or Payment of Bankers' Acceptance/ B/A Equivalent Loan

Schedule 3.8 — Conversion Option Notice

Schedule 5.4 — Notice of Cancellation of Credit Facility

Schedule 6.4(a)(ii)(C) – Exhibit A-1 – U.S. Tax Compliance Certificate

Schedule 6.4(a)(ii)(D) – Exhibit A-2 – U.S. Tax Compliance Certificate

Schedule 6.4(a)(ii)(D) – Exhibit A-3 – U.S. Tax Compliance Certificate

Schedule 6.4(a)(ii)(D) – Exhibit A-4 – U.S. Tax Compliance Certificate

Schedule 13.1(4)(f) — Assignment and Assumption Agreement

## **SECTION 2 - REPRESENTATIONS AND WARRANTIES**

### **2.1 Representations and Warranties**

The Borrower, each US Borrower, and each Swingline Borrower (in the case of a Swingline Borrower or a US Borrower, with respect to itself only), as applicable, makes the following representations and warranties to each Lender, all of which shall survive the execution and delivery of this Agreement:

- (1) Each Borrower is duly incorporated, organized and validly existing under the laws of its jurisdiction of incorporation and is duly licensed under the laws of all jurisdictions in which it carries on business, to the extent that it is material to its business to be so licensed and the nature

of such business under the laws of the said jurisdictions require registration or qualification, and each Borrower is empowered to own all assets it presently owns to the extent that the ownership of such assets has a material effect on Borrower's, any US Borrower's or any Swingline Borrower's ability to perform its obligations under this Agreement and the other Documents to which it is a party.

(2) The Borrower, each US Borrower and each Swingline Borrower has full power and authority (i) to execute and deliver this Agreement and the other Documents to which it is a party, (ii) to borrow under this Agreement and (iii) to comply with the provisions of, and perform all its obligations under, this Agreement and the other Documents to which it is a party.

(3) The Borrower, each US Borrower and each Swingline Borrower has taken all necessary action to authorise the borrowings hereunder and the execution and delivery of this Agreement and the other Documents to which it is a party and this Agreement and the other Documents to which it is a party constitutes such Borrower's legal, valid and binding obligations enforceable against such Borrower in accordance with its terms, except as such enforcement may be limited by general equitable principles or by any relevant bankruptcy, insolvency, administration or similar laws affecting creditors' rights generally.

(4) The entry into and performance by the Borrowers of this Agreement and the other Documents to which it is a party does not and shall not violate in any respect (i) any Applicable Law, or (ii) the constitutional documents of any of the Borrowers, or (iii) any agreement, contract or other undertaking to which any of the Borrowers is a party to or which is binding on any of the Borrowers or any of its assets and which is material in the context of any of the Borrowers' business or assets.

(5) All consents, licences, approvals and authorizations required by the Borrower, each US Borrower and each Swingline Borrower in connection with the entry into, performance, validity and enforceability of this Agreement and the other Documents to which it is a party have been obtained and are in full force and effect.

(6) No action, suit, proceeding, litigation or dispute against the Borrower or any of its Subsidiaries is currently taking place or pending or, to the Borrower's knowledge, threatened nor is there subsisting any judgment or award given against the Borrower or any of its Subsidiaries before any court, board of arbitration or other body which, in any case, could reasonably be expected to have a Material Adverse Effect.

(7) None of the Borrowers is in default under any agreement by which it is bound which could reasonably be expected to have a Material Adverse Effect and no Default or Event of Default has occurred and is continuing nor shall such a Default or Event of Default result from the entry by each of the Borrowers into this Agreement and the other Documents to which it is a party or the performance by each of the Borrowers of its obligations under this Agreement and the other Documents to which it is a party.

(8) The claims of each Lender against each of the Borrowers under this Agreement and the other Documents to which it is a party rank at least *pari passu* with the claims of all other unsecured and unsubordinated Indebtedness of each of the Borrowers (save and except for Indebtedness the preference of which is mandated by Applicable Law).

(9) The most recent audited consolidated financial statements of the Borrower fairly present in conformity with IFRS the financial position of the Borrower and its Subsidiaries on a consolidated basis, as of the date thereof and their results of operations and cash flows for the fiscal year covered thereby and changes in financial position of as and to such date, and since the date of such financial statements, other than as disclosed in writing to the Lenders, no event has occurred that could reasonably be expected result in a Material Adverse Effect.

(10) No written information, exhibit or report furnished to the Lenders by any of the Borrowers contain as at the time such statements were furnished, any untrue statement of a material fact or any omission of a material fact necessary to make the statements contained therein not misleading, and all such statements and reports, taken as a whole together with this Agreement do not contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained herein or therein not misleading.

(11) Except as disclosed in writing to the Lenders, each Borrower is in compliance with all Applicable Laws and with any authorization, permit, grant, license, consent, right, privilege, registration, filing, commitment, order, judgment, direction, ordinance or decree issued or granted by law or by any governmental or regulatory body, in each case, the failure to so comply could reasonably be expected result in a Material Adverse Effect.

(12) There exists no Default or Event of Default.

(13) None of the Borrowers' trade-names, trademarks, copyrights and other forms of intellectual and industrial property including, without limitation, Belair, Grey Power or OneBeacon, infringe upon or violate, and no Borrower has knowingly infringed or violated, any intellectual property or other proprietary rights of any other Person and no Person has made any such claim, which if adversely determined against the Borrowers could reasonably be expected to have a Material Adverse Effect.

(14) Each Borrower has filed or caused to be filed all tax returns which are required to have been filed other than those filings, the failure of which to make, would not have a Material Adverse Effect, and has paid all Taxes shown to be due and payable on those returns or on any assessments made against it and all other Taxes, fees or other charges imposed on it by any Governmental Authority, other than those the amount or validity of which is currently being contested in good faith by appropriate proceedings being diligently pursued, and with respect to which adequate reserves in conformity with IFRS have been provided in its books and of which the details have been provided to the Lenders, or for which the failure to so pay would not have a Material Adverse Effect. As at the date hereof, no Liens for Taxes have been filed against the Borrowers or their respective assets and, as at the date hereof, to the knowledge of the Borrowers, no claims are being asserted against the Borrowers with respect to any Taxes other than claims that would not have a Material Adverse Effect.

(15) The Canadian Pension Plans to which the Borrowers are a party are duly registered, as applicable, under the ITA and all other Applicable Laws which require registration and no event has occurred which is reasonably likely to cause the loss of that registered status. All material obligations of the Borrowers (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans, the US Pension Plans and the funding agreements therefor have been performed in a timely fashion. There

have been no improper withdrawals or applications of the assets of the Canadian Pension Plans, the US Pension Plans or the Benefit Plans in any material respect. There is no proceeding, action, suit or claim (other than routine claims for benefits) pending or threatened involving the Pension Plans or the Benefit Plans, and no facts exist which could reasonably be expected to give rise to that type of proceeding, action, suit or claim, and if determined adversely to the Borrowers could reasonably be expected to have a Material Adverse Effect. Each of the Canadian Pension Plans is fully funded both on an ongoing basis and on a solvency basis or all required special payments in respect of any funding deficiency have been made in accordance with applicable pension standard legislation. No promises of benefit improvements under the Canadian Pension Plans, the US Pension Plans or the Benefit Plans have been made except where improvement could not have a Material Adverse Effect. All material contributions or premiums required to be made or paid by the Borrowers to the Canadian Pension Plans or the Benefit Plans have been made or paid in a timely fashion in accordance with the terms of such plans and all Applicable Laws. All material employee contributions to the Canadian Pension Plans or the Benefit Plans by way of authorized payroll deduction or otherwise have been properly withheld or collected by the Borrowers and have been fully paid into those plans in a timely manner. As at the date hereof, no Canadian Pension Plans have been wound-up or are in the process of being wound-up.

(16) No ERISA Event with respect to any US Pension Plan has occurred or is reasonably expected to occur that could reasonably be expected to have a Material Adverse Effect or to which has resulted or could reasonably be expected to result in liability in an aggregate amount in excess of Cdn.\$100,000,000. Each US Pension Plan intended to be tax-qualified under Section 401(a) of the US Revenue Code has received a favorable tax-qualification determination letter or opinion letter from the Internal Revenue Service of the United States of America and to the knowledge of the Borrowers, nothing has occurred that would cause the loss of such qualification. Each US Pension Plan is in compliance in all material respects with the applicable provisions of ERISA and the US Revenue Code. Neither the Borrowers nor any ERISA Affiliate have failed to make any material contribution or pay any material amount due as required by either Section 412 of the US Revenue Code or Section 302 of ERISA or the terms of any US Pension Plan. The Borrowers have not engaged in a “prohibited transaction,” as defined in Section 406 of ERISA and Section 4975 of the US Revenue Code, in connection with any US Pension Plan that could reasonably be expected to have a Material Adverse Effect. There are no material assessments owed or which could become owing by the Borrowers or any ERISA Affiliate to the PBGC or other assessments by the PBGC or payments owing to the PBGC (other than premiums due to the PBGC in the ordinary course).

(17) There are no strikes or other labour disputes against the Borrowers that are pending or, to the Borrowers’ best knowledge, threatened, in each case, that could reasonably be expected to have a Material Adverse Effect. All payment due from the Borrowers on account of employee insurance of every kind and vacation pay have been paid or accrued as a liability on the books of the Borrowers. As at the date hereof, the Borrowers are not a party to any collective agreement. The Borrowers do not have any obligations under any consulting or management agreement requiring payments which cannot be cancelled without material liability. As of the date of this Agreement, there is no organizing activity involving the Borrowers or, to the Borrowers’ knowledge, threatened by any labour union or group of employees. As of the date of this Agreement, no labour union or group of employees of the Borrowers have made a pending demand for recognition. To the best of the Borrowers’ knowledge, there are no complaints or charges against any Borrower

pending or threatened to be filed with any Governmental Authority or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of any individual by the Borrowers that could reasonably be expected to have any Material Adverse Effect.

(18) The Borrowers maintain insurance in compliance with Section 8.1(3) and all premiums and payments of other sums of money payable for that purpose are current.

(19) The Borrowers have good and marketable title to all of their material property and assets free and clear of any Liens, other than Permitted Liens.

(20) Neither the Borrower nor any of its Subsidiaries is an “investment company”, or a company “controlled” by an “investment company”, within the meaning of the Investment Company Act of 1940 of the United States of America, as amended.

(21) The Borrowers have not and shall not knowingly use the proceeds of the Revolving Facility or the Swingline Facility (A) in violation of any ABTL Laws applicable to such Borrower, (B) for the purpose of funding or financing the activities of any Sanctioned Person, to the extent such action is prohibited by, or to the knowledge of Borrowers would itself cause any Lender or the Agent to be in breach of, any Sanctions applicable to such Borrower or (C) in any other manner that shall result in a violation of Sanctions applicable to such Borrower. Notwithstanding the foregoing, the provisions of (C) above shall not be construed or interpreted to contravene the Foreign Extraterritorial Measures (United States of America) Order, 1992 (Canada), Council Regulation (EC) No. 2271/96 of 22 November 1996 (European Union) or any similar extra-territorial measures blocking legislation applicable to the Borrower or its Subsidiaries.

(22) The Borrowers have implemented and maintain in effect policies and procedures reasonably designed to promote material compliance by the Borrowers and their respective directors, officers, employees and agents with Anticorruption Laws, and the Borrowers and their respective officers and directors and, to the knowledge of the Borrowers, their respective employees and agents are in compliance with Anticorruption Laws in all material respects.

## **2.2 Continuous Representations**

The representations and warranties made in Section 2.1 shall continue in effect until irrevocable payment and performance of all the Obligations and termination of this Agreement and the other Documents. The representations and warranties made in Section 2.1 shall be deemed to be repeated by each of the Borrowers on the delivery of any Notice of Borrowing pursuant to Section 3.5, the acceptance by any of the Borrowers of any Advance and the date of delivery of each Compliance Certificate, except to the extent that on or prior to such date, the Borrowers have advised the Agent in writing of a variation in any such representation or warranty, and the Required Lenders have approved such variation in accordance with Section 12.1(1).

## SECTION 3 - THE CREDIT FACILITIES

### 3.1 Establishment of Credit Facilities

(1) Subject to the terms and conditions of this Agreement, the Revolving Lenders hereby establish in favour of the Borrower and each US Borrower the Revolving Facility in the amount of the Revolving Commitment. Each Lender severally agrees to make its Revolving Commitment available to the Borrower and each US Borrower by way of the following:

- (a) Prime Loans;
- (b) Bankers' Acceptances and/or B/A Equivalent Loans;
- (c) Base Rate (Canada) Advances; and
- (d) LIBO Rate Advances in U.S. Dollars, Sterling or Euros.

Subject to the provisions of this Agreement, the Revolving Facility shall revolve and the Borrower or any US Borrower, as the case may be, may borrow, repay and reborrow under the Revolving Facility up to the Revolving Commitment.

(2) Subject to the terms and conditions of this Agreement, the Swingline Lender hereby establishes in favour of the Swingline Borrowers as part of the Revolving Facility, a revolving swingline credit facility (the "**Swingline Facility**") in the amount of the Swingline Commitment. The Swingline Lender agrees to make its Swingline Commitment available to the Swingline Borrowers by way of Prime Loans and Base Rate (Canada) Advances. Subject to the provisions of this Agreement, each of the Swingline Borrowers may borrow, repay and reborrow under the Swingline Facility, provided that the aggregate amount of Advances Outstanding thereunder shall not exceed at any time the Swingline Commitment. The Borrower may, on written notice to the Agent and the Swingline Borrower, designate a Subsidiary of the Borrower to become an additional Swingline Borrower hereunder, provided that (i) the Swingline Lender consents to such Subsidiary becoming a Swingline Borrower and (ii) such Subsidiary, the Borrower, the Agent and the additional Swingline Lender have executed a Joinder to this Agreement.

(3) The Advances Outstanding to all Lenders under the Revolving Facility shall not at any time exceed the Revolving Commitment. The Advances Outstanding to each Lender under the Revolving Facility shall not at any time exceed such Lender's Revolving Commitment. The sum of the principal amount of all Advances Outstanding to a Swingline Lender shall not at any time exceed its Swingline Commitment.

(4) If the Agent shall notify the Borrower in writing not later than 4:00 p.m. (Toronto time) on an Exchange Rate Determination Date that solely by reason of fluctuations in currency valuation, the Advances Outstanding under the Revolving Facility exceed 103% of the Revolving Commitment thereunder on the date immediately preceding such Exchange Rate Determination Date (the amount by which such Advances Outstanding exceeds 100% of the Revolving Commitment on such date being the "**Excess**"), the Borrower or any US Borrower shall, within three (3) Business Days thereafter, make an adjusting payment by either (x) repaying Prime Loans or Base Rate (Canada) Advance outstanding under the Revolving Facility in an amount equal to

the Excess or, (y) if the Borrower or any US Borrower does not have Prime Loans or Base Rate (Canada) Advances outstanding under the Revolving Facility in an amount equal to or greater than the Excess, make an adjusting payment by repaying all Prime Loans and Base Rate (Canada) Advances in amounts less than the Excess (if any) under the Revolving Facility and by depositing with the Agent an amount equal to the amount by which the Excess exceeds the amount of Prime Loans and Base Rate (Canada) Advances under the Revolving Facility repaid to be held by the Agent in trust for the applicable Lenders and irrevocably authorizing and directing the Agent to apply such payment to LIBO Rate Advances or Bankers' Acceptances or B/A Equivalent Loans outstanding under the Revolving Facility on the expiry of the applicable Contract Period or LIBO Interest Period, as applicable, in the case of LIBO Rate Advances, or the maturity date of the applicable Bankers' Acceptances or B/A Equivalent Loans, as applicable. Any interest on the amount deposited with the Agent shall be held in trust for the Borrower or any US Borrower, as applicable, and, provided no Event of Default has occurred and is continuing, shall be paid to the Borrower or any US Borrower, as applicable, on the next Exchange Rate Determination Date. On each Exchange Rate Determination Date, any amount held on deposit by the Agent pursuant to this Section in excess of the Excess on such date shall, provided no Event of Default has occurred and is continuing, be paid to the Borrower.

### **3.2 Obligations of the Lenders**

(1) ***Rateable Portion.*** Subject to the terms and conditions of this Agreement, each Revolving Lender agrees to make available its Rateable Portion of each Advance (or Rollover or Conversion thereof) under the Revolving Facility to the Borrower or any US Borrower, as the case may be, in accordance with its applicable Commitment in respect of the Revolving Facility. Subject to the terms and conditions of this Agreement, the Swingline Lender agrees to make available Advances under the Swingline Facility to the Swingline Borrowers in accordance with its Swingline Commitment. No Lender shall be responsible for a Commitment of any other Lender. The failure of a Lender to make available an Advance (or Rollover or Conversion thereof) in accordance with its obligations under this Agreement shall not release any other Lender from its obligations. Notwithstanding anything to the contrary in this Agreement, no Lender shall be obligated to make Advances available under any Credit Facility to any of the Borrowers in excess of its applicable Commitment in respect of such Credit Facility.

(2) ***Separate Obligation.*** The obligation of each Lender to make its applicable Commitment available to the Borrower, to a US Borrower or to a Swingline Borrower, as the case may be, is a separate obligation between each Lender and the Borrower or any US Borrower, as the case may be, or the Swingline Lender and each Swingline Borrower, as the case may be, and that obligation is not the several or joint and several obligation of any other Lender.

### **3.3 Revolving Nature of the Revolving Facility/Participation in Swingline Advances**

(1) Subject to the provisions of this Agreement, the Borrower and the US Borrowers may increase or reduce the amount of Advances outstanding under the Revolving Facility by borrowing, repaying and reborrowing Prime Loans, Base Rate (Canada) Advances, LIBO Rate Advances and by causing the acceptance of Bankers' Acceptances and funding them at maturity, from time to time; provided, for greater certainty, that the aggregate Advances Outstanding from

each Revolving Lender at any time may not exceed such Revolving Lender's Revolving Commitment.

(2) Subject to the provisions of this Agreement, the Swingline Borrowers may increase or reduce the amount of Advances outstanding under the Swingline Facility by borrowing, repaying and reborrowing Prime Loans and Base Rate (Canada) Advances from time to time; provided, for greater certainty, that the aggregate Advances Outstanding from the Swingline Lender under the Swingline Facility at any time may not exceed the Swingline Lender's Swingline Commitment.

(3) Swingline Advances shall be made by the Swingline Lender without assignment to or participation by the other Revolving Lenders (except as provided in this Section 3.3(3) to (6)). All interest payments and principal repayments of or in respect of Swingline Advances shall be solely for the account of the Swingline Lender and shall be paid by each of the Swingline Borrowers to the Swingline Lender. Subject to Section 11 and Section 12.3, all costs and expenses relating to a Swingline Advance shall be solely for the account of the Swingline Lender.

(4) Notwithstanding anything to the contrary in this Agreement, (a) if an Event of Default occurs or (b) at any time or from time to time, if the Swingline Lender so requires (and in any event no less frequently than on Friday of each week), and there are then outstanding Swingline Advances, then, effective on the day of notice to that effect to the Borrower and the Agent from the Swingline Lender and on Friday of each week, each of the Swingline Borrowers shall immediately repay all Swingline Advances and accrued and unpaid interest thereon owing by it to the Swingline Lender. In the event that each of the Swingline Borrowers fails to repay all Swingline Advances and accrued and unpaid interest thereon owing by it on such date, the Swingline Lender shall give notice to that effect to the Borrower, the Agent and the Revolving Lenders and the Borrower shall be deemed to have requested, and hereby requests, a borrowing of an amount under the Revolving Facility, by way of Prime Loans or Base Rate (Canada) Advances, as applicable, in an amount equal to the outstanding amount of all Swingline Advances and accrued and unpaid interest thereon, which amount shall be used for the purpose of providing to each Swingline Borrower an intercompany loan from the Borrower to the relevant Swingline Borrower on terms and conditions at least as favourable to the relevant Swingline Borrower as market terms and conditions (as defined in the *Insurance Companies Act* (Canada)) in an amount sufficient for such Swingline Borrower to repay all outstanding Swingline Advances and unpaid interest thereon owing by it. In such event, the Borrower and each Swingline Borrower, as applicable, hereby irrevocably direct any amounts to be disbursed by the Revolving Lenders for such purposes to be paid directly to the Swingline Lender in repayment of such outstanding Swingline Advances and unpaid interest thereon owing by such Swingline Borrower. On the Business Day immediately following receipt of such notice by the Revolving Lenders, the Revolving Lenders shall disburse to the Agent, who shall remit to the Swingline Lender, in accordance with such directions from the Borrower and the applicable Swingline Borrowers, their Rateable Portions of such amounts and such amounts shall thereupon be deemed to have been advanced by the Revolving Lenders to the Borrower and to constitute Advances under the Revolving Commitment.

(5) Each Revolving Lender acknowledges and agrees that its obligation to make Advances under the Revolving Facility pursuant to Section 3.3(4) is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuation of a

Default or Event of Default or a reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(6) If any amount required to be paid by a Revolving Lender to the Agent pursuant to Section 3.3(4) is not paid to the Agent when due, such Revolving Lender shall pay to the Agent, on demand, for the benefit of the Swingline Lender, such amount together with interest, from the date the payment was to be made until the date it is actually made, at the prevailing interbank rate.

### 3.4 Purpose

The proceeds of Advances under the Revolving Facility and the Swingline Facility shall be used solely to finance the working capital requirements of the Borrower and its Subsidiaries and for general corporate purposes, including capital funding for operating Subsidiaries and the making of Permitted Acquisitions. [REDACTED]

### 3.5 Borrowing Procedures – General

(1) **Notice of Borrowing.** All Advances under the Revolving Facility require notice. To obtain an Advance under the Revolving Facility, the Borrower or any US Borrower shall give to the Agent written notice substantially in the form attached as Schedule 3.5(1)(A) (a “**Notice of Borrowing**”), indicating (i) the aggregate amount of the requested Advance, (ii) the requested date of the Advance, and (iii) the type of Advance requested at or before the times set out on Schedule 3.5(1)(B) opposite the type of Advance that such Borrower wishes to request; and (iv) in the case of LIBO Rate Advances, the currency of such Advance and the requested initial LIBO Interest Period in respect thereof. In addition to the foregoing, each notice given in respect of an Advance by way of Bankers’ Acceptances under the Revolving Facility shall indicate (a) the amount of the Bankers’ Acceptances to be issued, (b) whether the Borrower or any US Borrower is electing to market the Bankers’ Acceptances itself, and (c) the applicable Contract Period of the Bankers’ Acceptances (which shall be identical for each applicable Lender). The Agent shall give each applicable Lender prompt notice of any Borrowing Notice received from the Borrower or any US Borrower for Advances under the Revolving Facility and of each applicable Lender’s Rateable Portion of any such Advance. Upon receipt by the Agent of funds from the applicable Lenders and fulfillment of the applicable conditions set forth in Section 7.2, the Agent shall make such funds available to the Borrower or any US Borrower, as the case may be, to the applicable Borrower’s or US Borrower’s Account in accordance with Section 3.13.

(2) **Borrowing – Swingline Facility.** The Swingline Lender shall provide each Swingline Borrower with a Canadian Dollar account and a U.S. Dollar account at the main branch in Toronto, Ontario of the Swingline Lender. Borrowings by the Swingline Borrowers under the Swingline Facility up to the maximum amount of the Swingline Commitment may be made without notice from the Swingline Borrowers by overdraft only in the relevant Swingline Borrower’s relevant account with the Swingline Lender and shall be made available by the Swingline Lender by crediting the relevant Swingline Borrower’s relevant account with the Swingline Lender with same day funds in the aggregate amount of such overdraft.

(3) **Limits on Advances.** Notwithstanding any other term of this Agreement, the Borrower and the US Borrowers shall not request from any applicable Lender an Advance under a Credit Facility if, on the day a Notice of Borrowing is given pursuant to Section 3.5(1) or after giving effect to

the Advance, the principal amount of all Advances Outstanding from such Lender would exceed such Lender's applicable Commitment under such Credit Facility or the aggregate principal amount of all Advances Outstanding from all Lenders under such Credit Facility would exceed the applicable Commitment under such Credit Facility. In addition, the aggregate principal amount of Advances under the Revolving Facility and the Swingline Facility shall not at any time exceed the Revolving Commitment.

(4) **Determinations.** Each determination by the Agent of the Prime Rate, Base Rate (Canada), LIBO Rate or other rates applicable to Advances made or to be determined by it shall, in the absence of manifest error, be final, conclusive and binding on the Borrower.

### **3.6 Minimum Advances**

Each Advance by way of (i) a Prime Loan or Bankers' Acceptance under the Revolving Facility shall be in a minimum aggregate amount of Cdn\$1,000,000 and larger whole multiples of Cdn\$100,000 thereafter; (ii) Base Rate (Canada) Advance or LIBO Rate Advance in U.S. Dollars shall be in a minimum aggregate amount of U.S.\$1,000,000 and larger whole multiples of U.S.\$1,000 thereafter; (iii) LIBO Rate Advances in Sterling shall be in a minimum aggregate amount of £1,000,000 and larger whole multiples of £1,000 thereafter; and (iv) LIBO Rate Advances in Euros shall be in a minimum aggregate amount of €1,000,000 and larger whole multiples of €1,000 thereafter.

### **3.7 Bankers' Acceptances**

(1) **Term.** Each Bankers' Acceptance shall have a Contract Period of one (1), two (2), three (3) or, subject to availability, six (6) month(s) or twelve (12) months. No Contract Period for Bankers' Acceptances under the Revolving Facility shall extend beyond the Maturity Date in respect of the Revolving Facility, unless agreed to in writing by the Agent. Unless otherwise agreed to by the Agent, the Borrower shall not at any time have outstanding under the Revolving Facility Bankers' Acceptances with more than 10 different maturity dates.

(2) **Discount Rate.** On each Drawdown Date, if the Borrower has arranged in accordance with normal market practice for the sale on the Drawdown Date of its Bankers' Acceptances to be issued by the Borrower or any US Borrower, as the case may be, and accepted by the Lenders, then the Borrower or any US Borrower, as the case may be, shall advise the Agent in writing of the price payable for each Bankers' Acceptance by the purchaser thereof and the persons who shall be paying such price to and taking delivery of such Bankers' Acceptances from each of the Lenders and the Agent shall notify the Lenders of such price, which shall constitute the Discount Rate as determined pursuant to clause (a) of the definition of "Discount Rate". If the Borrower or any US Borrower, as the case may be, has not elected to arrange for the sale of its Bankers' Acceptances on such Drawdown Date, the Agent shall advise the Borrower or any US Borrower, as the case may be, as to its determination of the applicable Discount Rate for the Bankers' Acceptances pursuant to clause (b) of the Definition of "Discount Rate", which each applicable Lender has been required to purchase or issue.

(3) **Purchase.** If a Lender purchases a Bankers' Acceptance accepted by it or issues a B/A Equivalent Loan, as the case may be, the Borrower or any US Borrower, as the case may be, shall sell and that Lender shall purchase the Bankers' Acceptance at the applicable Discount Rate. Such

Lender shall provide to the Agent's Account the Discount Proceeds less the Acceptance Fee payable by the Borrower or any US Borrower with respect to the Bankers' Acceptance.

(4) **Sale.** Each Lender may from time to time hold, sell, rediscount or otherwise dispose of any or all Bankers' Acceptances accepted and purchased by it.

(5) **Bankers' Acceptances in Blank.** Each drawing of Bankers' Acceptances shall be made by Notice of Borrowing given by the Borrower or any US Borrower, as the case may be, to the Agent as provided in Section 3.5(1). Each such notice shall be substantially in the form of Schedule 3.5(1)(A) and shall be irrevocable and binding on the Borrower or any US Borrower, as the case may be. By no later than 11:00 a.m. (Toronto time) on the Drawdown Date, Rollover Date or Conversion Date, as the case may be, each Lender shall complete one or more Bankers' Acceptances in accordance with the Notice of Borrowing and either (i) accept the Bankers' Acceptances and purchase the Bankers' Acceptances so created for the Discount Proceeds, or (ii) purchase the Bankers' Acceptances for the Discount Proceeds. Each such Lender shall provide to the Borrower's or US Borrower's Account the Discount Proceeds less the Acceptance Fee payable by the Borrower or any US Borrower, as the case may be, with respect to the Bankers' Acceptance. In each case, upon receipt of the Discount Proceeds less the Acceptance Fee and upon fulfillment of the applicable conditions set forth in Section 7.2, the Agent shall make the funds available to the Borrower or any US Borrower in accordance with Section 3.13(2). Each of the Borrower and the US Borrowers hereby irrevocably appoints each applicable Lender as its attorney to sign and endorse on its behalf, manually or by facsimile or mechanical signature, any Bankers' Acceptance necessary to enable each such Lender to execute drafts and to create and purchase Bankers' Acceptances in the manner specified in this Section 3.7. All Bankers' Acceptances or Drafts signed or endorsed on the Borrower's or any US Borrower's behalf by a Lender shall be binding on the Borrower or such US Borrower, all as if duly signed or endorsed by the Borrower or such US Borrower. Each Lender shall (i) maintain the record with respect to any draft or Bankers' Acceptances completed in accordance with this Section 3.7(5), voided by it for any reason, accepted and purchased or purchased by it pursuant to this Section 3.7(5), and cancelled at its respective maturity; and (ii) retain such records in the manner and for the statutory periods provided by Applicable Law which apply to such Lender and make such records available to the Borrower and the US Borrowers acting reasonably. No Lender shall be liable for any damage, loss or other claim arising by reason of any loss or improper use of any Bankers' Acceptance except a loss or improper use arising by reason of the gross negligence or wilful misconduct of the Lender, or its employees.

(6) **Execution.** Drafts drawn by the Borrower or any US Borrower, as the case may be, to be accepted as Bankers' Acceptances and signed by its attorneys appointed pursuant to Section 3.7(5) shall be valid and sufficient for all purposes and any Bankers' Acceptance so signed shall be binding on the Borrower and the US Borrowers.

(7) **Issuance.** The Borrower and the US Borrowers shall ensure that the applicable Contract Periods of Bankers' Acceptances to be accepted by each Lender under a Credit Facility shall be identical for all Lenders under such Credit Facility. Each Advance by way of Bankers' Acceptances under a Credit Facility shall consist of the creation and purchase of Bankers' Acceptances on the same day, in each case, for the Discount Proceeds. The aggregate face amount of Bankers' Acceptances to be accepted by a Lender shall be determined by the Agent by reference

to that Lender's Rateable Portion of the issue of Bankers' Acceptances, except that if the Agent determines that the Bankers' Acceptances to be created and purchased on any Drawdown Date (upon a Conversion, Rollover or otherwise) shall not be created and purchased by the Lenders in accordance with each Lender's Rateable Portion, then the requested face amount of Bankers' Acceptances shall be reduced to such lesser amount as the Agent determines shall permit such rateable sharing and the amount by which the requested face amount shall have been so reduced shall be converted or continued, as the case may be, as an Advance by way of Prime Loan under the applicable Credit Facility to be made contemporaneously with the issuance of such Bankers' Acceptances; provided that after such issuance, no Lender shall have aggregate outstanding Advances under any Credit Facility in excess of its Commitment in respect of such Credit Facility.

(8) ***B/A Equivalent Loans.*** If a Lender is not a chartered bank under the *Bank Act* (Canada) or if a Lender notifies the Agent in writing that it is otherwise unable to accept Bankers' Acceptances, such Lender shall, instead of accepting and purchasing Bankers' Acceptances, make a Loan denominated in Canadian Dollars (a "**B/A Equivalent Loan**") to the Borrower or any US Borrower in the amount and for the same term as the draft which such Lender would otherwise have been required to accept and purchase hereunder. Each such Lender shall provide to the Agent the Discount Proceeds of such B/A Equivalent Loan for the account of the Borrower. Each such B/A Equivalent Loan shall bear interest at the same rate which would result if such Lender had accepted (and been paid an Acceptance Fee) and purchased (on a discounted basis) a Bankers' Acceptance for the relevant Contract Period (it being the intention of the parties that each such B/A Equivalent Loan shall have the same economic consequences for the Lenders, the Borrower or any US Borrower, as the case may be, as the Bankers' Acceptance which such B/A Equivalent Loan replaces). All such interest shall be paid in advance on the date such B/A Loan is made, and shall be deducted from the amount to be advanced on account of such B/A Equivalent Loan in the same manner in which the Discount Proceeds of a Bankers' Acceptance would be deducted from the face amount of the Bankers' Acceptance. On the last day of the relevant Contract Period for such B/A Equivalent Loan, the Borrower or any US Borrower, as the case may be, shall be entitled to convert each such B/A Equivalent Loan into another type of Advance, or to roll over each such B/A Equivalent Loan into another B/A Equivalent Loan, all in accordance with the applicable provisions of this Agreement.

(9) ***Rollover.*** At or before 10:00 a.m. two Business Days before the maturity date of any Bankers' Acceptances, the Borrower or any US Borrower shall give to the Agent written notice substantially in the form attached as Schedule 3.7(9) if the Borrower or any US Borrower intends to repay the maturing Bankers' Acceptances on the maturity date or if the Borrower or any US Borrower intends to issue Bankers' Acceptances on the maturity date to provide for the payment of the maturing Bankers' Acceptances. Otherwise, the Borrower or any US Borrower, as the case may be, shall provide payment to the Agent of an amount equal to the aggregate face amount of the Bankers' Acceptances issued by each Lender on their maturity date. If the Borrower or any US Borrower, as the case may be, fails to make the payment, the Borrower's or such US Borrower's obligations in respect of the maturing Bankers' Acceptances shall be deemed to have been converted on the maturity date thereof into Prime Loans by the applicable Lenders.

(10) ***Waiver of Presentment and Other Conditions.*** The Borrower and the US Borrowers waive presentment for payment and any other defence to payment of any amounts due to a Lender in respect of a Bankers' Acceptance accepted and purchased by it pursuant to this Agreement which

might exist solely by reason of the Bankers' Acceptance being held, at the maturity thereof, by the Lender in its own right and the Borrower and the US Borrowers agree not to claim any days of grace if the Lender as holder sues the Borrower or any US Borrower on the Bankers' Acceptance for payment of the amount payable by the Borrower thereunder. On the specified maturity date of a B/A, the Borrower or any US Borrower, as the case may be, shall pay for the account of the Lender that has accepted such B/A the full face amount of such B/A and after such payment, the Borrower or any US Borrower shall have no further liability in respect of such B/A and such Lender shall be entitled to all benefits of, and be responsible for all payments due to third parties under, such B/A.

(11) ***Circumstances Making Bankers' Acceptances Unavailable.*** If (i) the Agent determines in good faith, which determination shall be final, conclusive and binding upon the Borrower, and notifies the Borrower that, by reason of circumstances affecting the money market there is no market for Bankers' Acceptances or the demand for Bankers' Acceptances is insufficient to allow the sale or trading of the Bankers' Acceptances created hereunder; or (ii) the Agent is advised by Lenders holding at least 50% of the Total Commitment by written notice that such Lenders have determined (acting reasonably and in good faith) that the Discount Rate shall not or does not accurately reflect the cost of funds of such Lenders or the discount rate which would be applicable to a sale of Bankers' Acceptances accepted or purchased by such Lenders, then:

- (a) the right of the Borrower or any US Borrower to request an Advance by means of Bankers' Acceptances shall be suspended until the Agent determines that the circumstances causing such suspension no longer exist and so notifies the Borrower; and
- (b) any notice of Drawdown or Rollover in respect of a Bankers' Acceptance which is outstanding shall be cancelled and any outstanding notice of Conversion to convert a Prime Loan into a Bankers' Acceptance shall be cancelled and the request for a Drawdown or Rollover by means of Bankers' Acceptance shall be deemed to be a request for a Drawdown of, or Rollover to, a Prime Loan in the face amount of the requested Bankers' Acceptance.

The Agent shall promptly notify the Borrower and the US Borrowers of the suspension of the Borrower's or any US Borrower's right to request a Drawdown by means of Bankers' Acceptances and of the termination of any such suspension.

(12) ***Depository Bills and Notes Act.*** At the option of the Borrower, any US Borrower and any Lender, Bankers' Acceptances under this Agreement to be accepted by that Lender may be issued in the form of depository bills for deposit with The Canadian Depository for Securities Limited pursuant to the *Depository Bills and Notes Act* (Canada). All depository bills so issued shall be governed by the provisions of this Section 3.7.

### **3.8 Conversion Option/LIBO Interest Period Extension Option**

Subject to this Agreement, the Borrower or any US Borrower may, as the case may be, during the term of this Agreement, effective on any Business Day, convert, in whole or in part, an outstanding Advance under a Credit Facility into another type of Advance permitted under this Agreement in respect of such Credit Facility or continue the LIBO Interest Period in respect of

LIBO Rate Advance upon giving written notice to the Agent substantially in the form attached hereto as Schedule 3.8, the notice period being that which would be applicable to the type of Advance into which the outstanding Advance is to be converted as provided in Schedule 3.5(1)(B). Conversions under this Section 3.8 may only be made provided that:

- (a) each conversion of an Advance shall be for minimum aggregate amounts and whole multiples in excess thereof as are specified in respect of that type of Advance in this Section 3;
- (b) an Advance by way of Bankers' Acceptance (or B/A Equivalent Loan) may be converted only on the last day of the relevant Contract Period; if less than all Advances by way of Bankers' Acceptances are converted, after the conversion not less than Cdn\$1,000,000 shall remain as Advances by way of Bankers' Acceptances;
- (c) a LIBOR Rate Advance may be converted or extended only on the last day of the relevant LIBO Interest Period in respect thereof;
- (d) a conversion from an Advance denominated in one currency into an Advance denominated in a different currency shall be repaid in full on the date of such conversion; and
- (e) no Default or Event of Default shall have occurred and be continuing on the relevant Conversion Date or after giving effect to the conversion of the Advance to be made on the Conversion Date.

### **3.9 Conversion and Rollover Not Repayment**

No Conversion or Rollover shall constitute a repayment of any Advance or a new Advance.

### **3.10 Determination Final**

With respect to all matters referred to in this Section 3, the determination by the Agent with respect to the outstanding Advances shall be final, conclusive and binding on the Borrower and the US Borrowers absent manifest error.

### **3.11 Mandatory Conversion of Bankers' Acceptances**

Notwithstanding Section 3.7(8) and subject to Section 9.2, if a Default or Event of Default has occurred and is continuing on the last day of a Contract Period, as regards an Advance by means of a Bankers' Acceptance (or B/A Equivalent Loan), the Borrower and the US Borrowers, as the case may be, shall be deemed to have converted such Advance into a Prime Loan in an amount equal to the face amount of the Bankers' Acceptances (or the undiscounted amount of any B/A Equivalent Loans) on the maturity date thereof.

### **3.12 Reliance on Oral Instructions**

The Agent and each Lender shall be entitled to act upon the oral instructions of any Person who the Agent or such Lender, acting reasonably, believes is a Person authorized by any of the Borrowers to act on such Borrower's behalf. The Agent and each Lender shall not be responsible for any error or omission in those instructions or in the performance thereof except in the case of gross negligence or wilful misconduct by the Agent or such Lender, as applicable, or their respective employees. Any instructions so given shall be confirmed in writing by such Borrower to the Agent or the applicable Lender on the same day. The Borrowers shall indemnify the Agent and each Lender for any loss or expense suffered or incurred by the Agent or such Lender as a consequence of the Agent or such Lender acting upon instructions given or agreements made over the telephone or by electronic transmission of any type with Persons reasonably believed by the Agent or such Lender to have been acting on such Borrower's behalf.

### **3.13 Deposit of Proceeds of Advances and Discount Proceeds**

(1) Each Lender shall provide to the Agent's relevant account as notified to each Lender by 1:00 p.m. on the applicable Drawdown Date (A) the proceeds of each Advance made by it by way of Prime Loans, Base Rate (Canada) Advances and LIBO Rate Advances, and (B) the Discount Proceeds less the applicable Acceptance Fee with respect to each Bankers' Acceptance purchased or B/A Equivalent Loan made by such Lender on that Drawdown Date.

(2) Unless otherwise expressly provided in this Agreement, the Agent shall make Advances and other payments to the Borrower under this Agreement by crediting the applicable Borrower's or US Borrower's Account (or causing the Borrower's or US Borrower's Account to be credited) with the amount of the Advance or payment not later than 3:00 p.m. on the date the Advance or payment is to be made.

### **3.14 Evidence of Obligations**

Each Lender (or the Agent acting on behalf of the Lenders) shall open and maintain accounts and records evidencing the Obligations of the Borrowers to each such Lender with respect to Advances made available by such Lender. Each Lender shall record in those accounts by appropriate entries all amounts on account of those Obligations owing to it and all payments on account thereof. Those accounts and records (or the accounts and records of the Agent acting on behalf of the Lenders) shall constitute, in the absence of manifest error, prima facie evidence of those Obligations from time to time, the date each Advance was made and the amounts that the Borrowers have paid from time to time on account of those Obligations.

### **3.15 Increase in Revolving Commitment**

In the event that the Borrower wishes to increase the Revolving Commitment by an amount of up to Cdn\$500,000,000 (the "**Incremental Revolving Facility Amount**"), the Borrower may, upon 30 days prior written notice to the Agent, request the Revolving Lenders to make the Incremental Revolving Facility Amount available to the Borrower and the US Borrowers. Upon receipt of such notice, the Agent shall provide notice to the Revolving Lenders and each of the Revolving Lenders may, at its sole discretion, elect to increase the amount of its Revolving Commitment in accordance with its Rateable Portion of the Revolving Commitment. Each

Revolving Lenders shall notify the Agent and the Borrower as soon as reasonably practicable (and in any event) within 30 days of receipt of written notice from the Borrower of the decision by such Revolving Lenders to make the Incremental Revolving Facility Amount available to the Borrower and the amount of any increase in such Lender's Revolving Commitment. If any of the Revolving Lenders decline to increase its Revolving Commitment, then the Borrower may request that any other Lender or any other financial institution acceptable to the Agent and the Swingline Lender provide all or any part of the Incremental Revolving Facility Amount (and any such additional Lender shall execute a joinder agreement to this Agreement in form and substance satisfactory to the Agent to evidence such agreement to become a Revolving Lender hereunder). Subject to the terms and conditions of this Agreement, including fulfillment of the applicable conditions set forth in Section 7.2, and to the satisfaction of any other conditions as may be required by the Agent and the Revolving Lenders, the Incremental Revolving Facility Amount shall be made available to the Borrower and the US Borrowers as part of the Revolving Commitment by the Revolving Lenders. Notwithstanding any other provision of this Agreement, an amendment agreement or other document giving effect to the Incremental Revolving Facility Amount shall not require the consent of Revolving Lenders other than those participating in the increase and the Agent. For greater certainty, the Borrower may make one or more requests for an increase to the Revolving Commitment pursuant to this Section 3.15.

## **SECTION 4 - INTEREST, FEES AND EXPENSES**

### **4.1 Interest on Prime Loans**

(1) **Rate.** The relevant Borrower shall pay interest on (i) each Prime Loan, at a rate per annum equal to the Prime Rate plus the Applicable Margin; (ii) each Base Rate (Canada) Advance, at a rate per annum equal to the Base Rate (Canada) plus the Applicable Margin; and (iii) each LIBO Rate Advance, at a rate per annum equal to the LIBO Rate plus the Applicable Margin.

(2) **Change in Rate.** Each change in the fluctuating interest rate applicable to each Prime Loan or Base Rate (Canada) Advance shall take place simultaneously with the corresponding change in the Prime Rate or Base Rate (Canada), as applicable, without the necessity for any notice to the Borrowers.

(3) **Calculation.** (i) **Prime Loans.** Interest on Prime Loans shall be payable monthly in arrears on every Interest Payment Date and, in respect of each Credit Facility, on the applicable Maturity Date of such Credit Facility for the period from and including, as the case may be, the Drawdown Date, the Conversion Date or the immediately preceding Interest Payment Date to but excluding the first-mentioned Interest Payment Date or the applicable Maturity Date, as applicable, and shall be calculated on a daily basis on the principal amount of the Prime Loans remaining unpaid. All computations of interest in respect of Prime Loans shall be made by the Agent on the basis of the actual number of days elapsed in the period in which such interest is payable and based on a year of 365 days or 366 days, as applicable.

(ii) **Base Rate (Canada) Advances.** Interest on Base Rate (Canada) Advances shall be payable monthly in arrears on every Interest Payment Date and, in respect of each Credit Facility, on the applicable Maturity Date of such Credit Facility for the period from and including, as the case may be, the Drawdown Date, the Conversion Date or the immediately preceding Interest Payment Date to but excluding the first-mentioned Interest Payment Date or the applicable Maturity Date, as

applicable, and shall be calculated on a daily basis on the principal amount of the Base Rate (Canada) Advances remaining unpaid. All computations of interest in respect of Base Rate (Canada) Advances shall be made by the Agent on the basis of the actual number of days elapsed in the period in which such interest is payable and based on a year of 365 days or 366 days, as applicable.

(iii) **LIBO Rate Advances.** Interest on LIBO Rate Advances shall be calculated and payable (i) on the last day of the first three months, if any, of each applicable LIBO Interest Period, and on the last day of each subsequent period of three months thereafter, if any, of the applicable LIBO Interest Period, and (ii) on the last day of applicable LIBO Interest Period. All computations of interest in respect of LIBO Rate Advances shall be made by the Agent on the basis of the actual number of days elapsed in the period in which such interest is payable and based on a year of (y) 360 days in the case of LIBO Rate Advances denominated in U.S. Dollars or Euros, and (z) 365 days in the case of LIBO Rate Advances denominated in Sterling.

#### **4.2 Fees on Bankers' Acceptances**

Upon acceptance of a Bankers' Acceptance (or making of a B/A Equivalent Loan) by a Lender, the relevant Borrower shall pay to the Agent for the account of such Lender a fee (the "**Acceptance Fee**") calculated on the face amount of the Bankers' Acceptance (or undiscounted amount of such B/A Equivalent Loan) at a rate per annum equal to the Applicable Margin. All computations of Acceptance Fees shall be made by the Agent on the basis of the number of days in the Contract Period for the Bankers' Acceptance or B/A Equivalent Loan, and a year of 365 days.

#### **4.3 Commitment Fees**

(1) **Revolving Commitment Fee.** Subject to Section 11.16, on the first Business Day following each financial quarter during the term of the Revolving Facility and on the Maturity Date in respect of the Revolving Facility (each a "**Commitment Fee Payment Date**"), the Borrower shall pay in arrears to the Agent for the account of the Revolving Lenders, a non-refundable commitment fee in Canadian dollars (the "**Revolving Commitment Fee**") on the amount of the uncanceled and unutilized portion of the Revolving Commitment (other than the Revolving Commitment of the Swingline Lender) for the immediately preceding financial quarter at a rate per annum equal to the Applicable Margin. Such fee shall be distributed to the Revolving Lenders (other than any Defaulting Lenders and the Swingline Lender) on a rateable basis based on the proportion that each Revolving Lender's (other than the Swingline Lender) unused Revolving Commitment bears to the total unused Revolving Commitment (disregarding the Revolving Commitment of any Defaulting Lenders).

(2) **Calculation of the Revolving Commitment Fee.** The Revolving Commitment Fee shall be payable for the period from and including the date of the last Commitment Fee Payment Date to but excluding the next Commitment Fee Payment Date or the Maturity Date in respect of the Revolving Facility, as applicable, and shall be calculated on a daily basis on the uncanceled and unutilized portion of the Revolving Commitment (other than the Revolving Commitment of the Swingline Lender) in effect from time to time. All computations of the Revolving Commitment Fee shall be made by the Agent on the basis of the actual number of days elapsed and a year of 365 days.

(3) Swingline Lender Commitment Fee. Subject to Section 11.16, on each Commitment Fee Payment Date, the Borrower shall pay in arrears to the Swingline Lender directly a non-refundable commitment fee in Canadian dollars (the “**Swingline Lender Commitment Fee**”, and together with the Revolving Commitment Fee, the “**Commitment Fees**”) on the amount equal to the difference between the uncanceled and unutilized portion of the Revolving Commitment of the Swingline Lender and the amount of the outstanding Swingline Advances for the immediately preceding financial quarter at a rate per annum equal to the Applicable Margin.

(4) Calculation of the Swingline Lender Commitment Fee. The Swingline Lender Commitment Fee shall be payable for the period from and including the date of the last Commitment Fee Payment Date to but excluding the next Commitment Fee Payment Date or the Maturity Date in respect of the Revolving Facility, as applicable, and shall be calculated on a daily basis on the amount equal to the difference between the uncanceled and unutilized portion of the Revolving Commitment of the Swingline Lender in effect from time to time and the amount of the outstanding Swingline Advances. All computations of the Swingline Lender Commitment Fee shall be made by the Swingline Lender on the basis of the actual number of days elapsed and a year of 365 days.

#### **4.4 Applicable Margins.**

The Applicable Margin with respect to any type of Advance or Commitment Fee, shall be the rates found in the relevant column for such type of Advance or Commitment Fee, and shall be selected from the relevant row in such column based on the higher of the senior unsecured debt rating of the Borrower as quoted by Moody’s or DBRS, as applicable, at the time of determination. If only one of such ratings is unavailable, then the Applicable Margin shall be selected by reference to the one available rating. If neither of such ratings is available, then the Applicable Margin selected shall be the highest Applicable Margin set out on the matrix (i.e.: Level 6). The Borrower shall use commercially reasonable efforts to maintain a senior unsecured debt rating from Moody’s and DBRS.

Any adjustment to the Applicable Margins shall be calculated with effect from and as of the publication date of any change to the applicable ratings, provided that in the case of an Advance by way of Bankers’ Acceptance, any adjustment to the Acceptance Fee shall be computed based on the number of days remaining in the Contract Period of such Bankers’ Acceptances from and including the effective date of any change in the Applicable Margin. Any increase in such Acceptance Fee shall be paid by the Borrower or any US Borrower, as the case may be, to the Agent on the last day of the Contract Period of the relevant Bankers’ Acceptance. Any decrease in such Acceptance Fee shall be paid by each applicable Lender to the Agent for the account of the Borrower or any US Borrower, as the case may be, on the last day of the Contract Period of the relevant Bankers’ Acceptance. The Borrower shall notify the Agent promptly of the publication date of any change to such ratings.

[REDACTED]

#### **4.5 Interest on Overdue Amounts**

[REDACTED]

#### 4.6 Interest Act

For purposes of the *Interest Act* (Canada), whenever any interest or fee under this Agreement is calculated using a rate based on a number of days less than a full year, such rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by the number of days based on which such rate is calculated. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement. The rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

#### 4.7 Limit on Rate of Interest

(1) **Adjustment.** If any provision of this Agreement or any of the other Documents would obligate any of the Borrowers to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by that Lender of interest at a criminal rate (as construed under the Criminal Code (Canada)), then notwithstanding that provision, that amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or result in a receipt by that Lender of interest at a criminal rate, the adjustment to be effected, to the extent necessary, as follows:

- (a) firstly, by reducing the amount or rate of interest required to be paid to the affected Lender under this Section 4; and
- (b) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the affected Lender which would constitute interest for purposes of Section 347 of the Criminal Code (Canada).

(2) **Reimbursement.** Notwithstanding Section 4.8(1), and after giving effect to all adjustments contemplated thereby, if any Lender shall have received an amount in excess of the maximum permitted by the Criminal Code (Canada), then each of the Borrowers shall be entitled, by notice in writing to the affected Lender, to obtain reimbursement from that Lender in an amount equal to the excess, and pending reimbursement, the amount of the excess shall be deemed to be an amount payable by that Lender to such Borrower.

(3) **Actuarial Principles.** Any amount or rate of interest referred to in this Section 4.7 shall be determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any Advance remains outstanding on the assumption that any charges, fees or expenses that fall within the meaning of interest (as defined in the Criminal Code (Canada)) shall, if they relate to a specific period of time, be pro-rated over that period of time and otherwise be pro-rated over the period from the date of the Original Credit Agreement to the Maturity Date and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Agent shall be conclusive for the purposes of that determination.

#### 4.8 Change in Circumstances

(1) **Reduction in Rate of Return.** If at any time any Lender determines, acting reasonably, that the introduction of any Applicable Law or any change in any Applicable Law (whether or not having the force of law) or in the interpretation or application thereof after the date of this Agreement, or compliance by the Lender with any direction, requirement, guidelines or policies or request from any regulatory authority given after the date of this Agreement, whether or not having the force of law, has or would have, as a consequence of the Lender's obligation under this Agreement, and taking into consideration the Lender's policies with respect to capital adequacy, the effect of reducing the rate of return on the Lender's capital to a level below that which the Lender would have achieved but for the change or compliance, then from time to time, upon demand of the Lender, each Borrower for itself only shall pay the Lender such additional amounts as shall compensate the Lender for the reduction.

(2) **Taxes, Reserves, Capital Adequacy, etc.** If, after the date of this Agreement, the introduction of any Applicable Law or any change or introduction of a change in any Applicable Law (whether or not having the force of law) or in the interpretation or application thereof by any court or by any Governmental Authority, central bank or other authority or entity charged with the administration thereof, or any change in the compliance of any Lender therewith now or hereafter:

- (a) subjects any Lender to, or causes the withdrawal or termination of a previously granted exemption with respect to, any Tax, or changes the basis of taxation, or increases any existing Tax, on payments of principal, interest, fees or other amounts payable by any of the Borrowers to the Lender under or by virtue of this Agreement (except for Excluded Taxes);
- (b) imposes, modifies or deems applicable any reserve, special deposit, deposit insurance or similar requirement against assets held by, or deposits in or for the account of, or loans by or any other acquisition of funds by, an office of any Lender in respect of any Advance or any other condition with respect to this Agreement;
- (c) imposes on a Lender or expects there to be maintained by a Lender any additional capital or liquidity in respect of the Credit Facility; or
- (d) imposes any Tax on reserves or deemed reserves with respect to the undrawn portion of the Commitment of any Lender;

and the result of any of the foregoing, in the sole determination of such Lender acting reasonably, shall be to increase the cost to, or reduce the amount received or receivable by such Lender or its effective rate of return in respect of making, maintaining or funding an Advance hereunder (or of maintaining its obligation to make an Advance hereunder), upon becoming aware of such event, such Lender shall notify the Borrowers and the Lender shall, acting reasonably, determine that amount of money for each of the relevant Borrowers which shall compensate the Lender for the increase in cost or reduction in income.

(3) **Payment of Additional Compensation.** Upon a Lender having determined that it is entitled to compensation in accordance with the provisions of this Section 4.8 ("**Additional Compensation**"), the Lender shall promptly so notify the Agent and the Borrower and shall

provide to the Agent and the Borrower a photocopy of the relevant Applicable Law or request, as applicable, and a certificate of an officer of the Lender setting forth the Additional Compensation and the basis of calculation thereof, which shall be conclusive evidence of the Additional Compensation in the absence of manifest error. The relevant Borrower shall pay to the Lender within 30 Business Days of the giving of notice the Additional Compensation for the account of the Lender accruing from the date of the notification. The Lender shall be entitled to be paid Additional Compensation from time to time to the extent that the provisions of this Section 4.8 are then applicable notwithstanding that the Lender has previously been paid Additional Compensation.

(4) **Commercially Reasonable.** If it is commercially reasonable in the opinion of a Lender receiving Additional Compensation under this Section 4.8, the Lender shall make reasonable efforts to limit the incidence of that Additional Compensation, including seeking recovery for the account of the relevant Borrower following the relevant Borrower's request and at the relevant Borrower's expense, if the Lender, in its sole determination, would suffer no appreciable economic, legal, regulatory or other disadvantage as a result.

(5) **Change in Law.** For purposes of this Agreement, the "introduction of any Applicable Law" or a "change in any Applicable Law" shall mean the occurrence, after the date of this Agreement, of any of the following, (a) the adoption or taking effect of any Applicable Law, (b) any change in any Applicable Law or in the administration, interpretation or application thereof by any Governmental Authority, or (c) the making or issuance of any Applicable Law by any Governmental Authority, provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the Canadian, United States of America or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "change in Applicable Law", regardless of the date enacted, adopted or issued.

(6) **LIBO Disruption/Circumstances Requiring Canadian Dollar Advances.** If, in connection with any U.S. Dollar denominated Advance, Sterling denominated Advance or Euro denominated Advance, as applicable, a Lender determines in good faith and notifies the Borrower and the Agent that (i) by reason of circumstances affecting financial markets inside or outside Canada, deposits of U.S. Dollars, Sterling or Euros, as applicable, are unavailable to such Lender; (ii) adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided in the definition of LIBO Rate; (iii) the making or continuation of any U.S. Dollar denominated Advance, Sterling denominated Advance or Euro denominated Advance, as applicable, has been made impracticable (y) by the occurrence of a contingency (other than a mere increase in rates payable by such Lender to fund the Advances) which adversely affects the funding of thereof at any interest rate computed on the basis of the LIBO Rate, or (z) by reason of a change since the date of this Agreement in any Applicable Law or in the interpretation thereof by any Governmental Authority which affects such Lender and which results in the LIBO Rate no longer representing the effective cost to such Lender of deposits in such market; or (iv) any change in Applicable Law has made it unlawful for such Lender to make or maintain or to give effect to its obligations in respect of U.S. Dollar denominated Advances, Sterling denominated Advances or Euro denominated Advances, as applicable as contemplated hereby, then:

- (a) the right of the Borrower or any US Borrower to select any such type of Advance from such Lender shall be suspended from the date of such notice thereof by such Lender to the Agent until such Lender determines, and has given notice of such determination to the Agent, that the circumstances causing the suspension no longer exist (which it shall do as soon as practicable thereafter);
- (b) if any such type of Advance is not yet outstanding, any applicable Notice of Borrowing shall be suspended in respect of such Lender from the date of notice thereof by such Lender to the Agent until such Lender determines, and has given notice of such determination to the Agent, that the circumstances causing the suspension no longer exist (which it shall do as soon as practicable thereafter);
- (c) if any such type of Advance is already outstanding at any time when the right of the Borrower or any US Borrower to select such type of Advance is suspended, it and all other applicable Advances of such type shall be converted automatically into (i) a Base Rate (Canada) Advance in respect of any applicable LIBO Rate Advance denominated in U.S. Dollars on the last day of the then current LIBO Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) in a principal amount equal to the amount of such LIBO Rate Advance (or, if at such time the right of the Borrower to select a Base Rate (Canada) Advance is suspended, then any such LIBO Rate Advance denominated in U.S. Dollars shall be converted automatically into a Prime Loan on the last day of the then current LIBO Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) in a principal amount equal to the Equivalent Amount in Canadian Dollars of such LIBO Rate Advance determined on the date of conversion thereof; and (ii) Prime Loan in respect of any other LIBO Rate Advance on the last day of the then current LIBO Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) in a principal amount equal to the Equivalent Amount in Canadian Dollars of such LIBO Rate Advance determined on the date of conversion thereof; and
- (d) if any relevant Base Rate (Canada) Advance is already outstanding at any time when the right of the Borrower or any US Borrower to select Base Rate (Canada) Advances is suspended, it and all other Base Rate (Canada) Advances shall be converted automatically into a Prime Loan as soon as possible thereafter on a date fixed by the Agent, notice of which shall promptly be given to the Borrower and the US Borrowers, as the case may be, in a principal amount equal to the Equivalent Amount in Canadian Dollars of such Base Rate (Canada) Advance determined on the date of conversion thereof.

(7) ***Effect of Benchmark Transition Event***

(i) **Benchmark Replacement**. Notwithstanding anything to the contrary herein or in any other Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, the Agent and the Borrower may amend this Agreement to establish an alternate rate of interest to the Libor rate with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5<sup>th</sup>) Business Day

after the Agent has posted such proposed amendment to all Lenders and the Borrower so long as the Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders accept such amendment. No replacement of the Libor rate with a Benchmark Replacement pursuant to this Section 4.8(7) will occur prior to the applicable Benchmark Transition Start Date.

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

(iii) **Notices; Standards for Decisions and Determinations**. The Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Agent or Lenders pursuant to this Section 4.8(7), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 4.8(7).

(iv) **Benchmark Unavailability Period**. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (a) any conversion request requesting to convert or continue any Advance as a LIBO Rate Advance will be ineffective and (b) any outstanding LIBO Rate Advance shall be converted automatically into a Base Rate Advance on the last day of the then current LIBO Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) in a principal amount equal to the amount of such LIBO Rate Advance.

#### **4.9 Payment of Portion**

Notwithstanding any other term or condition of this Agreement, if a Lender gives the notice provided for in Section 4.8 with respect to any Advance (an "**Affected Borrowing**"), the relevant Borrower may, at its option, upon 30 Business Days' notice to the Agent and that Lender (which notice shall be irrevocable), repay to the Lender in full the Affected Borrowing outstanding together with accrued and unpaid interest on the principal amount so repaid up to the date of repayment, together with such Additional Compensation as may be applicable to the date of payment and the applicable Commitment of such Lender shall be cancelled.

#### 4.10 Illegality

If any Applicable Law, or any change therein or in the interpretation or application thereof by any court or by any Governmental Authority or central bank or comparable agency or any other entity charged with the interpretation or administration thereof, or compliance by any Lender with any request or direction (whether or not having the force of law) of any Governmental Authority, central bank or comparable agency or other entity, now or hereafter makes it unlawful or impossible for the Lender to make, fund or maintain an Advance or to perform its obligations under or by virtue of this Agreement, the Lender may, by written notice thereof to the Agent and the relevant Borrower terminate its obligations to make further Advances under this Agreement, and the relevant Borrower, if required by the Lender, shall repay forthwith (or at the end of such longer period if so permitted by such event or as the Lender in its discretion has agreed) the principal amount of the Advance together with accrued interest without penalty or bonus (and in the case of Bankers' Acceptances or B/A Equivalent Loans, the face amount or undiscounted amount, as the case may be, thereof) and such Additional Compensation as may be applicable to the date of payment and all other outstanding Obligations to the Lender. If any change shall only affect a portion of any Lender's obligations under this Agreement which is, in the opinion of the Lender, severable from the remainder of this Agreement so that the remainder of this Agreement may be continued in full force and effect without otherwise affecting any of the obligations of the Lender or the relevant Borrower under this Agreement, the Lender shall only declare its obligations under that portion so terminated.

### SECTION 5 - REDUCTION AND REPAYMENT

#### 5.1 Term and Maturity

- (1) The term of each Credit Facility shall end on the Maturity Date.
- (2) By notice in writing to the Agent given at any time which is no later than 90 days prior to the then current Maturity Date, but not more than once in any calendar year, the Borrower may request each Lender to extend the Maturity Date of the Revolving Facility in respect of each Lender for an additional period of one year. The Agent shall immediately advise each Lender of the requested extension.
- (3) Each Lender shall advise the Agent in writing as to whether it consents to such requested extension within 30 days of receipt by the Agent from the Borrower of the notice requesting such extension. If any Lender does not provide such notice within such time, such Lender shall be deemed to have refused the extension. Not more than 3 Business Days following (i) the last day for receipt by the Agent of such notices; or (ii) if all of the Lenders shall have provided such notice, the day on which the last of such notices shall have been received by the Agent, the Agent shall advise the Borrower and each Lender, with respect to each such Lender, whether such Lender has consented to the extension of the Maturity Date requested by the Borrower pursuant to this Section or has refused, or is deemed to have refused, such extension.
- (4) In accordance with this Section, each Lender consenting to an extension of the Maturity Date (a "**Consenting Lender**") may offer, at such Consenting Lender's sole discretion, to acquire all or any portion of the Commitment and the Advances Outstanding of each Lender which has not consented to such extension (in this Section 5.1, each a "**Non-Consenting Lender**") by giving

written notice to the Agent of the portion of the Commitment of each Non-Consenting Lender (each a “**Non-Consenting Lender’s Commitment**”) and Advances Outstanding which such Consenting Lender is prepared to acquire. Such notice shall be given not more than five (5) Business Days following receipt by such Consenting Lender of the notice given by the Agent pursuant to Section 5.1(3). If more than one Consenting Lender gives notice to the Agent that it wishes to acquire all or a portion of the outstanding Non-Consenting Lender’s Commitments and Advances Outstanding, then, to the extent that the amount of such Non-Consenting Lender’s Commitments and Advances Outstanding which such Consenting Lenders wish to acquire exceeds the amount of the Non-Consenting Lender’s Commitments and Advances Outstanding, each of the Consenting Lenders shall be deemed to have offered to acquire its rateable portion (determined on a pro rata basis by the Agent according to the respective amounts of such Non-Consenting Lender’s Commitments and Advances Outstanding which such Consenting Lenders have indicated in such notices that they wish to acquire) of the Non-Consenting Lender’s Commitments and Advances Outstanding. The Agent shall give written notice of any such offer to the Borrower within 3 Business Days following the expiry of the time for the Consenting Lenders to give notice of their offer to acquire, pursuant to this Section, of any portion of the Non-Consenting Lender’s Commitments and Advances Outstanding.

(5) If the Consenting Lenders have not offered to acquire all of the Non-Consenting Lender’s Commitments and Advances Outstanding, then the Borrower may arrange for one or more other financial institutions (each, a “**Substitute Lender**”) to offer to acquire the balance of such Non-Consenting Lender’s Commitments and Advances Outstanding, subject only to the consent of the Agent and the Swingline Lender pursuant to Section 13.1(4).

(6) If one or more of the Consenting Lenders or Substitute Lenders (each, an “**Acquiring Lender**”) has given notice to the Agent that it offers to acquire all or a portion of a Non-Consenting Lender’s Commitment and Advances Outstanding pursuant to Section 5.1(4) or 5.1(5), the Agent shall be obligated to accept such offer by giving notice to each of the Acquiring Lenders setting out the amount of the Non-Consenting Lender’s Commitments and Advances Outstanding to be acquired by each of the Acquiring Lenders in accordance with Section 5.1(4) or 5.1(5) and of the date (the “**Acquisition Date**”) on which the acquisition shall be effective. At or before 10:00 a.m. (Toronto time) on the Acquisition Date, each of the Acquiring Lenders shall deposit with, or transfer to, the Agent at its specified office for the account of the Non-Consenting Lender an amount equal to the amount of the Advances Outstanding to be acquired by it pursuant to this Section, together with accrued and unpaid interest and fees thereon and all other amounts payable to such Non-Consenting Lender (and each of the Consenting Lender’s Commitments should be deemed to be so increased accordingly). Upon receipt of such amounts, the Agent shall disburse such amount to the Non-Consenting Lender against payment of the processing fee contemplated in Section 13.1(4)(f) and delivery of an Assignment and Assumption Agreement. Any Non-Consenting Lender whose Non-Consenting Lender’s Commitment and Advances Outstanding are to be assumed by an Acquiring Lender shall execute all such documents (including an Assignment and Assumption Agreement) as may be reasonably required by the Agent, the Borrower, the Acquiring Lender and any other Person pursuant to Section 13.1(6) to effect such assignment and assumption.

(7) Subject as provided in Section 5.1(8), in the event that the Borrower has requested an extension of the Maturity Date pursuant to Section 5.1(2), and (i) such extension has been agreed

to by all Lenders, then the Maturity Date in respect of each such Lender shall be extended for a period of 365 days; or (ii) such extension has been consented to by some, but not all, of the Lenders, then at the option of the Borrower (A) the Borrower may elect not to extend the Maturity Date with respect to any Lender; or (B) with respect to the Consenting Lenders, the Maturity Date in respect of each such Consenting Lender shall be extended for a period of one year and with respect to the Non-Consenting Lenders, at the option of the Borrower, (y) the Maturity Date in respect of each such Non-Consenting Lender shall not be extended and the Borrower shall on the Maturity Date repay all Advances Outstanding of such Non-Consenting Lender under the Revolving Facility and thereupon reduce such Non-Consenting Lender's Commitment to nil, all without affecting the Lender's Commitment of any other Lender, or (z) the Borrower may repay in full the Advances Outstanding to all Non-Consenting Lenders and the Commitment of each such Non-Consenting Lender shall be permanently cancelled. In the event that the Non-Consenting Lender is the Swingline Lender, (i) the Borrowers shall repay all outstanding Swingline Advances to such Swingline Lender concurrently with the repayments required in clause (ii)(y) above; and (ii) the Borrower shall be permitted to replace such Swingline Lender with another Lender that is a Consenting Lender that has agreed to become the Swingline Lender. The Maturity Date in respect of the Swingline Facility shall be deemed to correspond to the Maturity Date applicable to the Lender that is the Swingline Lender for purposes of this Agreement.

(8) Where the aggregate of the Non-Consenting Lender's Commitments which Acquiring Lenders have not agreed to acquire pursuant to Section 5.1(4) or 5.1(5), as the case may be, exceeds 33 1/3% of the aggregate amount of the Commitment, then the agreements contemplated by Section 5.1(6) and Section 5.1(7) shall not be effective, the transactions for the acquisition and sale of the Non-Consenting Lender's Advances Outstanding shall not take place, and the Maturity Date shall not be extended in respect of any Lender.

The extension of the Maturity Date in respect of any Lender is subject to the conditions precedent that (i) the representations and warranties in Section 2.1 are true and correct in all material respects as if they were made on the date specified in Section 2.1, except representations and warranties which relate to an earlier date, which shall be true and correct in all material respects as of such date; and the extension of the Maturity Date shall be deemed to constitute a representation and warranty that on such date such representations and warranties are true and correct; (ii) no Default or Event of Default has occurred and is continuing; and (iii) payment of an extension fee to each Lender that has agreed to extend the Maturity Date in respect of such Lender in an amount agreed to by the Lenders and the Borrower.

## **5.2 Repayment**

Subject to Section 9, all Advances and all other amounts outstanding under each Credit Facility, including principal, interest and fees and the full face amount of all Bankers' Acceptances and undiscounted amount of all B/A Equivalent Loans shall be paid, and such Credit Facility shall be cancelled, on the Maturity Date in respect of such Credit Facility.

## **5.3 Mandatory Repayment**

(1) **Overadvances.** If, for any reason whatsoever, the principal amount of all outstanding Advances of any Lender shall, at any time, exceed such Lender's Commitment or Lender's Swingline Commitment, as the case may be, or the aggregate amount of all outstanding Advances

under (a) a Credit Facility shall exceed the applicable Commitment in respect of such Credit Facility, or (b) the Credit Facilities shall exceed the Total Commitment, then upon written notice from the Agent, the Borrower, any relevant US Borrower or any relevant Swingline Borrower shall, at their option:

- (a) forthwith repay Advances and/or pay such amount to the Agent and irrevocably authorize and direct the Agent to apply such payment as a repayment of the Borrower's reimbursement obligation of any outstanding Bankers' Acceptances or B/A Equivalent Loans on the next maturity date in an amount equal to or greater than the amount in excess of such Commitment; or
- (b) provide cash collateral or such other security to the Agent in an amount equal to or greater than the amount in excess of such Lender's Commitment or the relevant Commitment, as the case may be, which collateral shall remain in the Agent's possession until the principal amount of all Advances outstanding is equal to or less than the Lender's Commitment or the relevant Commitment, as the case may be, whereupon the collateral shall be released by the Agent to the Borrower or any US Borrower, as the case may be.

Each of the Borrowers on its own behalf shall, on demand, reimburse the Agent and each Lender for and hold each Lender harmless against any loss (except loss of profit), cost or expense suffered or incurred by the Agent or such Lender by virtue of the necessity to resort to this Section 5.3 including any expenses which such Lender incurs by reason of the liquidation or re-deployment of deposits or other funds acquired by such Lender to maintain its obligations under this Agreement and any interest or other charges payable to the Agent or the Lenders of funds borrowed by the Agent or such Lender in order to maintain the obligations of the Agent or such Lender under this Agreement.

#### **5.4 Cancellation**

The Borrower may at any time cancel undrawn amounts of any of the Credit Facilities without premium or penalty, in minimum aggregate amounts of Cdn\$5,000,000 and incremental multiples of Cdn\$1,000,000, by giving the Agent written notice before 10:00 a.m. five Business Days prior to the day of cancellation, substantially in the form attached as Schedule 5.4. Amounts cancelled shall not be reinstated and the applicable Commitment and Total Commitment shall be correspondingly reduced and each Lender's applicable Commitment reduced by its Rateable Portion. To the extent that the Borrower reduces the Revolving Commitment, the Swingline Commitment shall be reduced by the amount, if any, by which the Swingline Commitment exceeds the Revolving Commitment after giving effect to any such reduction of the Revolving Commitment. Any cancellation shall be irrevocable and amounts cancelled shall not be reinstated.

#### **5.5 Voluntary Prepayment**

Each of the Borrowers may, at its option, at any time and from time to time, prepay any of the Credit Facilities, in whole or in part, provided that Bankers' Acceptances and B/A Equivalent Loans may not be prepaid prior to the maturity date thereof but may be cash collateralized on terms and conditions acceptable to the Agent. Each voluntary prepayment shall be in a minimum principal amount of (i) in respect of Canadian Dollar denominated Advances, Cdn\$5,000,000 and

in an integral multiple of Cdn\$1,000; (ii) in respect of U.S. Dollar denominated Advances, U.S.\$5,000,000 and in an integral multiple of U.S.\$1,000; (iii) in respect of Sterling denominated Advances, £5,000,000 and in an integral multiple of £1,000; and (iv) in respect of Euros denominated Advances, €5,000,000 and in an integral multiple of €1,000.

## **SECTION 6 - PAYMENTS AND TAXES**

### **6.1 Payments Generally**

(1) Each Borrower shall pay all amounts owing by it in respect of the Credit Facilities, whether on account of principal, interest, fees or otherwise when the same shall be due and payable and such amounts shall be paid in the currency in which the Advance is outstanding. Each payment under this Agreement shall be made for value on the day the payment is due, provided that if that day is not a Business Day, the payment shall be due on the Business Day next following the day, unless the Business Day next following the day is in the next following month, in which event the payment shall be made on the immediately preceding Business Day. All interest and other fees shall continue to accrue until payment has been received by the Agent. All payments in respect of Advances shall be made in the currency of such Advance.

(2) The Borrower shall provide 1 Business Day's prior written notice to the Agent and the Lenders of all principal prepayments and repayments to be made under any Credit Facility (other than the Swingline Facility), including, pursuant to Section 5.3 and Section 5.5. All payments to be made by any of the Borrowers shall be made without condition or deduction for any counterclaim, defense, recoupment or set-off. Unless otherwise expressly provided in this Agreement, each of the Borrowers shall (i) make any payment required to be made by it to the Agent or a Lender by depositing the amount of the payment to the Borrower's or US Borrower's Account or the relevant Swingline Borrower's account with the Swingline Lender, as the case may be, not later than 10:00 a.m. (Toronto time) on the date the payment is due, and (ii) with respect to any repayment or prepayment under any Credit Facility (other than the Swingline Facility), provide to the Agent, 1 Business Day (or such shorter period as agreed to by the Agent) prior to such repayment or prepayment, a notice of repayment which shall be irrevocable and binding on such Borrower and shall specify (x) the Credit Facility to be repaid or prepaid, (y) the date of repayment, and (z) the type and amount of the Advance to be repaid. The Agent shall distribute to each applicable Lender, promptly on the date of receipt by the Agent of any payment, an amount equal to the amount then due such Lender. If the distribution is not made on that date, the Agent shall pay interest on the amount for each day, from the date the amount is received by the Agent until the date of distribution, at the prevailing interbank rate for late payments. Any amount received by the Agent for the account of the Lenders shall be held in trust for their benefit until a distribution is made.

(3) Unless otherwise expressly provided in this Agreement, the Agent shall make Advances and other payments to the Borrower under this Agreement by crediting the applicable Borrower's or US Borrower's Account (or causing the Borrower's or US Borrower's Account to be credited) with the amount of the payment not later than 3:00 p.m. on the date the payment is to be made.

(4) Each of the Borrowers authorizes each Lender, if and to the extent payment owed to such Lender by such Borrower is not made to the Agent or such Lender when due, to charge from time to time any due amount against any or all of such Borrower's accounts with such Lender.

## 6.2 Taxes

(1) **Payments.** All payments to be made by or on behalf of any of the Borrowers under or with respect to this Agreement are to be made free and clear of and without deduction or withholding for, or on account of, any present or future Taxes, unless such deduction or withholding is required by Applicable Law. If any of the Borrowers is required to deduct or withhold any Taxes from any amount payable to the Agent or any Lender (A) the amount payable shall be increased as may be necessary so that, after making all required deductions or withholdings (including deductions and withholdings applicable to, and taking into account all Taxes on, or arising by reason of the payment of, additional amounts under this Section 6.2), the Agent or the Lender receives and retains an amount equal to the amount that it would have received had no such deductions or withholdings been required, (B) each of the Borrowers shall make such deductions or withholdings, and (C) each of the Borrowers shall remit the full amount deducted or withheld to the relevant taxing authority in accordance with Applicable Laws. Notwithstanding the foregoing, none of the Borrowers shall be required to pay additional amounts in respect of Excluded Taxes.

(2) **Indemnity.** Each of the Borrowers shall indemnify the Lenders for the full amount of any Taxes (other than Excluded Taxes) imposed by any jurisdiction on amounts payable by any of the Borrowers under this Agreement and paid by the Agent or any Lender and any liability (including penalties, interest and reasonable expenses) arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally asserted, and any Taxes levied or imposed with respect to any indemnity payment made under this Section 6.2. Each of the Borrowers shall also indemnify the Agent or any Lender for any Taxes (other than Excluded Taxes) that may arise as a consequence of the execution, sale, transfer, delivery or registration of, or otherwise with respect to this Agreement or any other Document. The indemnifications contained in this Section 6.2(2) shall be made within 30 days after the date the Agent or the Lender makes written demand therefor.

(3) **Evidence of Payment.** Within 30 days after the date of any payment of Taxes by any of the Borrowers, such Borrower shall furnish to each Lender the original or a certified copy of a receipt evidencing payment by such Borrower of any Taxes with respect to any amount payable to the Lenders hereunder.

(4) **Status of Lenders.** Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under this Agreement shall deliver to the Borrowers and the Agent, at the time or times reasonably requested by any Borrower or the Agent, such properly completed and executed documentation reasonably requested by any Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by any Borrower or the Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by any Borrower or the Agent as will enable the applicable Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

- (a) Without limiting the generality of the foregoing, in the event that the applicable Borrower is a U.S. Borrower or upon reasonable request from any Borrower,
  - (i) any Lender that is a U.S. Person shall deliver to the applicable Borrower and the Agent on or about the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable

request of the applicable Borrower or the Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

- (ii) Each Lender that is not a “United States person” within the meaning of Section 7701(a)(30) of the US Revenue Code (a “**Foreign Lender**”) shall, to the extent it is legally entitled to do so, deliver to the applicable Borrower and the Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the applicable Borrower or the Agent), whichever of the following is applicable:
  - (A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under this Agreement, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;
  - (B) executed copies of IRS Form W-8ECI;
  - (C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the US Revenue Code, (x) a certificate substantially in the form of Exhibit A-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the US Revenue Code, a “10 percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the US Revenue Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the US Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or
  - (D) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit A-2 or Exhibit A-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate

substantially in the form of Exhibit A-4 on behalf of each such direct and indirect partner;

- (iii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the applicable Borrower and the Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the applicable Borrower or the Agent), executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the applicable Borrower or the Agent to determine the withholding or deduction required to be made; and
- (b) if a payment made to a Lender under this Agreement would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the US Revenue Code, as applicable), such Lender shall deliver to the applicable Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the applicable Borrower or the Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the US Revenue Code) and such additional documentation reasonably requested by the applicable Borrower or the Agent as may be necessary for the applicable Borrower and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (iv), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.
- (c) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

(5) **Excluded Taxes.** For the purpose of Section 4.8(2)(a) and this Section 6.2, "**Excluded Taxes**" means, in relation to any Lender, (I) any Taxes imposed on the net income or capital of the Lender by any Governmental Authority as a result of the Lender (A) carrying on a trade or business or having a permanent establishment in any jurisdiction or political subdivision thereof, (B) being organized under the laws of such jurisdiction or any political subdivision thereof, or (C) being or being deemed to be resident in such jurisdiction or political subdivision thereof, (II) U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to this Agreement pursuant to a law in effect on the date on which (A) such Lender acquires such interest under this Agreement (other than pursuant to an assignment request by any Borrower under Section 13.1(2)) or (B) such Lender changes its lending office, except in each case to the extent that, pursuant to this Section 6.2, amounts with respect to such Taxes were payable either

to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (III) any Taxes attributable to such Lender's failure to comply with Section 6.2(4) and (IV) any withholding Taxes imposed under FATCA.

(6) **Survival.** Each party's obligations under this Section 6.2 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender, the termination of this Agreement or a Commitment and the repayment, satisfaction or discharge of all obligations under this Agreement.

### **6.3 Application of Payments Before Exercise of Rights**

Subject to the provisions of this Agreement, all payments received by the Agent from or on behalf of any of the Borrowers and not previously applied pursuant to this Agreement, before the exercise of any rights arising under Section 9.2, shall be applied by the Agent in the following order:

- (a) firstly, in payment of any amounts due and payable as and by way of recoverable expenses hereunder;
- (b) secondly, in payment of any interest, other fees, or default interest then due and payable on or in respect of the Advances;
- (c) thirdly, in repayment of any principal amounts of the Advances; and
- (d) fourthly, in payment of any other amounts then due and payable by the Borrower hereunder or in connection herewith.

## **SECTION 7 - CONDITIONS PRECEDENT**

### **7.1 Conditions Precedent to Effectiveness of this Agreement**

This Agreement shall become effective upon the satisfaction of the following conditions:

(1) **Delivery of Documents.** The Agent and each Lender shall have received its copy, in form and substance satisfactory to it, of the following:

- (a) this Agreement duly executed by all the parties thereto;
- (b) an unconditional guarantee granted by the Borrower (and not by any Swingline Borrower or the US Borrowers) of the obligations of each of the Swingline Borrowers and the US Borrowers under this Agreement and the other Documents to which such Swingline Borrower or US Borrower is a party granted by the Borrower;
- (c) a certificate of an officer of each of the Borrowers dated the date of this Agreement certifying:
  - (i) the names and the specimen signatures of the Persons authorized to sign this Agreement and the other Documents to be executed and delivered by it under this Agreement;

- (ii) that its constating documents, which shall be attached thereto (or were attached in the past), are complete and correct copies and that the constating documents have not been amended, modified or supplemented and are in full force and effect;
  - (iii) its resolution and all other authorizations necessary to authorize the execution and delivery of and the performance by it of its obligations under this Agreement and the other Documents to which it is a party and all the transactions contemplated thereby;
  - (iv) all requisite consents and approvals of third parties and Governmental Authorities shall have been obtained, including all consents and approvals required in relation to the Credit Facilities, and shall be in full force and effect; and
  - (v) the representations and warranties contained in Section 2.1 are true and correct in all material respects as if made on such date (except where made only as of an earlier date or as disclosed to and accepted by the Required Lenders), and (z) no Default or Event of Default has occurred and is continuing;
- (d) an opinion of Blake, Cassels & Graydon LLP, Canadian counsel to the Borrower, addressed to the Agent and the Lenders with respect to, *inter alia*, existence and power of the Borrower and the US Borrowers (as to enforceability of this Agreement) and authorization, execution, delivery and enforceability of this Agreement;
  - (e) an opinion of Skadden, Arps, Slate, Meagher & Flom LLP, counsel to the US Borrowers, addressed to the Agent and the Lenders with respect to, *inter alia*, existence and power of the US Borrowers and authorization, execution and delivery of this Agreement;
  - (f) a certificate of compliance, certificate of attestation and certificates of confirmation, as applicable, in respect of the Borrowers; and
  - (g) such other certificates and documents as the Agent may reasonably request including to satisfy requirements under ABTL Laws as well as standard documentation used by each Lender in connection with the issuance of Bankers' Acceptances prior to any Advance by way of such method.
- (2) **Fees.** All fees and other amounts payable in accordance with this Agreement and the other Documents and any non-refundable upfront fees payable to the Agent and the Lenders in accordance with arrangements made by the Borrower with the Agent and/or the Lenders on or before the date hereof shall have been paid to the Lenders.

## 7.2 Conditions Precedent to All Advances

(1) The obligations of the Lenders to make available any Advance, Rollover or Conversion are subject to and conditional upon each of the conditions below being satisfied on the applicable Drawdown Date, Rollover Date or Conversion Date:

- (a) **No Default.** No Default or Event of Default shall exist, nor shall arise immediately after giving effect to the Advance, Rollover or Conversion nor shall the Advance, Rollover or Conversion result in the occurrence of a Default or Event of Default.
- (b) **Representations Correct.** The representations and warranties contained in Section 2.1 shall be true and correct in all material respects on each Drawdown Date, Rollover Date or Conversion Date as if made on that date (except where made only as of an earlier date or as disclosed to and accepted by the Required Lenders).
- (c) **Notice of Advance.** The Borrower shall have provided any notice required in respect of an Advance, Rollover or Conversion.

(2) Each of the giving of any Borrowing Notice or request for any Rollover or Conversion by any of the Borrowers and the acceptance by any of the Borrowers of any Advance, Rollover or Conversion shall be deemed to constitute a representation and warranty by the Borrowers that, on the date of such notice or request for an Advance, Rollover or Conversion, as the case may be, and after giving effect to it and to the application of any proceeds from it, the statements set forth in Sections 7.2(1)(a), 7.2(1)(b) and 7.2(1)(c) are true and correct.

## 7.3 No Waiver

The making of an Advance, Rollover or Conversion or otherwise giving effect to any Borrowing Notice, without the fulfillment of one or more conditions set forth in Section 7.1 or Section 7.2 shall not constitute a waiver of any condition and the Agent and the Lenders reserve the right to require fulfillment of such condition in connection with any subsequent Borrowing Notice or request for any Rollover or Conversion or Advance, Rollover or Conversion.

## SECTION 8 - COVENANTS

### 8.1 Affirmative Covenants of each of the Borrowers

While any amount owing under this Agreement or any of the other Documents remains unpaid, or the Lenders have any obligations under this Agreement or any of the other Documents, the Borrower, or each Borrower, as the case may be, covenants with each Lender as follows:

- (1) **Payment.** The Borrower shall duly and punctually pay or cause to be paid all sums of money due and payable by it, any US Borrower or any Swingline Borrower under, and perform all its obligations under, this Agreement on the dates, at the places and in the manner set forth herein.
- (2) **Corporate Existence.** The Borrower shall do or cause to be done all things necessary to keep in full force and effect its existence and that of each of the other Borrowers and all rights, franchises, trademarks, licences and qualifications required for it and them to carry on their

respective businesses and own, lease or operate its and their respective properties in each jurisdiction in which it or they carry on business or own, lease or operate property or assets from time to time, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(3) **Insurance.** The Borrowers shall maintain insurance on their respective properties and assets and for the operation of their respective businesses in such amounts and against such risks as would be customarily obtained and maintained by a prudent owner of similar properties and assets operating a similar business, including appropriate liability insurance, business interruption insurance on a self-insured or third party liability basis as deemed appropriate by the Borrower, acting prudently.

(4) **Compliance with Laws, etc.** The Borrowers shall comply with all Applicable Laws and all Government Approvals required in respect of their respective businesses, properties, or any activities or operations carried out thereon, including, health, safety and employment standards, labour codes, ABTL Laws, Anticorruption Laws, Sanctions and Environmental Laws, the *Insurance Companies Act* (Canada), all requirements of OFSI and *An Act respecting Insurance* (Québec), except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(5) **Government Approvals.** The Borrowers shall obtain (to the extent not in existence on the date hereof) and maintain, by the observance and performance of all obligations thereunder and conditions thereof, all Government Approvals required for them to carry on their respective businesses, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(6) **Notice of Default or Material Adverse Effect.** The Borrower shall provide to the Agent prompt notice of the occurrence of (i) any event or circumstance (or series of events or circumstances) that could reasonably be expected to result in a Material Adverse Effect; and (ii) any Default or Event of Default of which it is aware and setting forth its details and the action taken or to be taken to remedy it.

(7) **Filings.** The Borrower shall make, and shall cause each of its Subsidiaries to make, all regulatory filings required by Governmental Authorities, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(8) **Intellectual Property.** The Borrowers shall (a) keep all agreements, registrations and applications relating to all trade-names, trademarks, copyrights and other forms of intellectual and industrial property used by them in their respective business, including, without limitation, Belair, Grey Power and OneBeacon, in good standing, (b) renew all agreements and registrations as may be necessary or desirable to protect such property, (c) continue to operate its businesses using such trade-names and trademarks, and (d) apply to register all existing and future trade-names, trademarks, copyrights and other forms of intellectual and industrial property whenever it is commercially reasonable to do so in each case, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(9) **Conduct of Business.** The Borrowers shall, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect:

- (a) conduct their business in a proper and efficient manner and keep proper books of account and records with respect to all financial transactions and their assets and the operation of their business in accordance with IFRS;
- (b) diligently maintain, repair, use and operate their property and premises in a commercially reasonable and efficient manner; and
- (c) maintain their physical assets in good condition so that each asset may be used at all times for the purpose for which they are intended.

(10) **Pay Claims and Taxes.** The Borrower shall promptly pay and discharge and shall cause each of the other Borrowers promptly to pay and discharge when due all Taxes charged to or payable by it or them and all Tax obligations which may result in Liens (other than Permitted Liens) on its properties or their or assets unless the relevant Tax or obligation is being actively and diligently contested in good faith by appropriate proceedings and is adequately reserved against in accordance with IFRS and the Agent and the Lenders are provided with acceptable security for the payment thereof, or to the extent the failure to so do could not be reasonably expected to have a Material Adverse Effect. The Borrower shall notify the Agent of each contest pursuant to the foregoing as soon as reasonably practicable upon contesting the relevant payment, Tax or obligation.

(11) **Use of Proceeds.** The Borrower shall use all proceeds of Advances solely for the purposes set out in Section 3.4.

(12) **Litigation.** The Borrower shall, except for such matters that could not be reasonably expected to have a Material Adverse Effect, (A) promptly give notice to the Agent of any pending or threatened litigation, proceeding for binding arbitration or other proceeding or dispute before any Governmental Authority, or any material development in respect thereof involving the Borrowers, (B) advise the Agent of the extent to which any adverse determination in respect of the foregoing is covered by insurance, and (C) provide all reasonable information requested by the Agent or a Lender concerning the status of any such litigation, proceeding or dispute.

(13) **Auditors.** The Borrower shall promptly give notice to the Agent of a change in its Auditors and the reasons for the change.

(14) **ABTL Laws.** The Borrowers shall provide, promptly following a request by any Lender, all documentation and other information which such Lender may reasonably request in order to comply with its ongoing obligations under ABTL Laws. The Borrowers authorize any Lender to request and obtain such information from any Person (including, for greater certainty, the *USA Patriot Act* (Title III of Pub. L. 107-56)). The Borrowers also acknowledge that pursuant to such ABTL Laws each Lender is or may be required to obtain, verify and record information which allows such Lender to identify each Borrower in accordance with said laws.

## **8.2 Negative Covenants of each of the Borrowers**

While any amount owing under this Agreement or any of the other Documents remains unpaid, or any Lender has any obligation under this Agreement or any of the other Documents, the

Borrower covenants with each Lender, unless consent is given in accordance with Section 12.1, that it shall not:

- (1) **Negative Pledge.** Assume, create or permit to exist, or permit any of its Subsidiaries to assume, create or permit to exist, any Lien, other than Permitted Liens, in respect of any of its or their respective undertakings, properties and assets, whether now owned or hereafter acquired.
- (2) **Dispositions.** [REDACTED]
- (3) **Indebtedness.** [REDACTED]
- (4) **Distributions.** Directly or indirectly, declare or make any Distribution, or set aside funds for any of the foregoing, except that (i) notwithstanding (ii) below, a Subsidiary of the Borrower may declare or make any Distributions to the Borrower or another Subsidiary of the Borrower, and (ii) provided that no Default or Event of Default shall have occurred and be continuing or would arise immediately after giving effect thereto, the Borrower and its Subsidiaries may declare and make Distributions, in cash or in shares of its capital stock (including any preferred shares), and may purchase, redeem, retire or otherwise acquire shares of its capital stock (including any preferred shares), in cash or in kind.
- (5) **Amalgamation and Merger.** Enter into, or permit any of its Subsidiaries to enter into, directly or indirectly, by operation of law or otherwise, whether in one transaction or a series of transactions, any amalgamation, merger or consolidation with, acquire all or substantially all of the assets or capital stock of, sell or lease or otherwise dispose of all or substantially all of its assets (now owned or hereafter acquired) to, or otherwise combine with or acquire, any Person, or enter into any arrangement or reorganization having a similar effect, except for (i) Permitted Acquisitions; or (ii) any such transaction among or between the Borrower and its Subsidiaries, provided such Permitted Acquisition or other transaction:
  - (i) would not result in a Material Adverse Effect,
  - (ii) would not result in a Default or Event of Default upon consummation, and
  - (iii) if involving any of the Borrowers, would result in the continuing entity arising from any such Permitted Acquisition or other transaction being liable for all the Obligations of such Borrower under this Agreement, subject to an assumption agreement, confirmation agreement and supporting legal opinion, which may be reasonably requested by the Agent, to be delivered immediately upon consummation of any such Permitted Acquisition or other transaction.
- (6) **Fundamental Change.** (a) Change, or permit any of its Subsidiaries to change, its business objectives, purposes or operations in any way which could result in a Material Adverse Effect; (b) amend, or permit any of its Subsidiaries to amend, its articles of incorporation or other constating documents in any way which could result in a Material Adverse Effect; or (c) wind-up any Pension Plan if any such winding-up could reasonably be expected to have a Material Adverse Effect.

- (7) **Material Contracts and Governmental Approvals.** (a) Cancel or terminate, or permit any of its Subsidiaries to cancel or terminate, any Material Contract or any Governmental Approval if such cancellation or termination could reasonably be expected to have a Material Adverse Effect; (b) waive, or permit any of its Subsidiaries to waive, any default or breach under any Material Contract or any Governmental Approval if such waiver could reasonably be expected to have a Material Adverse Effect; (c) amend or otherwise modify, or permit any of its Subsidiaries to amend or otherwise modify, any Material Contract or any Governmental Approval, if such amendment or modification could reasonably be expected to have a Material Adverse Effect; or (d) take, or permit any of its Subsidiaries to take, any other action in connection with any Material Contract or any Governmental Approval that could reasonably be expected to have a Material Adverse Effect.
- (8) **Investments.** [REDACTED]
- (9) **Financial Assistance.** [REDACTED]
- (10) **Fiscal Year End.** Change its Fiscal Year.
- (11) **No Impairment of Upstreaming.** Except to the extent required by OSFI, neither the Borrower nor any of its Subsidiaries shall directly or indirectly enter into, assume or be bound by any agreement or instrument that restricts or limits the ability of any of the Borrower's Subsidiaries to make dividend payments or other distributions in respect of its capital stock, to repay obligations owed to the Borrower or any of its other Subsidiaries, to make loans or advances to the Borrower or any of its other Subsidiaries, or to transfer any of its assets or properties to the Borrower or any of its other Subsidiaries, in each case other than such restrictions or encumbrances existing under or by reason of this Agreement.
- (12) **No Speculative Transactions.** Engage, or permit any of its Subsidiaries to engage, in any speculative transaction or any transaction involving commodity options, futures contracts or interest rate or currency hedging other than currency and interest rate hedging (i) consistent with prudent business and risk management or (ii) transactions made within the Borrower's Investment Portfolio.
- (13) **Margin Stock.** Use, or permit any of its Subsidiaries to use, the proceeds of any Advance for the purpose of purchasing or acquiring any stock on margin or satisfying any margin call except for stock maintained in the Investment Portfolios.
- (14) **Announcements.** Make or permit to be made by or on behalf of itself or any of its Subsidiaries any press release or other public announcement which mentions the Agent, the Co-Lead Arrangers or any Lender without the Agent, the Co-Lead Arrangers and such Lender's, as applicable, prior written consent and approval of such press release or public announcement, which written consent and approval shall not be unreasonably withheld or delayed, except as required by Applicable Law.
- (15) **Transactions with Affiliates, Directors, etc.** Enter into, or permit any of its Subsidiaries to enter into, any transaction, agreement or arrangement with any director, officer or shareholder of such Borrower or any of its Subsidiaries or any member of the immediate family of any such director, officer or shareholder, except in the ordinary course of business and on terms no more

beneficial than would be offered under current market conditions to Persons at arms' length to any such director, officer or shareholder or any such member of the immediate family.

### 8.3 Financial Covenants

While any amount owing under this Agreement or any of the other Documents remains unpaid, or the Agent or any Lender has any obligations under this Agreement or any of the other Documents, the Borrower covenants with the Agent and each Lender that it shall maintain, at such times and for such periods as specified in each case below, on a consolidated basis:

- (1) **Funded Debt to Total Capitalization Ratio.** At all times a ratio of Funded Debt to Total Capitalization on a consolidated basis of not greater than 0.35:1.00.
- (2) **Minimum Shareholders Equity.** At all times a Shareholders Equity of at least Cdn\$5,000,000,000.

### 8.4 Accounting, Financial Statements and Other Information

While any amount owing under this Agreement or any of the other Documents remains unpaid, or the Agent or any Lender has any obligations under this Agreement or any of the other Documents, the Borrower covenants with the Agent and each Lender as follows:

- (1) **General.** The Borrower and its Subsidiaries shall maintain a system of accounting established and administered in accordance with IFRS consistently applied and shall set aside on their respective books all proper reserves as IFRS shall require. The Borrower shall permit, and shall cause each member of its Subsidiaries to permit, representatives of any Lender to visit and inspect any of their respective properties and examine any of their respective books and records, and to make copies and take extracts therefrom, and to discuss the business, operations, accounts, properties and financial and other condition of the Borrower and its Subsidiaries with senior officers of the Borrower and (only following the occurrence of a Default which is continuing, and in the presence of an officer or employee of such Borrower) with its Auditors, all at any reasonable time and as often as the Agent or any Lender may reasonably request.
- (2) **Quarterly Reports.** The Borrower shall provide the Agent (with sufficient copies for each of the Lenders) with the following reports on a quarterly basis (except for the fourth fiscal quarter), promptly upon availability and in any event within 60 days of the end of such fiscal quarter:
  - (a) its unaudited consolidated financial statements prepared in accordance with IFRS (including a balance sheet and statements of income and retained earnings and changes in financial position and subject in each case to year-end adjustment), provided that the Borrower shall be deemed to have provided the Agent and the Lenders with such financial statements if the Borrower has made the same available on "SEDAR"; and
  - (b) a Compliance Certificate.

(3) **Annual Reports.** The Borrower shall provide the Agent (with sufficient copies for each of the Lenders) with the following reports, promptly upon availability, and in any event within 90 days of the end of its Fiscal Year:

- (a) its audited annual consolidated financial statements (including a balance sheet and statements of income and retained earnings and changes in financial position) duly certified by its board of directors together with a report of its Auditors whose report shall contain no qualifications except those satisfactory to the Agent and the Required Lenders, provided that the Borrower shall be deemed to have provided the Agent and the Lenders with such financial statements if the Borrower has made the same available on “SEDAR”; and
- (b) a Compliance Certificate.

(4) The Borrower, for itself and on behalf of the other Borrowers, shall notify the Agent of the occurrence of any of the following events, within 10 days after it knows that the relevant event has occurred (and shall provide a copy of any report or notice required in that connection to be filed with or given to PBGC):

- (a) any reportable event, as defined in Section 4043(b) of ERISA and the regulations issued thereunder, unless the 30-day notice requirement in respect thereof has been waived by the PBGC;
- (b) a notice of intent to terminate any US Pension Plan or any action taken by any Borrower to terminate any US Pension Plan, provided notice of intent to terminate is required pursuant to Section 4041(a)(2) of ERISA;
- (c) the institution by PBGC of proceedings under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any US Pension Plan; and
- (d) the provision of security under Section 436(f)(1) of the US Revenue Code to avoid any funding-based limitations that would otherwise apply to a US Pension Plan under Section 436 of the US Revenue Code.

(5) **Other Information.** The Borrower shall provide the Agent (with sufficient copies for each of the Lenders) with such other reports and information regarding the operations, business, assets, financial condition of the Borrower and its Subsidiaries or Affiliates as the Agent may reasonably request, including but not limited to minimum capital test reports and actuary reports submitted to OSFI.

Each of the statements required by Section 8.4 shall set forth in comparative form the corresponding figures for the corresponding period of the preceding fiscal period (if any), all in reasonable detail.

## SECTION 9 - DEFAULT AND ENFORCEMENT

### 9.1 Events of Default

The occurrence of one or more of the following events or circumstances constitutes an Event of Default under this Agreement:

- (1) ***Non-payment of Principal.*** Any of the Borrowers fails to make when due, whether by acceleration or otherwise, any payment of principal required to be made by such Borrower under this Agreement or any other Document.
- (2) ***Non-payment of Interest, Fees or Other Amounts.*** Any of the Borrowers fails to make when due, whether by acceleration or otherwise, (A) any payment of interest, Acceptance Fees, or Commitment Fees, or (B) any payment of other fees after notice of such failure, or (C) any payment of costs or any other amount payable under this Agreement or any other Document, and that failure continues for 3 Business Days after the due date thereof.
- (3) ***Breach of Covenants, etc.*** The Borrower or any of its Subsidiaries fails to perform or observe:
  - (a) any term, condition, covenant or undertaking contained in Section 8.2 or 8.3; or
  - (b) any other term, condition, covenant or undertaking contained in any Document which is not otherwise specifically addressed in this Section 9.1 and that failure, if capable of being remedied, is not remedied within 10 Business Days after the earlier of (i) the Borrowers or any of their Subsidiaries, as the case may be, obtaining knowledge thereof and (ii) notice thereof to the Borrower or any of their Subsidiaries, as the case may be, by the Agent, provided that during such 10 Business Day period such Borrower or such Subsidiary, as the case may be, is proceeding diligently and in good faith to remedy such breach.
- (4) ***Cross-Default.*** With respect to any Indebtedness of the Borrower or any of its Subsidiaries aggregating in excess of Cdn\$100,000,000 (other than under any Document):
  - (a) default occurs in any payment on account of principal or interest owing in respect thereof when due (subject to the benefit of any relevant cure period), whether by acceleration or otherwise; or
  - (b) default occurs in the performance or observance of any obligation, agreement or condition with respect thereto and that default remains unremedied after any remedial period with respect thereto.
- (5) ***Representations and Warranties.*** Any representation, warranty or statement which is made by the Borrower or any of its Subsidiaries in any Document or which is contained in any certificate, written statement or written notice provided under or in connection with any Document is untrue or incorrect when made or deemed to be made in any material respect.

(6) **Execution.** Any writ, distress, execution, attachment, seizure, garnishment, sequestration, extent or any similar process is issued, levied or enforced against the Borrower or any of its Subsidiaries, or any of its or their respective properties or assets for an amount of Cdn\$100,000,000 or more.

(7) **Invalidity and Contest.** This Agreement or any of the other Documents, or any material provision hereof or thereof, shall at any time after execution and delivery hereof or thereof, for any reason, cease to be a legal, valid and binding obligation of any of the Borrowers or cease to be enforceable against any of the Borrowers in accordance with its terms or shall be declared to be null and void, or the legality, validity, binding nature or enforceability of this Agreement, or any provision hereof or thereof, shall be contested by any of the Borrowers or the Borrowers shall deny that it has any further liabilities or obligations hereunder.

(8) **Judgment.** A final judgment in excess of Cdn\$100,000,000 is levied or enforced against the Borrower or any of its Subsidiaries, unless the amount of the judgment is fully insured, or unless the judgement is being actively and diligently appealed in good faith and is satisfied, vacated, discharged or execution thereof stayed pending appeal or a settlement of the judgment has been negotiated on terms acceptable to the Agent, the Borrower has deposited with the Agent cash collateral or other collateral satisfactory to the Agent in the amount of such judgement, within 30 days of the rendering of the judgment, or if any stay is lifted or a default occurs in any settlement.

(9) **Licence, Permit, Government Approval.** Any Government Approval or other material license or permit, or Material Contract is not renewed, is terminated or suspended, or there occurs an adverse change in the terms thereof, which in any such case results in a Material Adverse Effect.

(10) **Voluntary Proceedings.** The Borrower or any of its Subsidiaries:

- (a) institutes proceedings for substantive relief in any bankruptcy, insolvency, debt restructuring, reorganization, readjustment of debt, dissolution, liquidation, winding-up or other similar proceedings (including proceedings under the *Bankruptcy and Insolvency Act* (Canada), the *Winding-up and Restructuring Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), the incorporating statute of the relevant corporation or other similar legislation), including, proceedings for the appointment of a trustee, interim receiver, receiver, receiver and manager, administrative receiver, custodian, liquidator, provisional liquidator, administrator, sequestrator or other like official with respect to the relevant corporation or all or any material part of its property or assets;
- (b) makes an assignment for the benefit of creditors;
- (c) is unable or admits in writing its inability to pay its debts as they become due or otherwise acknowledges its insolvency or commits any other act of bankruptcy or is taken to be insolvent under any applicable legislation;
- (d) voluntarily suspends the conduct of its business or operations;

or acquiesces to, or takes any action in furtherance of, any of the foregoing.

(11) ***Involuntary Proceedings.*** If any third party in respect of the Borrower or any of its Subsidiaries:

- (a) makes any application under the *Companies' Creditors Arrangement Act* (Canada) or similar legislation;
- (b) files a proposal or notice of intention to file a proposal under the *Bankruptcy and Insolvency Act* (Canada) or similar legislation;
- (c) institutes a winding-up proceeding under the *Winding-up and Restructuring Act* (Canada), any relevant incorporating statute or any similar legislation;
- (d) presents a petition in bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) or any similar legislation; or
- (e) files, institutes or commences any other petition, proceeding or case under any other bankruptcy, insolvency, debt restructuring, reorganization, incorporation, readjustment of debt, dissolution, liquidation, winding-up or similar law now or hereafter in effect, seeking bankruptcy, liquidation, reorganization, dissolution, winding-up, composition or readjustment of debt of any of them, the appointment of a trustee, interim receiver, receiver, receiver and manager, administrative receiver, custodian, liquidator, provisional liquidator, administrator, sequestrator or other like official for any of them, or any material part of any of their respective assets or any similar relief;

and if such application, filing, proceeding, petition or case is not dismissed, withdrawn or stayed within 30 days after the institution thereof, provided (i) during such 30 days grace period such application, filing, proceeding, petition or case is being contested by bona fide action on the part of such Borrower or Subsidiary, as applicable, and (ii) an order, decree or judgement is not granted or entered (whether or not subject to appeal) against such Borrower or Subsidiary, as applicable, during such 30 days grace period.

(12) ***Creditor Action.*** Any secured creditor, encumbrancer or lienor, or any trustee, interim receiver, receiver, receiver and manager, administrative receiver, agent, bailiff or other similar official appointed by any secured creditor, encumbrancer or lienor, takes possession of, forecloses, seizes, retains, sells or otherwise disposes of, or otherwise proceeds to enforce security over, all or a substantial part of the assets of the Borrower or any of its Subsidiaries or gives notice of its intention to do any of the foregoing.

(13) ***Change of Control.*** The occurrence of a Change of Control.

## **9.2 Rights upon Default and Event of Default**

Upon the occurrence of a Default, the Agent may, and shall at the request of the Required Lenders, on notice to the Borrower, declare that the ability of any or all of the Borrowers to obtain any further Advance under the Credit Facilities shall be suspended pending the remedying of the Default. Upon the occurrence of any Event of Default which is continuing, the Agent may, and

shall at the request of the Required Lenders, without notice to the Borrowers, do either or both of the following:

- (a) declare that the Commitments have expired and that each Lenders' obligations to make Advances have terminated; and
- (b) declare the entire principal amount of all Advances outstanding, all unpaid accrued interest and all fees and other amounts required to be paid by each of the Borrowers hereunder to be immediately due and payable without the necessity of presentment for payment, notice of non-payment and of protest (all of which are hereby expressly waived) and proceed to exercise any and all rights and remedies hereunder and under any other Document or otherwise permitted by law; provided that, upon the occurrence of an Event of Default under Section 9.1(10) or Section 9.1(11), the Lenders' obligations to make further Advances under the Credit Facilities shall automatically terminate and the entire principal amount of all outstanding Advances, all unpaid accrued interest and all fees and other amounts payable under this Agreement shall become due immediately due and payable, without the necessity of presentment for payment, notice of non-payment and of protest (all of which are hereby expressly waived) and the Agent may, and shall the request of the Required Lenders, proceed to exercise any and all rights and remedies hereunder and under any other Document or otherwise permitted by law.

Immediately upon receipt of a declaration under Section 9.2(b), each of the Borrowers shall pay to the Agent and the Lenders all Advances and other amounts payable by it under this Agreement, including an amount equal to the aggregate of the face amounts of all Bankers' Acceptances which have not matured. Each of the Borrowers shall execute such security documents with respect to those Bankers' Acceptances and any amounts paid in respect thereof as the Agent shall require. From and after the date of the occurrence of an Event of Default and for so long as such Event of Default continues, to the extent interest on overdue amounts has not been applied pursuant to Section 4.6, all Advances shall bear interest or fees at the rates otherwise applicable plus two percent (2%) per annum in order to compensate the Lenders for the additional risk.

### **9.3 Waiver of Default**

No express or implied waiver by the Agent or Lenders of any Event of Default shall in any way be or be construed to be a waiver of any future or subsequent Default or Event of Default. To the extent permitted by Applicable Law, each of the Borrowers hereby waives any rights now or hereafter conferred by statute or otherwise which may limit or modify any of the Agent or the Lender's rights or remedies under any Document. Each of the Borrowers acknowledges and agrees that the exercise by the Agent or the Lender of any rights or remedies under any Document without having declared an acceleration shall not in any way alter, affect or prejudice the right of the Agent or any Lender to make a declaration pursuant to Section 9.2 at any time and, without limiting the foregoing, shall not be construed as or deemed to constitute a waiver of any rights under Section 9.2.

## **SECTION 10 - REMEDIES**

### **10.1 Remedies Cumulative**

For greater certainty, the rights and remedies of the Agent and the Lenders under this Agreement and the other Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity. Any single or partial exercise by the Agent or any Lender of any right or remedy upon the occurrence of a Default or Event of Default shall not be deemed to be a waiver of, or to alter, affect or prejudice any other right or remedy to which the Agent and the Lenders may be lawfully entitled as a result of the Default or Event of Default, and any waiver by the Agent and the Lenders of the strict observance of, performance of or compliance with any term, covenant, condition or agreement herein contained, and any indulgence granted thereby, either expressly or by conduct, shall be effective only in the specific instance and for the purpose for which it is given and shall be deemed not to be a waiver of any subsequent Default or Event of Default.

### **10.2 Sharing of Information**

Each of the Borrowers authorizes the Agent and the Lenders to share among each other any information possessed by any of them regarding the Borrower or any of its Subsidiaries.

### **10.3 Remedies Not Limited**

The Agent may, and shall at the request of the Required Lenders, to the extent permitted by Applicable Law, bring suit at law, in equity or otherwise, for any available relief or purpose including: (A) the specific performance of any covenant or agreement contained in this Agreement or in any other Document; (B) an injunction against a violation of any of the terms of this Agreement or any other Document; (C) in aid of the exercise of any power granted by this Agreement or any other Document or by law; or (D) the recovery of any judgment for any and all amounts due in respect of the Obligations.

### **10.4 Set-Off, etc.**

Subject to Section 11.14, upon the occurrence of an Event of Default which is continuing, each of the Lenders and each of their respective branches and offices and Affiliates are hereby authorized by each Borrower at any time and from time to time, without notice to any Borrower, to: (A) set off and apply any and all amounts owing by such Lender or any of its branches or offices and Affiliates to any of the Borrowers (whether payable in Canadian Dollars or any other currency and any amounts so owing in any other currency may be converted into one or more currencies in which the Obligations are denominated at such rate or rates as the party may be able to obtain, acting reasonably, whether matured or unmatured, and in the case of deposits, whether general or special, time or demand and however evidenced) against and on account of the Obligations (whether or not any declaration under Section 9.2 has been made and whether or not those Obligations are unmatured or contingent); (B) hold any amounts owing by such Lender as collateral to secure payment of the Obligations owing to it to the extent that those amounts may be required to satisfy any contingent or unmatured Obligations owing to it; and (C) return as unpaid for insufficient funds any and all cheques and other items drawn against any deposits so held as such Lender in its sole discretion may elect; provided that in the event that any Defaulting Lender

shall exercise any such right of set-off, (D) all amounts so set off shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 11.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Agent and the Lenders, and (E) the Defaulting Lender shall provide promptly to the Agent a statement describing in reasonable detail the obligations owing to such Defaulting Lender as to which it exercised such right of set-off. The rights of each of the Lenders and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off, consolidation of accounts and bankers' lien) that the Lenders or their respective Affiliates may have. Each Lender agrees to promptly notify the Borrower and the Agent after any such set-off and application, but the failure to give such notice shall not affect the validity of such set-off and application. If any Affiliate of a Lender exercises any rights under this Section 10.4, it shall share the benefit received in accordance with Section 11.14 as if the benefit had been received by the Lender of which it is an Affiliate.

### **10.5 Application of Proceeds.**

(1) Subject to the claims, if any, of secured creditors of the Borrowers, all Proceeds received by the Agent from and after the exercise of any rights arising under Section 9.2 shall be applied and distributed, and the claims of the Agent and the Lenders shall be deemed to have the relative priorities which would result in the Proceeds being applied and distributed, as follows:

- (a) first, to pay interest on and then principal of any portion of the Advances that the Agent may have advanced on behalf of any Lender for which the Agent has not then been reimbursed by such Lender or the Borrowers;
- (b) second, to the payment of all costs and expenses (including fees of counsel) of the Agent in connection with enforcing the rights of the Lenders under this Agreement and under the applicable Documents, including compensation to the agents and counsel for the Agent, and all expenses, liabilities and advances incurred or made by the Agent in connection therewith;
- (c) third, to the payment of all of the Obligations consisting of accrued fees and interest;
- (d) fourth, except as set forth in clauses (a) through (c) above, to the payment of the outstanding Obligations owing to any Lender, rateably, as set forth below, with an amount equal to the Obligations being paid to the Agent for the account of the Lenders and the Agent, with each Lender and Agent receiving an amount equal to its outstanding Obligations, or, if the proceeds are insufficient to pay in full all Obligations, its Rateable Portion of the amount remaining to be distributed;
- (e) fifth, to the payment of the surplus, if any, to whomever may be lawfully entitled to receive such surplus.

(2) In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category, and (ii) each of the Agent and each Lender shall receive an amount equal to its Rateable Portion of amounts available to be applied pursuant to Section 10.5(1)(c) and Section 10.5(1)(d).

(3) If any payment to any Lender of its Rateable Portion of any distribution would result in overpayment to such Lender, such excess amount shall instead be distributed in respect of the unpaid Obligations of the other Lenders, with each Lender whose Obligations have not been paid in full to receive an amount equal to such excess amount multiplied by a fraction the numerator of which is the unpaid Obligations of such Lender and the denominator of which is the unpaid Obligations of all Lenders entitled to such distribution.

## **SECTION 11 - THE AGENT AND THE LENDERS**

### **11.1 Appointment and Authority.**

Each of the Lenders hereby irrevocably appoints the Agent to act on its behalf as the Agent hereunder and under the other Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section are solely for the benefit of the Lenders, and none of the Borrowers shall have rights as a third party beneficiary of any of such provisions (other than pursuant to Section 11.9(1) and Section 11.16).

### **11.2 Rights as a Lender.**

The Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Agent hereunder in its individual capacity. The Agent and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrowers or any of their Affiliates thereof as if the Agent were not an Agent and without any duty to account to the Lenders.

### **11.3 Exculpatory Provisions.**

(1) The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Documents. Without limiting the generality of the foregoing, the Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;
- (b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Documents), but the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, (i) may expose the Agent to liability, (ii) is contrary to any Document or Applicable Law, (iii) would require the Agent to become registered to do business in any jurisdiction, or (iv) would subject the Agent to taxation; and

- (c) shall not, except as expressly set forth herein and in the other Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any of the Borrowers or any of its Affiliates that is communicated to or obtained by the Agent or any of its Affiliates in any capacity.
- (2) None of the Agent (or any of its directors, officers, agents or employees) shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as is necessary, or as the Agent believes in good faith is necessary, under the provisions of the Documents) or (ii) in the absence of its own gross negligence or wilful misconduct. The Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until notice describing the Default or Event of Default is given to the Agent by the Borrower or a Lender.
- (3) Except as otherwise expressly specified in this Agreement, the Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Document or any other agreement, instrument or document or (v) the satisfaction of any condition specified in this Agreement, other than to confirm receipt of items expressly required to be delivered to the Agent.
- (4) The Agent is not obliged to (i) take or refrain from taking any action or exercise or refrain from exercising any right or discretion under the Documents, or (ii) incur or subject itself to any cost in connection with the Documents, unless it is first specifically indemnified or furnished with security by the Borrowers, in form and substance satisfactory to it (which may include further agreements of indemnity or the deposit of funds).

#### **11.4 Reliance by Agents**

The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message or intranet posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of an Advance that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received notice to the contrary from such Lender prior to the making of such Advance. The Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

### **11.5 Indemnification of Agent.**

Each Lender agrees to indemnify the Agent and hold it harmless (to the extent not reimbursed by the Borrowers), according to its Rateable Portion (and not jointly or jointly and severally) from and against any and all losses, claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any counsel, which may be incurred by or asserted against the Agent in any way relating to or arising out of the Documents or the transactions therein contemplated or any actions taken or omitted to be taken by the Agent. However, no Lender shall be liable for any portion of such losses, claims, damages, liabilities and related expenses resulting from the Agent's gross negligence or wilful misconduct.

### **11.6 Delegation of Duties.**

The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Document by or through any one or more sub-agents appointed by the Agent. The Agent and any such sub-agent of the Agent may perform any and all of its duties and exercise its rights and powers by or through its Affiliates or the directors, officers, employees, agents and advisors of the Agent and of the Agent's Affiliates. The provisions of this Section 11 and other provisions of this Agreement for the benefit of the Agent shall apply to any such sub-agent and to its Affiliates and the directors, officers, employees, agents and advisors of the Agent and the Agent's Affiliates, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agent.

### **11.7 Notices**

The Agent shall promptly deliver to each Lender any notices, reports or other communications contemplated in this Agreement which are intended for the benefit of the Lenders.

### **11.8 [intentionally deleted]**

### **11.9 Agent's Clawback**

(1) ***Funding by Lenders; Presumption by Agent.*** The failure of a Lender to make an Advance shall not relieve any other Lender of its obligations in connection with such Advance, but no Lender is responsible for any other Lender's failure in respect of an Advance. Unless the Agent shall have received notice from a Lender prior to the proposed date of any advance of funds that such Lender shall not make available to the Agent such Lender's share of the advance, the Agent may assume that such Lender has made such share available on such date in accordance with the provisions of this Agreement concerning funding by Lenders and may, in reliance upon such assumption, make available to each of the relevant Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable advance available to the Agent, then the applicable Lender shall pay to the Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to each of the relevant Borrowers to but excluding the date of payment to the Agent, at a rate determined by the Agent in accordance with prevailing banking industry practice on interbank compensation. If such Lender pays such amount to the Agent, then such amount shall constitute such Lender's Advance included in such advance. If the Lender does not do so forthwith, each of the relevant Borrowers shall pay to the Agent forthwith on demand such corresponding amount

with interest thereon at the interest rate applicable to the advance in question. Any payment by any of the Borrowers shall be without prejudice to any claim the Borrowers may have against a Lender that has failed to make such payment to the Agent.

(2) ***Payments by Borrowers; Presumptions by Agent.*** Unless the Agent shall have received notice from each of the relevant Borrowers prior to the date on which any payment is due to the Agent for the account of any Lender hereunder that such Borrower shall not make such payment, the Agent may assume that each of the relevant Borrowers has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute the amount due to the Lenders. In such event, if each of the relevant Borrowers has not in fact made such payment, then each of the Lenders severally agrees to repay to the Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Agent, at a rate determined by the Agent in accordance with prevailing banking industry practice on interbank compensation.

#### **11.10 Replacement of Agent**

(1) The Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a Lender having an office in Toronto, Ontario or Montréal, Québec, or an Affiliate of any such Lender with an office in Toronto or Montréal. The Agent may also be removed at any time by the Required Lenders upon 30 days' notice to the Agent and the Borrower as long as the Required Lenders, in consultation with the Borrower, appoint and obtain the acceptance of a successor within such 30 days, which shall be a Lender having an office in Toronto or Montréal, or an Affiliate of any such Lender with an office in Toronto or Montréal.

(2) If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the Agent gives notice of its resignation, then the Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications specified in Section 11.10(1), provided that if the Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (i) the Agent shall be discharged from its duties and obligations hereunder and under the other Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders under any of the Documents, the Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (ii) all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent pursuant to Section 11.10(1).

(3) Upon a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the former Agent, and the former Agent shall be discharged from all of its duties and obligations hereunder or under the other Documents (if not already discharged therefrom as provided in the preceding paragraph). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the termination of the service of the former Agent, the provisions of this Section 11 and of Section 12.3 shall continue in

effect for the benefit of such former Agent, its sub-agents and their respective Affiliates or the directors, officers, employees, agents and advisors of the Agent and of the Agent's Affiliates in respect of any actions taken or omitted to be taken by any of them while the former Agent was acting as an Agent.

### **11.11 Non-Reliance on Agents and Other Lenders**

Each Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender or any of their Affiliates or the directors, officers, employees, agents and advisors of the Agent and of the Agent's Affiliates and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it shall, independently and without reliance upon any Agent or any other Lender or any of their Affiliates or the directors, officers, employees, agents and advisors of the Agent and of the Agent's Affiliates and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Document or any related agreement or any document furnished hereunder or thereunder.

### **11.12 Collective Action of the Lenders**

Each of the Lenders hereby acknowledges that to the extent permitted by Applicable Law, any remedies provided under the Documents to the Lenders are for the benefit of the Lenders collectively and acting together and not severally and further acknowledges that its rights hereunder are to be exercised not severally, but by the Agent upon the decision of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Documents). Accordingly, notwithstanding any of the provisions contained herein or in any other Document, each of the Lenders hereby covenants and agrees that it shall not be entitled to take any action hereunder or thereunder including, without limitation, any declaration of default hereunder or thereunder but that any such action shall be taken only by the Agent with the prior written agreement of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Documents). Each of the Lenders hereby further covenants and agrees that upon any such written agreement being given, it shall co-operate fully with the Agent to the extent requested by the Agent. Notwithstanding the foregoing, in the absence of instructions from the Lenders and where in the sole opinion of the Agent, acting reasonably and in good faith, the exigencies of the situation warrant such action, the Agent may without notice to or consent of the Lenders take such action on behalf of the Lenders as it deems appropriate or desirable in the interest of the Lenders.

### **11.13 Holding of Security; Discharge**

Each of the Lenders agrees with the other Lenders that it shall not, without the prior consent of the other Lenders, take or obtain any Lien on any properties or assets of any of the Borrowers to secure the obligations of any of the Borrowers under the Documents, except for the benefit of all Lenders.

#### **11.14 Sharing of Payments by Lenders**

If any Lender, by exercising any right of set-off or counterclaim or otherwise, obtains any payment or other reduction that might result in such Lender receiving payment or other reduction of a proportion of the aggregate amount of its Obligations outstanding and accrued interest thereon or other obligations hereunder greater than its Rateable Portion thereof as provided herein, then the Lender receiving such payment or other reduction shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) participations in the outstanding Advances and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders rateably in accordance with the aggregate amount of principal of and accrued interest on their respective outstanding Advances and other amounts owing them, provided that:

- (a) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest,
- (b) the provisions of this Section 11.14 shall not be construed to apply to (x) any payment made by any of the Borrowers pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances to any assignee or participant, other than to the Borrowers or any Affiliate of the Borrowers (as to which the provisions of this Section 11.14 shall apply); and
- (c) the provisions of this Section 11.14 shall not be construed to apply to (x) any payment made while no Event of Default has occurred and is continuing in respect of obligations of any of the Borrowers to such Lender that do not arise under or in connection with the Documents, (y) any payment made in respect of an obligation that is secured by a Permitted Lien or that is entitled to priority over the relevant Borrower's obligations under or in connection with the Documents, or (z) any payment to which such Lender is entitled as a result of any form of credit protection obtained by such Lender.

Each of the Borrowers consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against it rights of set-off and counterclaim and similar rights of Lenders with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

#### **11.15 Liability of the Lenders inter se**

Each of the Lenders agrees with each of the other Lenders that, except as otherwise expressly provided in this Agreement, none of the Lenders has or shall have any duty or obligation, or shall in any way be liable, to any of the other Lenders in respect of the Documents or any action taken or omitted to be taken in connection with them.

### 11.16 Defaulting Lenders

Notwithstanding any provision in this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

- (a) Commitment Fees shall cease to accrue with respect to the unused portion of such Defaulting Lender's Revolving Commitment pursuant to Section 4.3;
- (b) the Commitments and outstanding Advances of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 12.1);
- (c) to the extent permitted by Applicable Law, the Agent shall be entitled to withhold and deposit in one or more non-interest bearing cash collateral accounts in the name of the Agent any payment of principal, interest, fees or other amounts received by the Agent for the account of a Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to this Section 11 or otherwise), which payments shall be applied at such time or times as may be determined by the Agent as follows:
  - (i) first, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder;
  - (ii) second, to the rateable payment of any amounts owing by such Defaulting Lender to the Swingline Lender hereunder;
  - (iii) third, if so determined by the Agent or requested by the Swingline Lender, to be held as cash collateral for future funding obligations of such Defaulting Lender in respect of any participation in any Swingline Advance;
  - (iv) fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Advance in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent;
  - (v) fifth, if so determined by the Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of such Defaulting Lender to fund Advances under this Agreement;
  - (vi) sixth, to the payment of any amounts owing to the Lenders or Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender or Swingline Lender against that Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement;

- (vii) seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to any of the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by such Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and
- (viii) eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction;

provided that if (x) such payment is a payment of the principal amount of any Advances in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Advances were made at a time when the conditions set forth in Section 7.2 were satisfied or waived, such payment shall be applied solely to pay the outstanding Advances owed to, all non-Defaulting Lenders on a rateable basis prior to being applied to the payment of any outstanding Advances to any Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 11.16 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto;

- (d) for greater certainty, neither the Agent nor any of its Affiliates nor any of their respective directors, officers, employees, managers, administrators, trustees, agents, advisors and representatives shall be liable to any Lender (including a Defaulting Lender) for any action taken or omitted to be taken by it in connection with amounts payable by any of the Borrowers to a Defaulting Lender and received and deposited by the Agent in a cash collateral account and applied in accordance with the provisions of this Agreement, save and except for the gross negligence or wilful misconduct of the Agent as determined by a final and non-appealable judgment of a court of competent jurisdiction;
- (e) if, at the time a Lender becomes a Defaulting Lender, such Defaulting Lender's outstanding Advances include participation interests in outstanding Swingline Advances then:
  - (i) all or any part of such participation interests shall be reallocated among the non-Defaulting Lenders in accordance with their Rateable Portions (calculated without regard to such Defaulting Lender's Commitments) but only to the extent (x) such reallocation does not cause the outstanding Advances of any non-Defaulting Lender to exceed its Commitments and (y) the conditions set forth in Section 7.2 are satisfied at such time;
  - (ii) if the reallocation described in Section 11.16(e)(i) cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Agent first, prepay outstanding Advances under the Swingline Facility in an amount equal to such Defaulting Lender's participation interests;

- (iii) if the participation interests of the Defaulting Lender are reallocated pursuant to Section 11.16(e)(i), then the fees payable to the Lenders pursuant to Section 4.3 shall be adjusted in accordance with such non-Defaulting Lenders' rateable shares; and
  - (iv) the Agent shall promptly notify the Lenders of any reallocation described in this Section 11.16; and
- (f) so long as any Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Advances unless it is satisfied that the related exposure shall be 100% covered by the Revolving Commitments of the non-Defaulting Lenders and/or cash collateral shall be provided by the Borrowers with respect to such exposure, and participating interests in any newly made Swingline Advance shall be 100% allocated among non-Defaulting Lenders in a manner consistent with Section 11.16(e)(i) and Defaulting Lenders shall not participate therein);
- (g) the Borrower shall be entitled to request that a Defaulting Lender assign its rights to an Eligible Assignee satisfactory to the Agent and in accordance with Section 13.1(4) provided that the Borrower shall provide at least three (3) Business Days' prior notice to the Defaulting Lender. Any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Agent or any other Lender shall have against the Defaulting Lender. In the event the Defaulting Lender fails to execute the agreements required in connection with an assignment pursuant to this Section 11.16(g) and Section 13.1(4)(g), the Borrower may, to the extent permitted by Applicable Law, upon two (2) Business Days' prior notice to the Defaulting Lender, execute such agreements on behalf of the Defaulting Lender, and each such Lender hereby grants to the Borrowers (and to any of them) an irrevocable power of attorney (which shall be coupled with an interest) for such purpose; and
- (h) in the event that the Agent, the Borrower and the Swingline Lender each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the participation interests of the Lenders in Swingline Advances shall be readjusted to reflect the inclusion of such Lender's Revolving Commitment and on such date such Lender shall purchase at par such of the outstanding Advance of the other Lenders (other than Swingline Advances) as the Agent shall determine may be necessary in order for such Lender to hold such outstanding Advances under the Revolving Facility in accordance with its Rateable Portion (without giving effect to Section 11.16(e)(i)) whereupon such Lender shall cease to be a Defaulting Lender. No adjustments shall be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while the Lender was a Defaulting Lender. Except to the extent otherwise expressly agreed to by the affected parties, no change hereunder from Defaulting Lender to Lender shall constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

## SECTION 12 - AMENDMENTS, WAIVERS, INDEMNIFICATIONS

### 12.1 Amendments, Waivers, etc.

(1) Subject to Section 12.1(2) and Section 12.1(3), no amendment or waiver of any provision of any of the Documents, nor consent to any departure by any of the Borrowers or any other Person from such provisions, shall be effective unless in writing and approved by the Required Lenders. Any amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

(2) Without the prior written consent of each affected Lender (other than a Defaulting Lender), no amendment, waiver or consent shall:

- (a) except for the increase in the Revolving Commitment as contemplated under Section 3.15, an increase in the Swingline Commitment portion of the Swingline Lender's Revolving Commitment, increase any Lender's Commitment;
- (b) extend the scheduled final maturity of any outstanding Advance;
- (c) reduce or forgive the principal amount of any outstanding Advance;
- (d) reduce the stated rate of interest on any outstanding Advance, or any fee; provided that only the consent of the Required Lenders shall be necessary to amend the stated rate of additional interest in Section 4.6 and Section 9.2 or to waive any obligation of the Borrowers to pay interest at such stated rate;
- (e) waive, reduce or postpone any mandatory repayment of any instalment of principal of any outstanding Advance;
- (f) waive, reduce or extend the time for payment of interest on any outstanding Advance or any payment of fees;
- (g) change the percentage of the Commitments, or the number or percentage of Lenders, in each case, required for the Lenders, or any of them, or the Agent to take any action;
- (h) amend the requirement of pro rata application of all amounts received by the Agent in respect of the Credit Facilities, or the requirement of pro rata sharing by the Lenders pursuant to Section 11.14;
- (i) consent to the assignment or transfer by any of the Borrowers of any of its rights and obligations under any Document;
- (j) release the guarantee of the Obligations of the US Borrowers and the Swingline Borrowers provided by the Borrower;
- (k) change the definition of Required Lenders;
- (l) add a new currency for Advances; or

(m) amend this Section 12.1.

(3) Only written amendments, waivers or consents signed by the Agent, in addition to the Required Lenders, shall affect the rights or duties of the Agent under the Documents. Only written amendments, waivers or consents signed by the Swingline Lender, in addition to the Required Lenders, shall affect the rights or duties of the Swingline Lender.

(4) In the event that any Lender (in this Section 12.1, a “**Non-Consenting Lender**”) fails to consent to any proposed amendment, modification, termination, waiver or consent with respect to any provision hereof or of any other Document that requires the unanimous approval of all of the Lenders or the approval of all of the Lenders directly affected thereby, in each case, the Borrower shall be permitted to replace such Non-Consenting Lender with a replacement satisfactory to the Agent so long as the consent of the Required Lenders shall have been obtained with respect to such amendment, modification, termination, waiver or consent; provided that:

- (a) such replacement does not conflict with any Applicable Law;
- (b) such replacement shall purchase, at par, all outstanding Advances and other amounts owing to the Non-Consenting Lender pursuant to the Documents on or prior to the date of replacement;
- (c) such replacement shall approve the proposed amendment, modification, termination, waiver or consent;
- (d) the Non-Consenting Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.1(4) (provided that the Borrower shall be obligated to pay the registration and processing fee referred to in Section 13.1(4)(f));
- (e) until such time as such replacement shall be consummated, each of the Borrowers shall pay to the Non-Consenting Lender all additional amounts (if any) required pursuant to Section 4.8, 4.9 and 4.10;
- (f) the Borrower shall provide at least three (3) Business Days’ prior notice to the Non-Consenting Lender; and
- (g) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Agent or any other Lender shall have against the Non-Consenting Lender.

In the event any Non-Consenting Lender fails to execute the agreements required under Section 13.1(4) in connection with an assignment pursuant to this Section 12.1, the Borrower may, upon two (2) Business Days’ prior notice to the Non-Consenting Lender, execute such agreements on behalf of the Non-Consenting Lender, and each such Lender hereby grants to the Borrowers (and to any of them) an irrevocable power of attorney (which shall be coupled with an interest) for such purpose.

## 12.2 Waiver

(1) No failure on the part of a Lender or the Agent to exercise, and no delay in exercising, any right under any of the Documents shall operate as a waiver of such right; nor shall any single or partial exercise of any right under any of the Documents preclude any other or further exercise of such right or the exercise of any other right.

(2) Except as otherwise expressly provided in this Agreement, the covenants, representations and warranties shall not merge on and shall survive the initial Advance and, notwithstanding such initial Advance or any investigation made by or on behalf of any party, shall continue in full force and effect. The closing of this transaction shall not prejudice any right of one party against any other party in respect of anything done or omitted under this Agreement or in respect of any right to damages or other remedies.

## 12.3 Expenses; Indemnity; Damage Waiver

(1) **Costs and Expenses.** The Borrowers shall pay (i) all reasonable and documented expenses incurred by the Agent and the Co-Lead Arrangers, including the reasonable and documented fees, charges and disbursements of counsel, in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all expenses incurred by the Agent and the Lenders, including the fees, charges and disbursements of counsel, in connection with the enforcement or protection of its rights in connection with this Agreement and the other Documents, including its rights under this Section 12.3, or in connection with the Advances issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Advances.

(2) **Indemnification by the Borrowers.** Each of the Borrowers shall indemnify the Agent (and any sub-agent thereof), the Co-Lead Arrangers, each Lender and each Related Party of any of the foregoing Persons (each such Person being called an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable and documented fees, charges and disbursements of any counsel for any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by any of the Borrowers arising out of, in connection with, or as a result of:

- (a) the execution or delivery of this Agreement, any other Document or any agreement or instrument contemplated hereby or thereby, the performance or non-performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation or non-consummation of the transactions contemplated hereby or thereby;
- (b) any Advance or the use or proposed use of the proceeds therefrom; or
- (c) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any of the Borrowers and regardless of whether any Indemnitee is a party thereto,

(A) provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (w) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or wilful misconduct of such Indemnitee, (x) result from a claim brought by any of the Borrowers against an Indemnitee for material breach of such Indemnitee's obligations hereunder or under any other Document, if any of the Borrowers has obtained a final and non-appealable judgment in its favour on such claim as determined by a court of competent jurisdiction, (y) relate to disputes solely between or among the Indemnitees, nor shall it be available in respect of matters specifically addressed in Section 4.9 or Section 12.3(1) or (z) relate to Taxes other than any Taxes that represent losses, claims, damages, liabilities and related expenses arising from a non-Tax claim (provided that, for greater certainty, this Section 12.3(2)(c) shall not prevent any claim from being made under Sections 4.8 and 6.2), and (B) provided such indemnity shall exclude loss of profit, income, revenue or business opportunities.

(3) **Reimbursement by Lenders.** To the extent that any of the Borrowers for any reason fails to indefeasibly pay any amount required under Section 12.3(1) or Section 12.3(2) to be paid by it to the Agent (or any sub-agent thereof), a Co-Lead Arranger, a Lender, or any Related Party of any of the foregoing, each Lender severally agrees to pay to such Person such Lender's Rateable Portion as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent) or Co-Lead Arranger or Lender in its capacity as such, or against any of the Related Parties of any of the foregoing acting for such Person in connection with such capacity.

(4) **Waiver of Consequential Damages, etc.** To the fullest extent permitted by Applicable Law, none of the Borrowers nor any Subsidiary thereof shall assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for indirect, consequential, punitive, aggravated or exemplary damages (as opposed to direct damages) arising out of, in connection with, or as a result of, this Agreement, any other Document or any agreement or instrument contemplated hereby (or any breach thereof), the transactions contemplated hereby or thereby, any Advance or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Documents or the transactions contemplated hereby or thereby.

(5) **Payment on Demand.** Each of the Borrowers shall pay to each Lender on demand any amounts required to compensate such Lender for any loss suffered or incurred by it as a result of (i) any payment being made, any conversion in respect of a BA Instrument or other Advance, other than on the maturity or expiration or on the last day of a Contract Period applicable to it, (ii) the failure of any of the Borrowers to give any notice in the manner and at the times required by this Agreement, (iii) the failure of any of the Borrowers to effect an Advance in the manner and at the time specified in any Borrowing Notice or to make a prepayment in the manner and at the time

specified in any notice with respect thereto, or (iv) the failure of any of the Borrowers to make a payment or a mandatory repayment in the manner and at the time specified in this Agreement.

(6) **Payments.** All amounts due under this Section 12.3 shall be payable promptly after demand therefor. A certificate of the Agent or a Lender setting forth the amount or amounts owing to such Agent, Lender or a sub-agent, Co-Lead Arranger or Related Party of any of the foregoing, as the case may be, as specified in this Section, including reasonable detail of the basis of calculation of the amount or amounts, and delivered to the Borrower shall be conclusive absent manifest error.

(7) **Survival.** The provisions of this Section 12.3 shall survive the termination of this Agreement and the repayment of all outstanding Advances. The Borrowers acknowledge that neither their obligation to indemnify nor any actual indemnification by it of the Lenders, the Agent or any other Indemnitee in respect of such Person's losses for legal fees and expenses shall in any way affect the confidentiality or privilege relating to any information communicated by such Person to their counsel.

#### **12.4 No Partnership**

Nothing contained in this Agreement and no action taken pursuant to it shall be deemed to constitute the Lenders a partnership, association, joint venture or other similar entity.

#### **12.5 Adjustments Among Lenders**

(1) **Lenders May Debit Accounts.** Subject to Section 11.4, each of the Borrowers authorizes and directs each Lender, in such Lender's discretion, to debit automatically, by mechanical, electronic or manual means, any bank account of each of the Borrowers maintained with such Lender for all amounts payable by such Borrower under this Agreement or any other documents, including the repayment of principal and the payment of interest, fees and all charges for the keeping of that bank account. A Lender shall notify the Agent and each of the Borrowers as to the particulars of those debits in the normal course.

### **SECTION 13 - ASSIGNS AND PARTICIPANTS**

#### **13.1 Assignment and Participation**

(1) **Benefit and Burden of this Agreement.** This Agreement shall enure to the benefit of and be binding on the parties hereto, their respective successors and any permitted assignees.

(2) **Borrower.** None of the Borrowers may assign, delegate or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Agent and each Lender.

(3) **Participation.** Any Lender (herein sometimes called a "**Granting Lender**") may grant a participation in the Credit Facility to one or more financial institutions or other entities (the "**Participant**"). If a participation is granted, (A) the Granting Lender shall remain fully liable for all of its obligations and responsibilities under this Agreement to the same extent as if the participation had not been granted, and (B) the Granting Lender shall administer the participation of the Participant. The Participant and the Borrowers shall have no rights against or obligations to

one another, nor shall either of them be required to deal directly with the other in respect of the participation by a Participant. For greater certainty, Participants shall have no voting rights as “**Lenders**” under this Agreement.

(4) **Assignments by Lenders.** Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and its outstanding Advances); provided that:

- (a) except if an Event of Default has occurred and is continuing or in the case of an assignment of the entire remaining amount of the assigning Lender’s Commitments and its outstanding Advances or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Commitments being assigned (which for this purpose includes outstanding Advances thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the outstanding Advances of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption Agreement with respect to such assignment is delivered to the Agent or, if “**Trade Date**” is specified in the Assignment and Assumption Agreement, as of the Trade Date), shall not be less than \$20,000,000, unless each of the Agent and, so long as no Default or Event of Default has occurred and is continuing, the Borrower otherwise consents to a lower amount (each such consent not to be unreasonably withheld or delayed);
- (b) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the outstanding Advances or the Commitment assigned, except that this Section 13.1(4)(b) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate credits on a non-pro rata basis;
- (c) unless an Event of Default has occurred and is continuing, the Borrower shall not be under any obligation to pay by way of withholding tax or otherwise any greater amount than it would have been obliged to pay if the Lender had not made an assignment;
- (d) any assignment of a Revolving Commitment must be approved by the Agent and the Swingline Lender (such approval not to be unreasonably withheld or delayed) unless the proposed assignee is itself already a Lender with a Revolving Commitment;
- (e) any assignment must be approved in writing by the Borrower (such approval not to be unreasonably withheld or delayed) unless the proposed assignee is itself already a Lender, an Affiliate of a Lender or an Approved Fund, or an Event of Default has occurred and is continuing;
- (f) the parties to each assignment shall execute and deliver to the Agent an assignment and assumption agreement to be bound by this Agreement and to perform the obligations assigned to it, in substantially in the form of Schedule 13.1(4)(f) (the “**Assignment and Assumption Agreement**”), together with a processing and

recording fee of Cdn\$5,000 and the Eligible Assignee, if it shall not be a Lender, shall provide the Agent with such information as the Agent may reasonably request; and

- (g) in connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrowers and the Agent, the applicable rateable share of Advances previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Agent or any Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full rateable share of all Advances and participations in Swingline Advances. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Agent pursuant to Section 13.1(4)(f), from and after the effective date specified in each Assignment and Assumption Agreement, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption Agreement, have the rights and obligations of a Lender under this Agreement and the other Documents and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Section 4.8 and Section 12.3, and shall continue to be liable for any breach of this Agreement by such Lender, with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 13.1(3). Any payment by an assignee to an assigning Lender in connection with an assignment or transfer shall not be or be deemed to be a repayment by any of the Borrowers or a new Advance to the Borrowers.

(5) ***Register.***

- (a) The Agent (acting also for this purpose as agent for the Borrowers) shall maintain at one of its offices in Toronto, Ontario or Montréal, Québec a copy of each Assignment and Assumption Agreement delivered to it and a register for the

recording of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the outstanding Advances to, each Lender pursuant to the terms hereof from time to time (the **Register**). The entries in the Register shall be conclusive, absent manifest error, and each of the Borrowers, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender for all purposes of this Agreement notwithstanding notice to the contrary. In addition, the Agent shall maintain on the Register information regarding the designation and revocation of designation of any Lender as a Defaulting Lender. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

- (b) Each Granting Lender (acting also for this purpose as agent for the Borrowers) shall maintain a register on which it enters the name and address of each Participant and the principal amounts of each Participant's interest in the Loans or other obligations under this Agreement (the **Participant Register**); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under this Agreement) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error. and, without limiting the provisos in clauses (A) and (B) of Section 13.1(3) of this Agreement, such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(6) **Borrowers Cooperation.** Each of the Borrowers shall, at its own expense, execute the Assignment and Assumption Agreement and do such further things as a Lender may reasonably request to give effect to any participation or assignment.

(7) **Certain Pledges.** Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, but no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

## **SECTION 14 - MISCELLANEOUS**

### **14.1 Notice**

Unless otherwise specified, any notice or other communication required or permitted to be given to a party under this Agreement shall be in writing and may (i) in respect of any Lender be posted on SyndTrak (to the extent such system is available and set up by or at the direction of Agent prior to the posting) in an appropriate location by uploading such notice, demand, request, certificate or other communication to SyndTrak (or any other system acceptable to the Agent) or (ii) be delivered personally or sent by prepaid registered mail, email or facsimile, to the address or email address or facsimile number of the party set out in this Section 14.1 to the attention of the

Person there indicated or to such other address, email address, facsimile number or other Person's attention as the party may have specified by notice in writing given under this Section. Any notice or other communication shall be deemed to have been given (A) if delivered personally, when received; (B) if mailed, subject to Section 14.2, on the third Business Day following the date of mailing; (C) if sent by email or facsimile, on the Business Day when the appropriate confirmation of receipt has been received if the confirmation of receipt has been received before 3:00 p.m. on that Business Day or, if the confirmation of receipt has been received after 3:00 p.m. on that Business Day, on the next succeeding Business Day; and (D) if sent by email or facsimile on a day which is not a Business Day, on the next succeeding Business Day on which confirmation of receipt has been received.

- (a) if to the Agent, to:

[REDACTED]

- (b) if to a Lender, to it at its address, telecopier number or email address specified opposite the applicable name in the execution pages of this Agreement:

- (c) if to any of the Borrowers to:

[REDACTED]

#### **14.2 Disruption of Postal Service**

If a notice has been sent by prepaid registered mail and before the third Business Day after the mailing there is a discontinuance or interruption of regular postal service so that the notice cannot reasonably be expected to be delivered within three Business Days after the mailing, the notice shall be deemed to have been given when it is actually received.

#### **14.3 Further Assurances**

Each of the Borrowers shall from time to time promptly, upon the request of the Agent, take such action, and execute and deliver such further documents as may be reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement.

#### **14.4 Judgment Currency**

If for the purpose of obtaining judgment in any court it is necessary to convert any amount owing or payable to a Lender under this Agreement from the currency in which it is due (the "**Agreed Currency**") into a particular currency (the "**Judgment Currency**"), the rate of exchange applied in that conversion shall be that at which that Lender, in accordance with its normal procedures, could purchase the Agreed Currency with the Judgment Currency at or about noon on the Business Day immediately preceding the date on which judgment is given. The obligation of each of the Borrowers in respect of any amount owing or payable under this Agreement to a Lender in the Agreed Currency shall, notwithstanding any judgment and payment in the Judgment Currency, be satisfied only to the extent that such Lender, in accordance with its normal procedures, could purchase the Agreed Currency with the amount of the Judgment

Currency so paid at or about noon on the next Business Day following that payment; and if the amount of the Agreed Currency which the such Lender could so purchase is less than the amount originally due in the Agreed Currency, each of the Borrowers shall, as a separate obligation and notwithstanding the judgment or payment, indemnify such Lender against any loss.

#### **14.5 Waivers**

No failure to exercise, and no delay in exercising, on the part of the Agent or any Lender, any right, remedy, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege shall preclude the exercise of any other right, remedy, power or privilege.

#### **14.6 Jurisdiction: Etc.**

(1) *Submission to Jurisdiction.* Each of the Borrowers irrevocably and unconditionally submits, for itself and its assets, to the non-exclusive jurisdiction of the courts of the Province of Ontario, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Document shall affect any right that the Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Document against any Borrower in the courts of any jurisdiction.

(2) *Service of Process.* Each of the Borrowers irrevocably consents to the service of any and all process in any such action or proceeding to any of the Borrowers at the address provided for it in this Agreement. Nothing in this Section 14.6(2) limits the right of the Agent or any Lender to serve process in any other manner permitted by Applicable Law.

#### **14.7 WAIVER OF JURY TRIAL**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

#### **14.8 Counterparts: Integration: Effectiveness: Electronic Execution**

(1) *Counterparts: Integration: Effectiveness.* This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Documents and any separate letter agreements with respect to fees payable to the Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective when it has been executed by the Agent and when the Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(2) *Electronic Execution of Assignments.* The words “execution,” “signed,” “signature,” and words of like import in any Assigned Undertaking shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario) and other similar federal or provincial laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its *Uniform Electronic Evidence Act*, as the case may be.

#### **14.9 Confidentiality**

(1) Each of the Agent and the Lenders shall hold all non-public information obtained pursuant to or in connection with this Agreement or obtained by them based on a review of the books and records of the Borrower or any of its Subsidiaries in accordance with their customary procedures for handling confidential information of this nature, but may make disclosure to any of their examiners, regulators (including OSFI), Affiliates, outside auditors, counsel and other professional advisors in connection with this Agreement or as reasonably required by any potential bona fide Participant or assignee, provided such third parties shall be made aware of the confidential nature of the information and may be required to undertake to maintain the confidentiality of such information, or in connection with the exercise of remedies under a Document, or as requested by any Governmental Authority or pursuant to legal process.

(2) The Agent may disclose to any agency or organization that assigns standard identification numbers to credit facilities such basic information describing the Credit Facilities as is necessary to assign unique identifiers (and, if requested, supply a copy of this Agreement), it being understood that the Person to whom such disclosure is made will be informed of the confidential nature of such information and instructed to make available to the public only such information as such person normally makes available in the course of its business of assigning identification numbers. In addition, the Agent may provide to Loan Pricing Corporation or other recognized publishers of information for circulation in the loan market information of the type customarily provided by financial institutions to Loan Pricing Corporation.

(3) The Agent and the Lenders (as applicable) may also publicize the Credit Facilities including, without limitation, through reporting to Bloomberg and other similar agencies, the insertion of standard advertisements (“tombstones”) in various financial publications and any other forms of advertising.

#### **14.10 No Fiduciary Duty**

The Agent, each Lender and their respective Affiliates (collectively, solely for purposes of this Section 14.10, the “**Lenders**”), may have economic interests that conflict with those of the Borrowers, their shareholders and their Affiliates. Each of the Borrowers agrees that nothing in the Documents shall be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and any of the Borrowers, its shareholders or its Affiliates, on the other hand. Each of the Borrowers acknowledges and agrees that (a) the transactions contemplated by the Documents (including the exercise of rights and remedies hereunder and thereunder) are arm’s-length commercial transactions between the Lenders, on the one hand, and each of the Borrowers, on the other hand, and (b) in connection therewith and with the process leading thereto, (i) no Lender has assumed an advisory or fiduciary responsibility in favour of any of the Borrowers, its shareholders or its Affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or shall advise any of the Borrowers, its shareholders or its Affiliates on other matters) or any other obligation to any of the Borrowers except the obligations expressly set forth in the Documents and (ii) each Lender is acting solely as principal and not as the agent or fiduciary of any of the Borrowers, its management, shareholders, creditors or any other person. Each of the Borrowers acknowledges and agrees that each of the Borrowers has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each of the Borrowers agrees that it shall not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to any of the Borrowers, in connection with such transactions or the process leading thereto.

**[INTENTIONALLY LEFT BLANK]**

The parties have executed this Agreement.

**INTACT FINANCIAL CORPORATION**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**INTACT INSURANCE COMPANY**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**BELAIR INSURANCE COMPANY INC.**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**TRAFALGAR INSURANCE COMPANY  
OF CANADA**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

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**NOVEX INSURANCE COMPANY**

By: (s) Authorized Signing Officer  
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Authorized Signing Officer

**THE NORDIC INSURANCE COMPANY  
OF CANADA**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**INTACT FARM INSURANCE INC.**

By: (s) Authorized Signing Officer  
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By: (s) Authorized Signing Officer  
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**JEVCO INSURANCE COMPANY**

By: (s) Authorized Signing Officer  
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**INTACT VENTURES INC.**

By: (s) Authorized Signing Officer  
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By: (s) Authorized Signing Officer  
Authorized Signing Officer

**7144407 CANADA INC.**

By: (s) Authorized Signing Officer  
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Authorized Signing Officer

**ONEBEACON U.S. HOLDINGS, INC.**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**ONEBEACON SERVICES, LLC**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**ONEBEACON U.S. FINANCIAL  
SERVICES, INC.**

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Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**CANADA BROKERLINK INC.**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**CANADA BROKERLINK (ONTARIO) INC.**

By: (s) Authorized Signing Officer  
Authorized Signing Officer

By: (s) Authorized Signing Officer  
Authorized Signing Officer

**[SIGNATURE PAGES OF AGENT AND LENDERS HAVE BEEN REDACTED]**

**[APPENDICES AND SCHEDULES HAVE BEEN REDACTED]**